federal register

THURSDAY, AUGUST 3, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 150

Pages 15477–15689

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Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from: Superintendent of Documents
U.S. Government Printing Office,
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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EXECUTIVE ORDER 11677

Continuing the Regulation of Exports

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including Section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a), and in view of the continued existence of the national emergencies declared by Proclamation No. 2914 of December 16, 1950, and Proclamation No. 4074 of August 15, 1971, and the importance of continuing (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of abnormal foreign demand, it is hereby ordered:

Section 1. Notwithstanding the expiration of the Export Administration Act of 1969, as amended, the provisions for administration of that act contained in Executive Order 11533 of June 4, 1970 shall continue in full force and effect and shall authorize the exercise and administration of export controls, under the authority vested in me as President of the United States by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).

Sec. 2. Except to the extent another basis is provided in the second sentence of Section 3 of this order, all rules and regulations issued by the Secretary of Commerce, published in Title 15, Chapter 3, Subchapter B, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, licenses and other forms of administrative action issued or taken pursuant thereto, shall until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this order, except that the maximum fine which may be imposed under § 387.1(a)(1) shall not exceed $10,000 and that the civil penalty provided for under § 387.1(b)(3) will not be applicable to any violation of the regulations under this order.

Sec. 3. The delegations of authority in this order shall not affect the authority of any agency or official pursuant to any other delegation of Presidential authority, presently in effect or hereafter made, under Section 5(b) of the act of October 6, 1917, as amended. Those regulations

issued under the Export Control Act of 1949, as amended, to implement foreign policy set forth in Executive Orders Nos. 11322 of January 5, 1967 and 11419 of July 29, 1968, shall until amended or revoked by the Secretary of Commerce continue to apply as regulations issued under such orders.

THE WHITE HOUSE,
August 1, 1972.

[FR Doc.72-12257 Filed 8-2-72; 10:35 am]

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7199]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Industrial Development Bonds

JULY 5, 1972.

On June 5, 1971, and July 13, 1971, notices of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 103 (relating to industrial development bonds) of the Internal Revenue Code was published in the FEDERAL REGISTER (36 F.R. 10953, 13034). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments as proposed are hereby adopted to read as follows:

PARAGRAPH 1. Section 1.103 is amended by redesignating subsection (c) of section 103 as subsection (e), by adding new subsections (c) and (d) to section 103, and by adding a historical note. These amended and added provisions read as follows:

§ 1.103 Statutory provisions; interest on certain governmental obligations.

SEC. 103. *Interest on certain governmental obligations*—(a) *General rule.* * * *

(c) *Industrial Development Bonds*—(1) *Subsection (a) (1) Not To Apply.* Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a) (1).

(2) *Industrial Development Bond.* For purposes of this subsection, the term "industrial development bond" means any obligation—

(A) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (within the meaning of paragraph (3)), and

(B) The payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

(i) Secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

(ii) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

(3) *Exempt Person.* For purposes of paragraph (2) (A), the term "exempt person" means—

(A) A governmental unit, or

(B) An organization described in section 501(c) (3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

(4) *Certain Exempt Activities.* Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

(A) Residential real property for family units,

(B) Sports facilities,

(C) Convention or trade show facilities,

(D) Airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to any of the foregoing,

(E) Sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy or gas,

(F) Air or water pollution control facilities, or

(G) Facilities for the furnishing of water, if available on reasonable demand to members of the general public.

(5) *Industrial Parks.* Paragraph (1) shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used for the acquisition or development of land as the site for an industrial park. For purposes of the preceding sentence, the term "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, power, or communication facilities, which are incidental to use of the site as an industrial park, but, except with respect to such facilities, does not include the provision of structures or buildings.

(6) *Exemption For Certain Small Issues*—(A) *In General.* Paragraph (1) shall not apply to any obligation issued as part of an issue the aggregate authorized face amount of which is $1 million or less and substantially all of the proceeds of which are to be used (i) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or (ii) to redeem part or all of a prior issue which was issued for purposes described in clause (i) or this clause.

(B) *Certain Prior Issues Taken Into Account.* If—

(i) The proceeds of two or more issues of obligations (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

(ii) The principal user of such facilities is or will be the same person or two or more related persons, and

(iii) But for this subparagraph, subparagraph (A) would apply to each issue,

then, for purposes of subparagraph (A), in determining the aggregate face amount of any later issue there shall be taken into account the face amount of obligations issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

(C) *Related person.* For purposes of this paragraph and paragraph (7), a person is a related person to another person if—

(i) The relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

(ii) Such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(D) *$5-million Limit In Certain Cases.* At the election of the issuer, made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe, with respect to any issue, this paragraph shall be applied—

(i) By substituting "$5,000,000" for "$1,000,000" in subparagraph (A), and

(ii) In determining the aggregate face amount of such issue, by taking into account not only the amount described in subparagraph (B), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (E) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which subparagraph (A) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in subparagraph (B).

(E) *Facilities Taken Into Account.* For purposes of subparagraph (D) (ii), the facilities described in this subparagraph are facilities—

(i) Located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

(ii) The principal user of which is or will be the same person or two or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

(F) *Certain Capital Expenditures Not Taken Into Account.* For purposes of subparagraph (D) (ii), any capital expenditure—

(i) To replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

(ii) Required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

(iii) Required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $1,000,000),

shall not be taken into account.

(G) *Limitation On Loss Of Tax Exemption.* In applying subparagraph (D) (ii) with respect to capital expenditures made after the date of any issue, no obligation issued as a part of such issue shall be treated as an obligation not described in subsection (a) (1) by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

(H) *Certain Refinancing Issues.* In the case of any issue described in subparagraph (A) (ii), an election may be made under subparagraph (D) only if all of the prior issues

being redeemed are issues to which subparagraph (A) applies. In applying subparagraph (D)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under subparagraph (A).

(7) *Exception.* Paragraphs (4), (5), and (6) shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of the facilities or a related person.

(d) *Arbitrage Bonds*—(1) *Subsection (a) (1) Not To Apply.* Except as provided in this subsection, any arbitrage bond shall be treated as an obligation not described in subsection (a)(1).

(2) *Arbitrage Bond.* For purposes of this subsection, the term "arbitrage bond" means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly—

(A) To acqire securities (within the meaning of section 165(g)(2)(A) or (B)) or obligations (other than obligations described in subsection (a)(1)) which may be reasonably expected at the time of issuance of such issue, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on obligations of such issue, or

(B) To replace funds which were used directly or indirectly to acquire securities or obligations described in subparagraph (A).

(3) *Exception.* Paragraph (1) shall not apply to any obligation—

(A) Which is issued as part of an issue substantially all of the proceeds of which are reasonably expected to be used to provide permanent financing for real property used or to be used for residential purposes for the personnel of an educational institution (within the meaning of section 151(e)(4)) which grants baccalaureate or higher degrees, or to replace funds which were so used, and

(B) The yield on which over the term of the issue is not reasonably expected, at the time of issuance of such issue, to be substantially lower than the yield on obligations acquired or to be acquired in providing such financing.

This paragraph shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of property financed by the proceeds of the issue of which such obligation is a part, or by a member of the family (within the meaning of section 318(a)(1)) of any such person.

(4) *Special Rules.* For purposes of paragraph (1), an obligation shall not be treated as an arbitrage bond solely by reason of the fact that—

(A) The proceeds of the issue of which such obligation is a part may be invested for a temporary period in securities or other obligations until such proceeds are needed for the purpose for which such issue was issued, or

(B) An amount of the proceeds of the issue of which such obligation is a part may be invested in securities or other obligations which are part of a reasonably required reserve or replacement fund.

The amount referred to in subparagraph (B) shall not exceed 15 percent of the proceeds of the issue of which such obligation is a part unless the issuer establishes that a higher amount is necessary.

(5) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(e) *Cross References.* * * *

[Sec. 103 as amended by sec. 107(a), Revenue and Expenditure Control Act 1968 (82 Stat. 266); sec. 401(a), Renegotiation Amendments Act 1968 (82 Stat. 1349); sec. 601(a), Tax Reform Act 1969 (83 Stat. 656); sec. 315, Rev. Act 1971 (85 Stat. 529)]

PAR. 2. Section 1.103–1 is amended to read as follows:

§ 1.103–1 Interest upon obligations of a State, territory, etc.

(a) Interest upon obligations of a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually referred to as "State or local governmental unit") is not includable in gross income, except as provided under section 103 (c) and (d) and the regulations thereunder.

(b) Obligations issued by or on behalf of any State or local governmental unit by constituted authorities empowered to issue such obligations are the obligations of such a unit. However, section 103 (a)(1) and this section do not apply to industrial development bonds except as otherwise provided in section 103(c). See section 103(c) and §§ 1.103–7 through 1.103–12 for the rules concerning interest paid on industrial development bonds. See section 103(d) for rules concerning interest paid on arbitrage bonds. Certificates issued by a political subdivision for public improvements (such as sewers, sidewalks, streets, etc.) which are evidence of special assessments against specific property, which assessments become a lien against such property and which the political subdivision is required to enforce, are, for purposes of this section, obligations of the political subdivision even though the obligations are to be satisfied out of special funds and not out of general funds or taxes. The term "political subdivision", for purposes of this section denotes any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any State or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any such unit.

PAR. 3. The following new sections are added after § 1.103–6:

§ 1.103–7 Industrial development bonds.

(a) *In general.* Under section 103(c)(1) and this section, an industrial development bond issued after April 30, 1968, shall be treated as an obligation not described in section 103(a)(1) and § 1.103–1. Accordingly, interest paid on such a bond is includable in gross income unless the bond was issued by a State, or local governmental unit to finance certain exempt facilities (see section 103(c)(4) and § 1.103–8), to finance an industrial park (see section 103(c)(5) and § 1.103–9), or as part of an exempt small issue (see section 103(c)(6) and § 1.103–10). For applicable rules when an industrial development bond is held by a substantial user (or a person related to a substantial user) of such an exempt facility, or an industrial park, or a facility financed with the proceeds of such an exempt small issue, see section 103(c)(7) and § 1.103–11. See also § 1.103–12 for the transitional provisions concerning the interest paid on certain industrial development bonds issued before January 1, 1969, and certain other industrial development bonds. Even if section 103(c) does not prevent a bond from being treated as an obligation described in section 103(a)(1) and § 1.103–1, such bond shall nevertheless be treated as an obligation which is not described in section 103(a)(1) and § 1.103–1 if under section 103(d) it is an arbitrage bond. For purposes of section 103(c), the term "issue" includes a single obligation such as a single note issued in connection with a bank loan as well as a series of notes or bonds.

(b) *Industrial development bonds*—(1) *Definition.* For purposes of this section, the term "industrial development bond" means any obligation—

(i) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (as defined in subparagraph (2) of this paragraph), and

(ii) The payment of the principal or interest on which, under the terms of such obligation or any underlying arrangement (as described in subparagraph (4) of this paragraph), is in whole or in major part (i.e., major portion)—

(*a*) Secured by any interest in property used or to be used in a trade or business,

(*b*) Secured by any interest in payments in respect of property used or to be used in a trade or business, or

(*c*) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

See subparagraphs (3) and (4) of this paragraph for the trade or business test and the security interest test respectively.

(2) *Exempt person.* The term "exempt person" means a governmental unit as defined in this subparagraph, or an organization which is described in section 501(c)(3) and this subparagraph and is exempt from taxation under section 501 (a). For purposes of this subparagraph, the term "governmental unit" means a State or local governmental unit (as defined in § 1.103–1). In the case of obligations (i) issued on or before August 3, 1972, or (ii) issued after August 3, 1972, with respect to which a bond resolution, or other similar official action was taken and in reliance on such action either (*a*) construction of the facility to be financed with such obligations has commenced, or (*b*) a binding contract has been entered into, or an irrevocable bid has been submitted, prior to August 3, 1972, for

purposes of this subparagraph, the term "governmental unit" also includes the United States of America (or an agency or instrumentality of the United States of America). For purposes of this subparagraph, a tax-exempt organization is an exempt person only with respect to a trade or business it carries on which is not an unrelated trade or business. Whether a particular trade or business carried on by a tax-exempt organization is an unrelated trade or business is determined by applying the rules of section 513(a) (relating to general rule for unrelated trade or business) and the regulations thereunder to the tax-exempt organization without regard to whether the organization is an organization subject to the tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

(3) *Trade or business test.* (i) The trade or business test relates to the use of the proceeds of a bond issue. The test is met if all or a major portion of the proceeds of a bond issue is used in a trade or business carried on by a nonexempt person. For example, if all or a major portion of the proceeds of a bond issue is to be loaned to one or more private business users, or is to be used to acquire, construct, or reconstruct facilities to be leased or sold to such private business users, and such proceeds or facilities are to be used in trades or businesses carried on by them, such proceeds are to be used in a trade or business carried on by persons who are not exempt persons, and the debt obligations comprising the bond issue satisfy the trade or business test. If, however, less than a major portion of the proceeds of an issue is to be loaned to nonexempt persons or is to be used to acquire or construct facilities which will be used in a trade or business carried on by a nonexempt person, the debt obligations will not be industrial development bonds. Also, when publicly-owned facilities which are intended for general public use, such as toll roads or bridges, are constructed with the proceeds of a bond issue and used by nonexempt persons in their trades or businesses on the same basis as other members of the public, such use does not constitute a use in the trade or business of a nonexempt person for purposes of the trade or business test.

(ii) In determining whether a debt obligation meets the trade or business test, the indirect, as well as the direct, use of the proceeds is to be taken into account. For example, the debt obligations comprising a bond issue do not fail to satisfy the trade or business test merely because the State or local governmental unit uses the proceeds to engage in a series of financing transactions for property to be used by private bsuiness users in trades or businesses carried on by them. Similarly, if such proceeds are to be used to construct facilities to be leased or sold to any nonexempt person for use in a trade or business it carries on, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. If such proceeds are to be used to construct facilities to be leased or sold to an exempt person who will, in turn, lease or sell the facilities to a nonexempt person for use in a trade or business, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. In addition, proceeds will be treated as being used in the trade or business of a nonexempt person in situations involving other arrangements, whether in a single transaction or in a series of transactions, whereby a nonexempt person uses property acquired with the proceeds of a bond issue in its trade or business.

(iii) The use of more than 25 percent of the proceeds of an issue of obligations in the trades or businesses of nonexempt persons will constitute the use of a major portion of such proceeds in such manner. In the case of the direct or indirect use of the proceeds of an issue of obligations or the direct or indirect use of a facility constructed, reconstructed, or acquired with such proceeds, the use by all nonexempt persons in their trades or businesses must be aggregated to determine whether the trade or business test is satisfied. If more than 25 percent of the proceeds of a bond issue is used in the trades or businesses of nonexempt persons, the trade or business test is satisfied. For special rules with respect to the acquisition of the output of facilities, see subparagraph (5) of this paragraph.

(4) *Security interest test.* The security interest test relates to the nature of the security for, and the source of, the payment of either the principal or interest on a bond issue. The nature of the security for, and the source of, the payment may be determined from the terms of the bond indenture or on the basis of an underlying arrangement. An underlying arrangement to provide security for, or the source of, the payment of the principal or interest on an obligation may result from separate agreements between the parties or may be determined on the basis of all the facts and circumstances surrounding the issuance of the bonds. The property which is the security for, or the source of, the payment of either the principal or interest on a debt obligation need not be property acquired with bond proceeds. The security interest test is satisfied if, for example, a debt obligation is secured by unimproved land or investment securities used, directly or indirectly, in any trade or business carried on by any private business user. A pledge of the full faith and credit of a State or local governmental unit will not prevent a debt obligation from otherwise satisfying the security interest test. For example, if the payment of either the principal or interest on a bond issue is secured by both a pledge of the full faith and credit of a State or local governmental unit and any interest in property used or to be used in a trade or business, the bond issue satisfies the security interest test. For rules with respect to the acquisition of the output of facilities see subparagraph (5) of this paragraph.

(5) *Trade or business test and security interest test with respect to certain output contracts.* (i) The use by one or more nonexempt persons of a major portion of the subparagraph (5) output of facilities such as electric energy, gas, or water facilities constructed, reconstructed, or acquired, with the proceeds of an issue satisfies the trade or business test and the security interest test if such use has the effect of transferring to nonexempt persons the benefits of ownership of such facilities, and the burdens of paying the debt service on governmental obligations used directly or indirectly to finance such facilities, so as to constitute the indirect use by them of a major portion of such proceeds. Such benefits and burdens are transferred and a major portion of the proceeds of an issue is used indirectly by the users of the subparagraph (5) output of such a facility which is owned and operated by an exempt person where—

(*a*) (*1*) One nonexempt person agrees pursuant to a contract to take, or to take or pay for, a major portion (more than 25 percent) of the subparagraph (5) output (within the meaning of subdivision (ii) of this subparagraph) of such a facility (whether or not conditional upon the production of such output) or (2) two or more nonexempt persons, each of which pays annually a guaranteed minimum payment exceeding 3 percent of the average annual debt service with respect to the obligations in question, agree, pursuant to contracts, to take, or to take or pay for, a major portion (more than 25 percent) of the subparagraph (5) output of such a facility (whether or not conditioned upon the production of such output), and

(*b*) Payment made or to be made with respect to such contract or contracts by such nonexempt person or persons exceeds a major part (more than 25 percent) of the total debt service with respect to such issue of obligations.

(ii) For purposes of this subparagraph—

(*a*) Where a contract described in subdivision (i) of this subparagraph may be extended by the issuer of obligations described therein, the term of the contract shall be considered to include the period for which such contract may be so extended.

(*b*) The subparagraph (5) output of a facility shall be determined by multiplying the number of units produced or to be produced by the facility in 1 year by the number of years in the contract term of the issue of obligations issued to provide such facility. The number of units produced or to be produced by a facility in 1 year shall be determined by reference to its nameplate capacity (or where there is no nameplate capacity, its maximum capacity) without any reduction for reserves or other unutilized capacity. The contract term of an issue begins on the date the output of a facility is first taken, pursuant to a take or a take or pay contract, by a nonexempt person and ends on the latest maturity date of any

obligation of the issue (determined without regard to any optional redemption dates). If, however, on or before the date of issue of a prior issue of governmental obligations issued to provide a facility, the issuer makes a commitment in the bond indenture or related document to refinance such prior issue with one or more subsequent issues of governmental obligations, then the contract term of the issue shall be determined with regard to the latest redemption date of any obligation of the last such refinancing issue with respect to such facility (determined without regard to any optional redemption dates). Where it appears that the term of an issue (or the terms of two or more issues) is extended for purposes of extending the contract term of an issue and thereby increasing the subparagraph (5) output of the facility provided by such issue, the subparagraph (5) output of such facility shall be determined by the Commissioner without regard to the provisions of this subdivision (*b*).

(c) The total debt service with respect to an issue of obligations shall be the total dollar amount (excluding any penalties) payable with respect to such issue over its entire term. The entire term of an issue begins on its date of issue and ends on the latest maturity date of any obligation of the issue (determined without regard to any optional redemption dates). If, however, on or before the date of issue of a prior issue of governmental obligations the issuer makes a commitment in the bond indenture or related document to refinance such prior issue with one or more subsequent issues of governmental obligations, the entire term of the issue shall be determined with regard to the latest redemption date of any obligation of the last such refinancing issue (determined without regard to any optional redemption dates).

(*d*) Two or more nonexempt persons who are related persons (within the meaning of section 103(c)(6)(C)) shall be treated as one nonexempt person.

(c) *Examples.* The application of the rules contained in section 103(c)(2) and (3) and paragraph (b) of this section are illustrated by the following examples:

Example (*1*). State A and corporation X enter into an arrangement under which A is to provide a factory which X will lease for 20 years. The arrangement provides (1) that A will issue $10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and to construct and equip a factory in accordance with X's specifications, (3) that X will rent the facility (land, factory, and equipment) for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself will be the security for the bonds. The bonds are industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used (by purchasing land and constructing and equipping the factory) in a trade or business by a nonexempt person, and (2) the payment of the principal and interest on which is secured by the facility and payments to be made with respect thereto.

Example (*2*). The facts are the same as in example (1) except that (1) X will purchase the facility, and (2) annual payments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds will be made by X. The bonds are industrial development bonds for the reasons set forth in example (1).

Example (*3*). State B and corporation X enter into an arrangement under which B is to loan $10 million to X. The arrangement provides (1) that B will issue $10 million of bonds, (2) that the proceeds of the bond issue will be loaned to X to provide additional working capital and to finance the acquisition of certain new machinery, (3) that X will repay the loan in annual installments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that the payments on the loan and the machinery will be the security for only the payment of the principal on the bonds. The bonds are industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used in a trade or business by a nonexempt person, and (2) the payment of the principal on which is secured by payments to be made in respect of property to be used in a trade or business. The result would be the same if only the payment of the interest on the bonds were secured by payments on the loan and machinery.

Example (*4*). The facts are the same as in example (1), (2), or (3) except that the annual payments required to be made by corporation X exceed the amount necessary to amortize the principal and pay the interest on the outstanding bonds. The bonds are industrial development bonds for the reasons set forth in such examples. The fact that corporation X is required to pay an amount in excess of the amount necessary to pay the principal and interest on the bonds does not affect their status as industrial development bonds. Similarly, if the annual payments required to be made by corporation X were sufficient to pay only a major portion of either the principal or the interest on the outstanding bonds, the bonds would be industrial development bonds for the reasons set forth in such examples.

Example (*5*). The facts are the same as in example (1), (2), (3), or (4) except that the issuer is a political subdivision which has taxing power and the bonds are general obligation bonds. Since both the trade or business and the security interest tests are met, the bonds are industrial development bonds notwithstanding the fact that they constitute an unconditional obligation of the issuer payable from its general revenues.

Example (*6*). (a) State C issues its general obligation bonds to purchase land and construct a hotel for use by the general public (i.e., tourists, visitors, travelers on business, etc.). The bond indenture provides (1) that C will own and operate the project for the period required to redeem the bonds, and (2) that the project itself and the revenues derived therefrom are the security for the bonds. The bonds are not industrial development bonds since (1) the proceeds are to be used by an exempt person in a trade or business carried on by such person, and (2) a major portion of such proceeds is not to be used, directly or indirectly, in a trade or business carried on by a nonexempt person. Use of the hotel by hotel guests who are travelling in connection with trades or businesses of nonexempt persons is not an indirect use of the hotel by such nonexempt persons for purposes of section 103(c).

(b) The facts are the same as in paragraph (a) of this example except that corporation Y enters into a long-term agreement with C that Y will rent more than one-fourth of the rooms on an annual basis for a period approximately equal to one half of the term of the bonds. The bonds are industrial development bonds because (1) a major portion of the proceeds used to construct the hotel is to be used in the trade or business of corporation Y (a nonexempt person) and (2) a major portion of the principal and interest on such issue will be derived from payments in respect of the property used in the trade or business of Y.

Example (*7*). (a) State D and corporation Y enter into an agreement under which Y will lease for 20 years three floors of a 12-story office building to be constructed by D on land which it will acquire. D will occupy the grade floor and the remaining eight floors of the building. The portion of the costs of acquiring the land and constructing the building which are allocated to the space to be leased by Y is not in excess of 25 percent of the total costs of acquiring the land and constructing the building. Such costs, whether attributable to the acquisition of land or the construction of the building, were allocated to leased space in the same proportion that the reasonable rental value of such leased space bears to the reasonable rental value of the entire building. From the facts and circumstances presented, it is determined that such allocation was reasonable. The arrangement between D and Y provides that D will issue $10 million of bonds, that the proceeds of the bond issue will be used to purchase land and construct an office building, that Y will lease the designated floor space for 20 years at its reasonable rental value, and that such rental payments and the building itself shall be security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds is not to be used, directly or indirectly, in the trade or business of a nonexempt person.

(b) The facts are the same as in paragraph (a) of this example except that corporation Y will lease four floors, and the costs allocated to these floors are in excess of 25 percent of D's investment in the land and building. The bonds are industrial development bonds because (1) a major portion of the building is to be used in the trade or business of a nonexempt person, and (2) a major portion of the principal and interest on such issue is secured by the rental payments on the building.

Example (*8*). The facts are the same as in paragraph (b) of example (7) except that, instead of leasing any space to corporation Y, State D will lease the four floors to numerous unrelated private business users to be used in their trades or businesses. No lease will have a term exceeding 2 years. A major portion of the principal and interest will be paid from the revenues that D will derive from such leases. The fact that the activities of D, an exempt person, may amount to a trade or business of leasing property is not material, and the bonds are industrial development bonds for the reasons set forth in paragraph (b) of example (7). The result would be the same in the case of long-term leases.

Example (*9*). State E issues its obligations to finance the construction of dormitories for educational institution Z which is an organization described in section 501(c)(3) and exempt from tax under section 501(a). The dormitories are to be owned and operated by Z and their operation does not constitute an unrelated trade or business. The bonds are not industrial development bonds since the proceeds are to be used by an exempt person in a trade or business carried on by such person which is not an unrelated trade or business, as determined by applying section 513(a) to Z.

Example (*10*). State F issues its obligations to finance the construction of a toll road and the cost of erecting related facilities such as gasoline service stations and restau-

rants. Such related facilities represent less than 25 percent of the total cost of the project and are to be leased or sold to nonexempt persons. The toll road is to be owned and operated by F. The revenues from the toll road and from the rental of related facilities are the security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds is not to be used, directly or indirectly, in the trades or businesses of nonexempt persons. The fact that vehicles owned by nonexempt persons engaged in their trades or businesses may use the road in common with, or as a part of, the general public is not material.

Example (11). City G issues its obligations to finance the construction of a municipal auditorium which it will own and operate. The use of the auditorium will be open to anyone who wishes to use it for a short period of time on a rate-scale basis. The rights of such a user are only those of a transient occupant rather than the full legal possessory interests of a lessee. It is anticipated that the auditorium will be used by schools, church groups, and fraternities, and numerous commercial organizations. The revenues from the rentals of the auditorium and the auditorium building itself will be the security for the bonds. The bonds are not industrial development bonds because such use is not a use in the trade or business of a nonexempt person.

Example (12). The facts are the same as in example (11) except that one nonexempt person will have a 20-year rental agreement providing for exclusive use of the entire auditorium for more than 3 months of each year at a rental comparable to that charged short-term users. The bonds are industrial development bonds since such use is a use in the trade or business of a nonexempt person and, therefore, a major portion of the proceeds of the issue will be used in the trade or business of a nonexempt person and a major portion of the principal or interest on such issue will be secured by a facility used in such trade or business and by payments with respect to such facility.

Example (13). In order to construct an electric generating facility of a size sufficient to take advantage of the economies of scale: (1) City H will issue $50 million of its 25-year bonds and Z (a privately owned electric utility) will use $100 million of its funds for construction of a facility they will jointly own as tenants in common. (2) Each of the participants will share in the ownership, output, and operating expenses of the facility in proportion to its contribution to the cost of the facility, that is, one-third by H and two-thirds by Z. (3) H's bonds will be secured by H's ownership in the facility and by revenues to be derived from the sale of H's share of the annual output of the facility. (4) Because H will need only 50 percent of its share of the annual output of the facility, it agrees to sell to Z 25 percent of its share of such annual output for a period of 20 years pursuant to a contract under which Z agrees to take or pay for such power in all events. The facility will begin operation, and Z will begin to receive power, 4 years after the City H obligations are issued. The contract term of the issue will, therefore, be 21 years. (5) H also agrees to sell the remaining 25 percent of its share of the annual output to numerous other private utilities under a prevailing rate schedule including demand charges. (6) No contracts will be executed obligating any person other than Z to purchase any specified amount of the power for any specified period of time and no one such person (other than Z) will pay a demand charge or other minimum payment under conditions which, under paragraph (b) (5) of this section, result in a transfer of the benefits of ownership and the burdens of paying the debt service on obligations used directly or indirectly to provide such facilities. The bonds are not industrial development bonds because H's one-third interest in the facility (financed with bond proceeds) shall be treated as a separate property interest and, although 25 percent of H's interest in the annual output of the facility will be used directly or indirectly in the trade or business of Z, a nonexempt person, under the rule of paragraph (b) (5) of this section, such portion constitutes less than a major portion of the subparagraph (5) output of the facility. If more than 25 percent of the subparagraph (5) output of the facility were to be sold to Z pursuant to the take or pay contract, the bonds would be industrial development bonds since they would be secured by H's ownership in the facility and revenues therefrom, and under the rules of paragraph (b) (5) of this section a major portion of the proceeds of the bond issue would be used in the trade or business of Z, a nonexempt person.

Example (14). J, a political subdivision of a State, will issue several series of bonds from time to time and will use the proceeds to rehabilitate urban areas. More than 25 percent of the proceeds of each issue will be used for the rehabilitation and construction of buildings which will be leased or sold to nonexempt persons for use in their trades or businesses. There is no limitation either on the number of issues or the aggregate amount of bonds which may be outstanding. No group of bondholders has any legal claim prior to any other bondholders or creditors with respect to specific revenues of J, and there is no arrangement whereby revenues from a particular project are paid into a trust or constructive trust, or sinking fund, or are otherwise segregated or restricted for the benefit of any group of bondholders. There is, however, an unconditional obligation by J to pay the principal and interest on each issue of bonds. Further, it is apparent that J requires the revenues from the lease or sale of buildings to nonexempt persons in order to pay in full the principal and interest on the bonds in question. The bonds are industrial development bonds because a major portion of the proceeds will be used in the trades or businesses of nonexempt persons and, pursuant to an underlying arrangement, payment of the principal and interest is, in major part, to be derived from payments in respect of property or borrowed money used in the trades or businesses of nonexempt persons.

Example (15). Power Authority K, a political subdivision created by the legislature in State X to own and operate certain power generating facilities, sells all of the power from its existing facilities to four private utility systems under contracts executed in 1970, whereby such four systems are required to take or pay for specified portions of the total power output until the year 2000. Currently, existing facilities supply all of the present needs of the four utility systems but their future power requirements are expected to increase substantially. K issues 20-year general obligation bonds to construct a large nuclear generating facility. A fifth private utility system contracts with K to take or pay for 30 percent of the subparagraph (5) output of the new facility. The balance of the power output of the new facility will be available for sale as required, but initially it is not anticipated there will be any need for such power. The revenues from the contract with the fifth private utility system will be sufficient to pay less than 25 percent of the principal or interest on the bonds. The balance, which will exceed 25 percent of the principal or interest on such bonds, will be paid from revenues from the contracts with the four systems from sale of power produced by the old facilities. The bonds will be industrial development bonds because a major portion of the proceeds will be used in the trade or business of a nonexempt person, and payment of the principal and interest, pursuant to an underlying arrangement, will be derived in major part from payments in respect of property used in the trades or businesses of nonexempt persons.

(d) *Certain refunding issues*—(1) *General rule.* In the case of an issue of obligations issued to refund the outstanding face amount of an issue of obligations, the proceeds of the refunding issue will be considered to be used for the purpose for which the proceeds of the issue to be refunded were used. The rules of this subparagraph shall apply regardless of the date of issuance of the issue to be refunded and shall apply to refunding issues to be issued to refund prior refunding issues.

(2) *Obligations issued prior to effective date.* In the case of an issue of obligations issued to refund the outstanding face amount of an issue of obligations issued on or before April 30, 1968 (or before January 1, 1969, if the transitional rules of § 1.103–12 are applicable) which would have been industrial development bonds within the meaning of section 103 (c) (2) had they been issued after such date, the refunding issue shall not be considered to be an issue of industrial development bonds if it does not make funds available for any purpose other than the debt service on the obligations. For rules as to arbitrage bonds, see section 103(d).

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1969, State A issued $20 million of 20-year revenue bonds the proceeds of which were used to contruct a sports facility which qualifies as an exempt facility described in section 103(c) (4) (B) and paragraph (c) of § 1.103–8. The sports facility will be owned and operated by X, a nonexempt person, for the use of the general public. In 1975, A issues $15 million of revenue bonds in order to refund the outstanding face amount of the 1969 issue. Since the proceeds of the 1969 issue were used for an exempt facility, the proceeds of the 1975 refunding issue will be considered to be used for the same purposes and section 103(c) (1) shall not apply to the 1975 refunding issue. The result would have been the same if the original issue had been issued in 1965. For rules as to a refunding obligation held by substantial users of facilities constructed with the proceeds of the issue refunded, see section 103(c) (7) and § 1.103–11.

Example (2). In 1967, prior to the effective date of section 103(c), city B issued $10 million of revenue bonds the proceeds of which were used to construct a manufacturing facility for corporation Y, a nonexempt person. Lease payments by Y were security for the bonds. In 1975, B issue $7 million of revenue bonds in order to retire the outstanding face amount of the 1967 issue. The interest rate of the 1975 issue is one and one-half percentage points lower than the interest rate on the 1967 issue. Both issues sold at par. All of the terms of the 1975 issue are the same as the terms of the 1967 issue with the exception of the interest rate. The 1975 refunding issue will not be considered to be an issue of industrial development bonds since the refunding issue will not make funds

available for any purpose other than the debt service on the outstanding obligations.

Example (3). The facts are the same as in example (2) except that the interest rate on the refunding issue is the same as the interest rate on the issue to be refunded. Assume further that city B issued the 1975 refunding issue in order to extend the term of the obligations issued in 1967 as the result of its inability to pay such obligations due to insufficient revenues. The results will be the same as in example (2) for the reasons stated therein.

§ 1.103–8 Interest on bonds to finance certain exempt facilities.

(a) *In general*—(1) *General rule.* (i) Under section 103(c)(4), interest paid on an issue of obligations issued by a State, or local governmental unit (as defined in § 1.103–1) is not includable in gross income if substantially all of the proceeds of such issue is to be used to provide one or more of the exempt facilities listed in subparagraphs (A) through (G) of section 103(c)(4) and in this section. However, interest on an obligation of such issue is includable in gross income if the obligation is held by a substantial user or a related person (as described in section 103(c)(7) and § 1.103–11). If substantially all of the proceeds of a bond issue is to be used to provide such exempt facilities, the debt obligations are treated as obligations described in section 103(a)(1) and § 1.103–1 even though such obligations are industrial development bonds as defined in section 103(c)(2) and § 1.103–7.

(ii) The provisions of subdivision (i) of this subparagraph shall also apply to an issue of obligations substantially all of the proceeds of which is to be used to provide exempt facilities described in this section and for either or both of the following purposes: (*a*) To acquire or develop land as the site for an industrial park described in section 103(c)(5) and § 1.103–9, (*b*) to provide facilities to be used by an exempt person.

(iii) Section 103(c)(4) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that obligations are industrial development bonds within the meaning of section 103(c)(2). For rules as to exempt facilities including property functionally related and subordinate to such facilities, see subparagraph (3) of this paragraph. For rules with respect to the ultimate use of proceeds of obligations, see paragraph (4) of this subparagraph. For rules which limit the application of the provisions of this section see subparagraph (5) of this paragraph. For the interrelationship of the rules provided in this section and the exemption for certain small issues provided in section 103(c)(6), see § 1.103–10.

(2) *Public use requirement.* To qualify under section 103(c)(4) and this section as an exempt facility, a facility must serve or be available on a regular basis for general public use, or be a part of a facility so used, as contrasted with similar types of facilities which are constructed for the exclusive use of a limited number of nonexempt persons in their trades or businesses. For example, a private dock or wharf owned by or leased to, and serving only a single manufacturing plant would not qualify as a facility for general public use, but a hangar or repair facility at a municipal airport, or a dock or a wharf, would qualify even if it is owned by, or leased or permanently assigned to, a nonexempt person provided that such nonexempt person directly serves the general public, such as a common passenger carrier or freight carrier. Similarly, an airport owned or operated by a nonexempt person for general public use is a facility for public use, as is a dock or wharf which is a part of a public port. Sewage or solid waste disposal facilities and air or water pollution control facilities, described in sections 103(c)(4)(E) and (F) and paragraphs (f) and (g) of this section, will be treated in all events as serving a general public use although they may be part of a nonpublic facility such as a manufacturing facility used in the trade or business of a nonexempt user.

(3) *Functionally related and subordinate.* An exempt facility includes any land, building, or other property functionally related and subordinate to such facility. Property is not functionally related and subordinate to a facility if it is not of a character and size commensurate with the character and size of such facility. Since substantially all of the proceeds of a bond issue must be used for the exempt facility (or for any combination of exempt facilities, industrial parks, and facilities to be used by exempt persons), including property functionally related and subordinate thereto, an insubstantial amount of the proceeds of a bond issue may be used for facilities which are neither exempt facilities (or a combination of exempt facilities, industrial parks and facilities to be used by exempt persons) nor functionally related and subordinate to exempt facilities. Thus, for example, where substantially all of the proceeds of an urban redevelopment bond issue are to be used by a State urban redevelopment agency for residential real property for family units within the meaning of section 103(c)(4)(A) and paragraph (b) of this section, an insubstantial amount may be used for an industrial or commercial project or for any other purpose that is not functionally related and subordinate to the residential real property for family units.

(4) *Ultimate use of proceeds.* The question whether substantially all of the proceeds of an issue of obligations are to be used to provide one or more of the exempt facilities listed in subparagraphs (A) through (G) of section 103(c)(4) and in this section is to be resolved by reference to the ultimate use of such proceeds. For example, such proceeds will be treated as used to provide residential real property for family units whether the State or local governmental unit (i) constructs such property and leases or sells it to any person who is not an exempt person for use in such person's trade or business of selling or leasing such property; (ii) lends the proceeds to any such person for such purpose; or (iii) lends the proceeds to banks or other financial institutions in order to increase the supply of funds for mortgage lending under conditions requiring such banks or other financial institutions to use such proceeds only for further mortgage lending on residential real property for family units.

(5) *Limitation.* (i) To qualify under section 103(c)(4) and this section as an exempt facility, such facility (*a*) must be one which is described in subdivision (ii) or (iii) of this subparagraph, and (*b*) if the original use of the facility commences prior to the date of issue of obligations issued to provide such facility, the facility is described in subdivision (iv) of this subparagraph.

(ii) If the construction, reconstruction, or acquisition of a facility commences before September 2, 1972, the facility is described in this subdivision if a bond resolution with respect to obligations to provide such facility had been adopted by, or some other similar official action toward the issuance of obligations to provide such facility had been taken by, the issuer of such obligations prior to the date the entire facility is placed in service. For purposes of this subdivision, a facility is placed in service on the date the period for depreciation by a nonexempt user would begin under section 167, determined, however, without regard to any averaging convention.

(iii) If the original use of a facility commences after the date of issue of obligations issued to provide such facility, the facility is described in this subdivision if a bond resolution with respect to such obligations had been adopted, or some other similar official action toward the issuance of such obligations had been taken by, the issuer of such obligations prior to the commencement of the construction, reconstruction, or acquisition of such facility. Temporary construction or other financing of a facility prior to the issuance of State or local governmental obligations to provide such facility will not cause such facility to be one which is not described in this subdivision.

(iv) If the original use of a facility commences prior to the date of issue of obligations issued to provide such facility, the facility is described in this subdivision if no nonexempt person who was a substantial user of such facility or a related person (within the meaning of § 1.103–11) at any time during the 5 years preceding the date of issue of such obligations and who receives, directly or indirectly, proceeds of the issue of obligations in question in an amount equal to 5 percent or more of the face amount of the issue (in payment for his interest in such facility) will be a substantial user of such facilities or a related person for the 5 years following the date of such issue.

(6) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. State A issues its bonds and plans to use substantially all of the proceeds from such bond issue to purchase land and build a facility which will be for one of the purposes described in section 103(c)(4) and this section. The arrangement provides that (1)

A will issue bonds the proceeds of which (after deducting bond election costs, costs of publishing notices, attorneys' fees, printing costs, trustees' fees for fiscal agents, and similar expenses) will be $20 million; (2) $18 million of the proceeds of the bond issue will be used to purchase land and to construct such facility; (3) $2 million of the proceeds will be used for an unrelated facility which will be used by X, a nonexempt person, in a separate trade or business and for a purpose not described in section 103(c) (4) or (5); (4) X will rent both facilities for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds; and (5) such payments by X and the facilities will be the security for the bonds. On these facts, substantially all of the proceeds will be used in connection with an exempt facility described in section 103(c) (4) and this section. Accordingly, section 103(c) (1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facilities or a related person within the meaning of section 103(c) (7) and § 1.103–11.

(b) *Residential real property*—(1) *General rule.* Section 103(c) (4) (A) provides that section 103(c) (1) shall not apply to obligations issued by a State or local governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide residential real property for family units. In order to qualify under section 103(c) (4) (A) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a) (2) of this section by being available for use by members of the general public.

(2) *Family units defined.* (i) For purposes of section 103(c) (4) (A) and this paragraph, the term "family unit" means a building or any portion thereof which contains complete living facilities which are to be used on other than a transient basis by one or more persons and facilities functionally related and subordinate thereto. Thus, an apartment which is to be used on other than a transient basis by a single person or by a family which contains complete facilities for living, sleeping, eating, cooking, and sanitation, constitutes a family unit. Such a unit may be served by centrally located machinery and equipment as in a typical apartment building. To qualify as a family unit, the living facilities must be a separate, self-contained building or constitute one unit in a building substantially all of which consists of similar units, together with functionally related and subordinate facilities and areas. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and trailer parks and courts for use on a transient basis do not constitute residential real property for family units.

(ii) Under paragraph (a) (3) of this section, facilities which are functionally related and subordinate to residential real property actually used for family units include, for example, facilities for use by the occupants such as a swimming pool, a parking area, and recreational facilities.

(c) *Sports facilities*—(1) *General rule.* Section 103(c) (4) (B) provides that section 103(c) (1) shall not apply to obligations issued by a State or local governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide sports facilities. In order to qualify as an exempt facility under section 103(c) (4) (B) and this paragraph, the facility must satisfy the public use requirement of paragraph (a) (2) of this section by being available for use by members of the general public either as participants or as spectators.

(2) *Sports facility defined.* (i) For purposes of section 103(c) (4) (B) and this paragraph, the term "sports facilities" includes both outdoor and indoor facilities. The facility may be designed either as a spectator or as a participation facility. For example, the term includes both indoor and outdoor stadiums for baseball, football, ice hockey, or other sports events, as well as facilities for the participation of the general public in sports activities, such as golf courses, ski slopes, swimming pools, tennis courts, and gymnasiums. The term does not include, however, facilities such as a golf course, swimming pool, or tennis court, which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or the use of which will be restricted to a special class or group or to guests of a particular hotel or motel, since they are not facilities for the use of the general public as required by paragraph (a) (2) of this section.

(ii) Under paragraph (a) (3) of this section, facilities which are functionally related and subordinate to a sports facility, such as a parking lot, clubhouse, ski slope warming house, bath house, or ski tow, are considered to be part of a sports facility. A ski lodge which consists primarily of overnight accommodations is not functionally related and subordinate to a sports facility.

(d) *Convention or trade show facilities*—(1) *General rule.* Section 103(c) (4) (C) provides that section 103(c) (1) shall not apply to obligations issued by a State, etc., governmental unit which are a part of an issue substantially all of the proceeds of which are to be used to provide convention or trade show facilities. In order to qualify under section 103(c) (4) (C) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a) (2) of this section by being available for an appropriate charge or rental, on a rate scale basis, for use by members of the general public. The public use requirement is not satisfied if the use of a convention or trade show facility is limited by long-term leases to a single user or group of users.

(2) *Convention or trade show facilities defined.* For purposes of section 103 (c) (4) (C) and this paragraph, the term "convention or trade show facilities" means special-purpose buildings or structures, such as meeting halls and display areas, which are generally used to house a convention or trade show, including, under paragraph (a) (3) of this section, facilities functionally related and subordinate to such facilities such as parking lots or railroad sidings. A hotel or motel which is available to the general public, whether or not it is intended primarily to house persons attending or participating in a convention or trade show, is neither a convention or trade show facility nor functionally related and subordinate thereto.

(e) *Certain transportation facilities*—(1) *General rule.* Section 103(c) (4) (D) provides that section 103(c) (1) shall not apply to obligations issued by a State or local governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide (i) airports, docks, wharves, mass commuting facilities, or public parking facilities, or (ii) storage or training facilities directly related to any such facility. In order to qualify under section 103(c) (4) (D) and this paragraph as an exempt facility, the facility must satisfy the public use requirement of paragraph (a) (2) of this section by being available for use by members of the general public or for use by common carriers or charter carriers which serve members of the general public. A dock or wharf which is part of a public port (or a public port to be constructed in accordance with a plan which has been finally adopted on the date the obligations in question are issued) satisfies the public use test. A parking lot will be available for use by the general public unless more than an insubstantial portion thereof will be used exclusively by or for the benefit of a nonexempt person by reason of a formal or informal agreement or by reason of the remote geographic location of the facility.

(2) *Definitions.* For purposes of section 103(c) (4) (D) and this paragraph—

(i) An airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a) (3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

(ii) A dock or wharf includes property which, under paragraph (a) (3) of this section, is functionally related and subordinate to a dock or wharf such as the structure alongside which a vessel docks, the equipment needed to receive and to discharge cargo and passengers from the vessel, such as cranes and conveyors, related storage, handling, office, and passenger areas, and similar facilities.

(iii) A mass commuting facility includes real property together with improvements and personal property used therein, such as machinery, equipment, and furniture, serving the general public commuting on a day-to-day basis by bus, subway, rail, ferry, or other conveyance

which moves over prescribed routes. Such property also includes terminals and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the mass commuting facility, such as parking garages, car barns, and repair shops. Use of mass commuting facilities by noncommuters in common with commuters is immaterial. Thus, a terminal leased to a common carrier bus line which serves both commuters and long distance travelers would qualify as an exempt facility.

(3) *Related storage or training facility.* Section 103(c)(4)(D) includes only those storage or training facilities which are both (i) directly related to a facility to which subparagraph (1)(i) of this paragraph applies and (ii) physically located on or adjacent to such a facility. For example, a storage facility would include a grain elevator, silo, warehouse, or oil and gas storage tank used in connection with a dock or wharf and located on or adjacent to such dock or wharf. Similarly, a training facility would include a building located at or adjacent to an airport for the training of flight personnel or a paved area immediately abjoining a bus garage used to train bus drivers.

(f) *Certain public utility facilities*—(1) *General rule.* (i) Section 103(c)(4)(E) provides that section 103(c)(1) shall not apply to obligations issued by a State or local governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide sewage disposal facilities, solid waste disposal facilities, or facilities for the local furnishing of electric energy or gas. In order to qualify under section 103(c)(4)(E) as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section. A public utility facility described in this subparagraph (with the exception of sewage and solid waste disposal facilities which will be treated in all events as serving the general public) will satisfy the public use requirement only if such facility, or the output thereof, is available for use by members of the general public.

(ii) A facility for the local furnishing of electric energy or gas is, for purposes of applying the public use test in paragraph (a)(2) of this section, available for use by members of the general public if (*a*) the owner or operator of the facility is obligated, by a legislative enactment, local ordinance, regulation, or the equivalent thereof, to furnish electric energy or gas to all persons who desire such services and who are within the service area of the owner or operator of such facility, and (*b*) it is reasonably expected that such facility will serve or be available to a large segment of the general public in such service area. For rules with respect to facilities for the furnishing of water, see paragraph (h) of this section.

(2) *Definitions.* For purposes of section 103(c)(4)(E) and this paragraph—

(i) The term "sewage disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of sewage.

(ii) (*a*) The term "solid waste disposal facilities" means any property or portion thereof used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste which meets the test of (*d*) or (*e*) of this subdivision (ii). Only expenditures for that portion of property which is a solid waste disposal facility qualify as expenditures for solid waste disposal facilities. The fact that a facility which otherwise qualifies as a solid waste disposal facility operates at a profit will not, of itself, disqualify the facility as an exempt facility. However, whether a collection or storage facility qualifies as a solid waste disposal facility depends upon all of the facts and circumstances. Thus, land and facilities for the collection of materials to form a slag heap which is not preliminary to the recycling or other final disposal of such materials within a reasonable period of time will not qualify. The term does not include facilities for collection, storage, or disposal of liquid or gaseous waste except where such facilities are facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to a solid waste disposal facility.

(*b*) The term "solid waste" shall have the same meaning as in section 203(4) of the Solid Waste Disposal Act (42 U.S.C. 3252(4)), except that for purposes of this paragraph, material will not qualify as solid waste unless, on the date of issue of the obligations issued to provide the facility to dispose of such waste material, it is property which is useless, unused, unwanted, or discarded solid material, which has no market or other value at the place where it is located. Thus, where any person is willing to purchase such property, at any price, such material is not waste. Where any person is willing to remove such property at his own expense but is not willing to purchase such property at any price, such material is waste. Section 203(4) of the Solid Waste Disposal Act provides that:

> (4) The term "solid waste" means garbage, refuge, and other discarded solid materials, including solid-waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, disolved or suspended solids in industrial waste water effluents, disolved materials in irrigation return flows or other common water pollutants.

(*c*) A facility which disposes of solid waste by reconstituting, converting, or otherwise recycling it into material which is not waste shall also qualify as a solid waste disposal facility if solid waste (within the meaning of (*b*) of this subdivision (ii)) constitutes at least 65 percent, by weight or volume, of the total materials introduced into the recycling process. Such a recycling facility shall not fail to qualify as a solid waste disposal facility solely because it operates at a profit.

(*d*) In the case of an expenditure for property which is placed in service for no significant purpose other than the disposal of solid waste, the total expenditure for such property satisfies the test of this subdivision. Thus, where property which serves no function other than the disposal of solid waste is added to an existing manufacturing or production facility, the total expenditure for such property satisfies the test of this subdivision. Also, if an expenditure for property would not have been made but for the purpose of disposing of solid waste, and if the expenditure has no significant purpose other than the purpose of disposing of solid waste, the total expenditure for such property satisfies the test of this subdivision even though such property serves one or more functions in addition to its function as a solid waste disposal facility.

(*e*) In the case of property placed in service for the purpose of disposing of solid waste and for a significant purpose other than disposing of solid waste, only the incremental cost of such facility satisfies the test of this subdivision. The "incremental cost" of property is the excess of its total cost over that portion of its cost expended for a purpose other than the disposal of solid waste.

(*f*) An expenditure has a significant purpose other than the disposal of solid waste if it results in an increase in production or capacity, or in a material extension of the useful life or a manufacturing or production facilities or a part thereof. An expenditure for a recycling facility does not have a significant purpose other than the disposal of solid waste merely because 35 percent or less of the total materials introduced into the recycling process is materials other than solid waste.

(iii) The term "facilities for the local furnishing of electric energy or gas" means property which—

(*a*) Is either property of a character subject to the allowance for depreciation provided in section 167 or land,

(*b*) Is used to produce, collect, generate, transmit, store, distribute, or convey electric energy or gas,

(*c*) Is used in the trade or business of furnishing electric energy or gas, and

(*d*) Is a part of a system providing service to the general populace of one or more communities or municipalities, but in no event more than 2 contiguous counties (or a political equivalent) whether or not such counties are located in one State.

For purposes of this subdivision, a city which is not within, or does not consist of, one or more counties (or a political equivalent) shall be treated as a county (or a political equivalent). A facility for the generation of electric energy otherwise qualifying under this subdivision will not be disqualified because it is connected to a system for interconnection with other public utility systems for the emergency transfer of electric energy.

The facilities need not be located in the area served by them. Also, the term "facilities for the local furnishing of

electric energy or gas" does not include coal, oil, gas, nuclear cores, or other materials performing a similar function.

(g) *Air or water pollution control facilities*—(1) *General rule.* Section 103(c)(4)(F) provides that section 103(c)(1) shall not apply to obligations issued by a State or local governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide air or water pollution control facilities. Such facilities are in all events treated as serving the general public and, thus, satisfy the public use requirement of paragraph (a)(2) of this section.

(2) *Definitions.* (i) For purposes of section 103(c)(4)(F) and this paragraph, property is a pollution control facility to the extent that the test of either subdivision (iii) or (iv) of this subparagraph is satisfied, but only if—

(*a*) It is property which is described in subdivision (ii) of this subparagraph and is either of a character subject to the allowance for depreciation provided in section 167 or land, and

(*b*) Either (*1*) a Federal, State, or local agency exercising jurisdiction has certified that the facility, as designed, is in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants, or water pollution, as the case may be, or (2) the facility is designed to meet or exceed applicable Federal, State, and local requirements for the control of atmospheric pollutants or contaminants, or water pollution, as the case may be, in effect at the time the obligations, the proceeds of which are to be used to provide such facilities, are issued.

(ii) Property is described in this subdivision if it is property to be used, in whole or in part, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. In the case of property to be used to control water pollution, such property includes the necessary intercepting sewers, pumping, power, and other equipment, and their appurtenances. For rules relating to facilities which remove pollutants from fuel or certain other items, see subdivision (vi) of this subparagraph.

(iii) In the case of an expenditure for property which is designed for no significant purpose other than the control of pollution, the total expenditure for such property satisfies the test of this subdivision. Thus, where property which is to serve no function other than the control of pollution is to be added to an existing manufacturing or production facility, the total expenditure for such property satisfies the test of this subdivision. Also, if an expenditure for property would not be made but for the purpose of controlling pollution, and if the expenditure has no significant purpose other than the purpose of pollution control, the total expenditure for such property satisfies the test of this subdivision even though such property serves one or more functions in addition to its function as a pollution control facility.

placed in service for the purpose of controlling pollution and for a significant purpose other than controlling pollution, only the incremental cost of such facility satisfies the test of this subdivision. The "incremental cost" of property is the excess of its total cost over that portion of its cost expended for a purpose other than the control of pollution.

(v) An expenditure has a significant purpose other than the control of pollution if it results in an increase in production or capacity, or in a material extension of the useful life of a manufacturing or production facility or a part thereof.

(vi) [Reserved]

(h) *Water facilities*—(1) *General rule.* Section 103(c)(4)(G) provides that section 103(c)(1) shall not apply to obligations issued by a State or local governmental unit which are part of an issue substantially all of the proceeds of which are to be used to provide facilities for the furnishing of water which are available, on reasonable demand, to members of the general public. A water facility will satisfy the public use test of paragraph (a)(2) of this section if it will provide water, on reasonable demand, to any member of the general public within the service area of the water system of which such facility is a part.

(2) *Definition.* For purposes of section 103(c)(4)(G) and this paragraph, the "water facilities" include artesian wells, reservoirs, dams, related equipment and pipelines, and other facilities used to furnish water for domestic, industrial, irrigation, or other purposes.

(3) *Effective date.* The provisions of this paragraph apply in the case of facilities provided by obligations issued after January 1, 1969. In the case of facilities provided by obligations issued on or before such date to which section 103(c) is applicable, the provisions of paragraph (f) of this section shall apply. For such purposes, wherever the term "local furnishing of electric energy or gas" appears in paragraph (f) of this section, such term shall be deemed to read "local furnishing of electric energy, gas, or water."

(i) *Examples.* The application of section 103(c)(4) and this section are illustrated by the following examples:

Example (*1*). City A plans to issue $10 million of bonds to be used to finance the construction of residential housing for family units to be available to members of the general public. It enters into an agreement with corporation X whereby X will lease and operate the facility for 25 years, and the lease payments and the property itself will be the security for the payment of principal and interest on the bonds. Corporation X has an option to purchase the facility at the end of the 25-year period. The bonds are industrial development bonds, but because the proceeds are to be used for construction of residential housing for family units which is an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (*2*). The facts are the same as in example (1), except that the facility is constructed adjacent to a factory owned by X, which is in an industrial area, and X reserves the privilege of giving preference to its employees in selecting tenants. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section because it is not a facility constructed for use by the general public.

Example (*3*) City B plans to issue $10 million of bonds to be used to construct a sports stadium. The revenues from the facility and the facility itself will be the security for the bonds. A professional football team rents the facility on a long-term lease for part of the year and a professional baseball team rents the sports facility for the remainder of the year. Tickets are sold by the teams to the general public. The bonds are industrial development bonds, but since the proceeds are used for a spectator facility for general public use, which is an exempt facility under section 103(c)(4)(B) and paragraph (c) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (*4*). City C plans to issue $10 million of bonds to be used to construct a convention hall which it will own. City C plans to lease the convention hall for 25 years to corporation Y, a nonexempt person, which will operate and maintain it. The terms of the lease obligate Y to make the convention hall generally available for civic, business, and recreational shows, meetings, performances, and similar activities serving or benefiting the community. Lease payments from Y and the facility will be security for the bonds. The bonds are industrial development bonds, but since the proceeds are to be used for a facility for general public use, which is an exempt facility under section 103(c)(4)(C) and paragraph (d) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (*5*). City D issues $100 million of its bonds and uses the proceeds to finance construction of an airport for the use of the general public. D will own and operate the airport. A major portion of the rentable space in the terminal building is leased on a long-term basis to common carrier and nonscheduled airlines. The bonds will be secured by the airport landing and runway charges and by payments with respect to such long-term leases from such commercial airlines. Such commercial airline payments are expected to constitute more than 50 percent of the total revenues from the airport. The bonds are industrial development bonds, but since the proceeds are to be used for an airport for use by the general public and by carriers serving the general public, which is an exempt facility under section 103(c)(4)(D) and paragraph (e) of this section, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply. The result would be the same if D hired an airport management firm to operate the airport.

Example (*6*). City E issues $6 million of its bonds and uses the proceeds to finance construction of a landing strip for airplanes to be located adjacent to the factories of corporations Y and Z. The landing strip will be used in the trades or businesses of Y and Z and by any member of the general public wishing to use it. However, due to its location, general public use will be negligible. The lease payments by Y and Z for the use of the facility are the security for the bonds. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(c)(4)(D) and paragraph (c) of this section because it is not a facility constructed for general public use.

Example (*7*). State F and corporation Z enter into an arrangement which provides that F will issue $10 million of its bonds and

use the proceeds to construct a facility for Z the only purpose of which is to control air and water pollution at Z's plant. The principal and interest on the bonds will be secured by the charges which F will impose on Z. The bonds are industrial development bonds, but since the proceeds are to be used for air and water pollution facilities designed to abate pollution by private persons, such facilities are for the benefit of the general public and are exempt facilities under section 103(c)(4)(F) and paragraph (g) of this section. Accordingly, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (8). City G issues $20 million of of its bonds and will use $6 million to finance construction of residential real property for family units which qualifies as an exempt facility under section 103(c)(4)(A) and paragraph (b) of this section, $9 million to finance construction of a stadium which qualifies as an exempt facility under section 103(c)(4)(B) and paragraph (c) of this section, and $5 million for convention facilities which qualify as exempt facilities under section 103(c)(4)(C) and paragraph (d) of this section. The facilities will be used in the trades or businesses of nonexempt persons and rental payments with respect to such facilities and the facilities themselves will be the security for the bonds. The bonds are industrial development bonds, but since all the proceeds are to be used for facilities which are exempt facilities under section 103(c)(4), section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply. The result would be the same if, instead of using $9 million to finance construction of a stadium, the $9 million were used to finance construction of a Capitol building.

§ 1.103–9 Interest on bonds to finance industrial parks.

(a) *General rule.* (1) Under section 103(c)(5), interest paid on an issue of obligations issued by a State or local governmental unit (as defined in § 1.103–1) is not includable in gross income if substantially all of the proceeds of such issue is to be used to finance the acquisition or development of land as the site for an industrial park (referred to in this section as "industrial park bonds"). However, interest on an obligation of such an issue is includable in gross income if the obligation is held by a substantial user or a related person (as described in section 103(c)(7) and § 1.103–11). If substantially all of the proceeds of a bond issue is to be so used to finance an industrial park, the debt obligations are treated as obligations described in section 103(a)(1) and § 1.103–1 even though such obligations are industrial development bonds within the meaning of section 103(c)(2) and § 1.103–7.

(2) The provisions of subparagraph (1) of this paragraph shall also apply to an issue of obligations substantially all of the proceeds of which is to be used to acquire or develop land as the site for an industrial park described in section 103(c)(5) and this section and for either or both of the following purposes: (i) To finance exempt facilities described in section 103(c)(4) and § 1.103–8, (ii) to finance facilities to be used by an exempt person.

(3) Section 103(c)(5) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that the obligations are industrial development bonds within the meaning of section 103(c)(2). For the interrelationship of the rules provided in this section and the exemption for certain small issues provided in section 103(c)(6), see § 1.103–10.

(b) *Definition of an industrial park.* For purposes of section 103(c)(5) and this section, the term "industrial park" means a tract of land, other than a tract of land intended for use by a single enterprise, suitable primarily for use as building sites by a group of enterprises engaged in industrial, distribution, or wholesale businesses if either—

(1) The control and administration of the tract is vested in an exempt person (within the meaning of paragraph (b)(2) of § 1.103–7), or

(2) The uses of the tract are normally (i) regulated by protective minimum restrictions, ordinarily including the size of individual sites, parking and loading regulations, and building setback lines, and (ii) designed to be compatible, under a comprehensive plan, with the community in which the industrial park is located and with the uses of the surrounding land.

(c) *Development of land defined.* For purposes of section 103(c)(5) and this section, the term "development of land" includes the provision of certain improvements to an industrial park site if such improvements are incidental to the use of the land as an industrial park. Such incidental improvements include the building or installation of incidental water, sewer, sewage and waste disposal, drainage, or similar facilities (whether surface, subsurface, or both). Such incidental improvements include the provision of incidental transportation facilities, such as hard-surface roads (including curbs and gutters) and railroad spurs and sidings; power distribution facilities, such as gas and electric lines; and communication facilities. The provision of structures or buildings of any kind is not included within the meaning of the term "development of land," except for those structures or buildings which are necessary in connection with the incidental improvements encompassed by the term, such as, for example, a water pumphouse and storage tank needed in connection with the incidental provision of water facilities in an industrial park.

(d) *Examples.* The application of the rules contained in section 103(c)(5) and this section are illustrated by the following examples:

Example (1). City A and corporations X, Y, and Z (unrelated companies) enter into an arrangement under which A is to acquire a tract of land suitable for use as an industrial park. The arrangement provides that: (1) A will issue $10 million of bonds to be used for the acquisition and development of a suitable tract of land; (2) the tract will be controlled and administered by A, pursuant to a comprehensive zoning plan, for the use of a group of enterprises; (3) A will install necessary water, sewer, and drainage facilities on the tract; (4) A will sell substantial portions of the developed tract to X for use as a factory site and to Y for use as a warehouse site; (5) A will lease a sizeable portion of the tract to Z for 20 years as a distribution center site; and (6) the developed tract and the proceeds from the sale or lease of parts of the tract will be the security for the bonds. The bonds are industrial development bonds. Since, however, the proceeds of the issue are to be used for the acquisition and development of a tract of land as the site for an industrial park under section 103(c)(5), section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

Example (2). The facts are the same as in example (1) except that $1 million of the proceeds of the $10 million issue are to be used for the construction of a factory by corporation W or X. The bonds are industrial development bonds. Under these circumstances, substantially all of the proceeds are treated as used or to be used for the acquisition and development of a tract of land as the site for an industrial park described in section 103(c)(5). Accordingly, section 103(c)(1) does not apply unless the provisions of section 103(c)(7) and § 1.103–11 apply.

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

(a) *In general.* Section 103(c)(6) applies to certain industrial development bond issues (referred to in this section as "exempt small issues") and bonds issued to refund certain issues (referred to in this section as "exempt small refunding issues"). If an issue is an exempt small issue or an exempt small refunding issue, then under the requirements of section 103(c)(6) and this section the interest paid on the debt obligations is not includable in gross income, and the obligations are treated as obligations described in section 103(a)(1) and § 1.103–1, even though such obligations are industrial development bonds as defined in section 103(c)(2) and § 1.103–7. However, interest on an obligation of such an issue is includable in gross income if the obligation is held by a substantial user of the financed facilities or a related person (as described in section 103(c)(7) and § 1.103–11). Section 103(c)(6) only becomes applicable where the bond issue meets both the trade or business and the security interest tests so that the obligations are industrial development bonds within the meaning of section 103(c)(2).

(b) *Small issue exemption—(1) $1 million or less.* Section 103(c)(6)(A) provides that section 103(c)(1) shall not apply to any debt obligation issued by a State or local governmental unit as part of an issue where—

(i) The aggregate authorized face amount of such issue (determined by aggregating the outstanding face amount of any prior exempt small issues described in paragraph (d) of this section and the face amount of the issue of obligations in question) is $1 million or less; and

(ii) Substantially all of the proceeds of such issue is to be used for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation under section 167. The exemption requirements are not satisfied if more than an insubstantial amount of the proceeds of such issue is loaned to a borrower for use as working capital or to finance inventory. Any obligation

which is an industrial development bond within the meaning of section 103(c)(2) and which satisfies the $1 million small issue exemption requirements is an exempt small issue. See paragraph (c)(1) of this section for the treatment of refunding issues of $1 million or less.

(2) *$5 million or less.* (i) Under section 103(c)(6)(D), the issuing State or local governmental unit may elect to have an aggregate authorized face amount of $5 million or less, in lieu of the $1 million exemption otherwise provided for in section 103(c)(6)(A), with respect to issues of obligations which are industrial development bonds (within the meaning of section 103(c)(2)) issued after October 24, 1968. If such election is made, the bonds will be treated as obligations of a State or local governmental unit described in section 103(a)(1) and § 1.103–1 if the sum of—

(*a*) The aggregate face amount of the issue including the aggregate face amount of any prior outstanding $1 million or $5 million exempt small issues taken into account under section 103(c)(6)(B) and paragraph (d) of this section, and

(*b*) The aggregate amount of "section 103(c)(6)(D) capital expenditures" (within the meaning of subdivision (ii) of this subparagraph)

is $5 million or less. In the case of an issue of obligations which qualified for exemption under section 103(c)(6)(A) and this paragraph, if a section 103(c)(6)(D) capital expenditure made after the date of issue has the effect of making taxable the interest on such issue, under section 103(c)(6)(G) the loss of tax exemption for such interest shall begin only with the date on which the expenditure which caused the issue to cease to qualify under the $5 million limit was paid or incurred. See subdivision (vi) of this subparagraph for the time, place, and manner by which the issuer may elect the $5 million exemption. See section 103(c)(6)(H) and paragraph (c)(2) of this section for the treatment of certain refinancing issues of $5 million or less.

(ii) The term "section 103(c)(6)(D) capital expenditure" is defined in this subdivision. Special rules for applying such definition in the case of certain expenditures paid or incurred by a State or local governmental unit are prescribed in subdivision (iii) of this subparagraph. Except as excluded by subdivision (iv) or (v) of this subparagraph, an expenditure (regardless of how paid, whether in cash, notes, or stock in a taxable or nontaxable transaction) is a section 103(c)(6)(D) capital expenditure if—

(*a*) The capital expenditure was financed other than out of the proceeds of issues taken into account under subdivision (i)(*a*) of this subparagraph,

(*b*) The capital expenditures were paid or incurred during the 6-year period which begins 3 years before the date of issuance of the issue in question and ends 3 years after such date,

(*c*) The principal user of the facility in connection with which the property resulting from the capital expenditures is used and the principal user of the facility financed by the proceeds of the issue in question is the same person or are two or more related persons (as defined in section 103(c)(6)(C) and paragraph (e) of this section),

(*d*) Both facilities referred to in (*c*) of this subdivision were (during the period described in (*b*) of this subdivision or a part thereof) located in the same incorporated municipality or in the same county outside of the incorporated municipalities in such county), and

(*e*) The capital expenditures were properly chargeable to the capital account of any person or State or local governmental unit (whether or not such person is the principal user of the facility or a related person) for this purpose, determined by including any expenditure which may, under any rule or election under the Code, be treated as a capital expenditure (whether or not such expenditure is so treated) and determined, for this purpose, without regard to any rule of the Code which permits expenditures properly chargeable to capital account to be treated as current expenses. With respect to obligations issued on or after August 8, 1972, for purposes of this subparagraph, capital expenditures made with respect to a contiguous or integrated facility which is located on both sides of a border between two or more political jurisdictions are made with respect to a facility located in all such jurisdictions and, therefore, shall be treated as if they were made in each such political jurisdiction.

(iii) Amounts properly chargeable to capital account under subdivision (ii)(*e*) of this subparagraph include capital expenditures made by a State or local governmental unit with respect to an exempt facility or an industrial park, within the 6-year period described in subdivision (ii)(*b*) of this subparagraph, out of the proceeds of bond issues to which section 103(c)(1) did not apply by reason of section 103(c)(4) or (5) (relating to certain exempt activities and industrial parks). Thus, for example, the cost to the lessor of a leased plantsite financed out of the proceeds of an issue for an exempt air pollution control facility under section 103(c)(4)(F) and paragraph (g) of § 1.103–8 would constitute a section 103(c)(6)(D) capital expenditure. However, in the case of an industrial park, only the land costs allocated on an area basis to the plantsite and the actual cost of any improvements made on the plantsite, or to be used principally in connection with the actual plantsite occupied by a principal user or a related person, shall be taken into account as capital expenditures. Where the actual amount of capital expenditures made with respect to a facility by a person (including a State or local governmental unit) other than the user of such facility (or a related person) cannot be ascertained, the fair market value of the property with respect to which the capital expenditures were made, at the time of such capital expenditures, shall be deemed to be the amount of such capital expenditures. In the case of a transaction which is not in form a purchase but which is treated as a purchase for Federal income tax purposes, the purchase price for Federal income tax purposes shall constitute a capital expenditure.

(iv) A section 103(c)(6)(D) capital expenditure shall not include any "excluded expenditure" described in (*a*) through (*e*) of this subdivision (iv).

(*a*) A capital expenditure is an excluded expenditure if either it is made by a public utility company which is not the principal user of the facility financed by the proceeds of the issue in question (or a related person) with respect to property of such company, or it is made by a State or local governmental unit with respect to property of such unit, and if in either case it meets all of the following three conditions: Such property of such company or unit (as the case may be) must be used to provide gas, water, sewage disposal services, electric energy, or telephone service. Such property must be installed in, or connected to, the facility but must not consist of property which is such an integral part of the facility that the cost of such property is ordinarily included as part of the acquisition, construction, or reconstruction cost of such facility. Such property must be of a type normally paid for by the user (or a related person) in the form of periodic fees based upon time or use.

(*b*) A capital expenditure is an excluded expenditure if it is made by a person other than the user, a related person, or a State or local governmental unit and if it is made with respect to tangible personal property (within the meaning of paragraph (c) of § 1.48–1), or intangible personal property, leased to the user (or a related person) of a facility. However, the preceding sentence shall apply only if such personal property is leased by the manufacturer of such tangible or intangible personal property, or by a person in the trade or business of leasing property the same as, or similar to, such personal property, and only if, pursuant to general business practice, property of such type is ordinarily the subject of a lease.

(*c*) A capital expenditure is an excluded expenditure if it is made to replace property damaged or destroyed by fire, storm, or other casualty, to the extent that these expenditures do not exceed in dollar amount the fair market value (determined immediately before the casualty) of the property replaced.

(*d*) A capital expenditure is an excluded expenditure if it is required by a change made after the date of issue in a Federal or State law, or a local ordinance which has general application, or if it is required by a change made after such date in rules and regulations of general application issued under such law or ordinance.

(*e*) A capital expenditure is an excluded expenditure if it is required by or arises out of circumstances which could not reasonably be foreseen on the date of issue or which arise out of a mistake of law or fact. However, the aggregate dollar amount taken into account under this subdivision (*e*) with respect to any

issue may not exceed $1 million. In the case of obligations issued prior to December 11, 1971, the dollar amount specified in the preceding sentence shall be $250,000.

(v) (*a*) If the assets of a corporation are acquired by another corporation in a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies, the exchange of consideration by the acquiring corporation for such assets is not a section 103(c)(6)(D) capital expenditure by such acquiring corporation.

(*b*) However, if an exchange referred to in (*a*) of this subdivision occurs during the 6-year period beginning 3 years before the date of issuance of an issue of obligations and ending 3 years after such date, the transferor and transferee shall be treated as having been related persons for the portion of such 6-year period preceding the date of the exchange for purposes of determining whether section 103(c)(6)(D) capital expenditures have been made. For purposes of this subdivision (*b*), the date of an exchange to which section 381 applies shall be the date of distribution or transfer within the meaning of paragraph (b) of § 1.381(b)–1.

(*c*) If section 351(a) applies to a transfer of property to a corporation solely in exchange for its stock or securities, the issuance of such stock or securities in such exchange is not a section 103(c)(6)(D) capital expenditure by such corporation.

(*d*) However, if such a transfer referred to in (*c*) of this subdivision occurs during the 6-year period beginning 3 years before the date of issuance of an issue of obligations and ending 3 years after such date, and if, with respect to the property transferred, expenditures made within such period would have been section 103(c)(6)(D) capital expenditures if the transferor and transferee had been related persons for such period, then such expenditures shall be considered to be section 103(c)(6)(D) capital expenditures made by the transferee. In addition, if a transferor and transferee are related persons immediately following such transfer, such transferor and transferee shall also be treated as having been related persons for the portion of such 6-year period preceding the date of such transfer.

(*e*) For purposes of this subdivision (v), the term "issue of obligations" means an issue being tested for purposes of qualifying or continuing to qualify under an election pursuant to section 103(c)(6)(D) as to which an amount which would be a section 103(c)(6)(D) capital expenditure solely by reason of (*b*) or (*d*) of this subdivision must be taken into account.

(*f*) If with respect to an issue of obligations an expenditure would not have been a section 103(c)(6)(D) capital expenditure but for the application of (*b*) or (*d*) of this subdivision, and if such section 103(c)(6)(D) capital expenditure has the effect of making taxable the interest on an issue of obligations which qualified for exemption under section 103(c)(6)(A) and this paragraph, the loss of tax exemption for such interest shall begin not earlier than the date of such exchange or transfer referred to in this subdivision (v).

(vi) (*a*) The issuer may make the election provided by section 103(c)(6)(D) and this subparagraph (assuming that the bonds otherwise qualify under section 103(c)(6)) by means of a statement signed by a duly authorized official that the governmental unit elects to have the provisions as to the $5 million limit in section 103(c)(6)(D) apply to an issue of industrial development bonds. The statement shall be filed prior to the issuance of such industrial development bonds, or if, not previously filed, within 90 days after June 5, 1971, with the district director or director of the regional service center with whom the principal user or users of the proceeds of such issue, or facilities acquired, constructed, reconstructed, or improved with the proceeds of such issue, are required to file their income tax returns (as provided in section 6091) for the taxable year during which the election is made. A copy of such statement shall be attached to the income tax returns of such principal users for such taxable year.

(*b*) The statement shall contain the following information:

(*1*) The name and address of the governmental unit,

(2) The name, address, and employer identification number of the principal user or users of such proceeds or facilities,

(*3*) The date and face amount of the issue,

(*4*) The date and amount of any outstanding issues the proceeds of which have been or will be used primarily with respect to facilities the principal user or users of which are or will be the same or related persons as those listed in (2) of this subdivision (vi)(*b*) and which are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county), and

(*5*) The date and amount of any section 103(c)(6)(D) capital expenditures paid or incurred within the 3 years preceding the date of the issue for which the election is made with respect to facilities described in (*4*) of this subdivision (vi)(*b*).

(*c*) Each principal user shall also file a supplemental statement which lists by date and amount any subsequent section 103(c)(6)(D) capital expenditures. Such supplemental statement must be filed with the district director or director of the regional service center with whom the user's income tax return is required to be filed (as prescribed in section 6091) on the due date prescribed for filing such return (without regard to any extensions of time).

(c) *Refunding or refinancing issue exemption*—(1) *$1 million or less refunding issue.* Section 103(c)(6)(A) also provides that section 103(c)(1) shall not apply to any debt obligation issued by a State or local governmental unit as part of an issue the aggregate authorized face amount of which is $1 million or less, if substantially all of the proceeds of such issue are to be used—

(i) To redeem part or all of a prior issue substantially all of the proceeds of which were used to acquire, construct, reconstruct, or improve land or property of a character subject to the allowance for depreciation, or

(ii) To redeem part or all of a prior exempt small refunding issue.

(2) *$5 million or less refinancing issue.* Section 103(c)(6)(H) provides that section 103(c)(1) shall not apply to any debt obligation issued by a governmental unit as part of an issue which is $5 million or less if the condition of section 103(c)(6)(H) is met and if substantially all of the proceeds are to be used—

(i) To redeem part or all of one or more prior exempt small issues, or

(ii) To redeem part or all of one or more prior exempt small refunding issues.

The condition of section 103(c)(6)(H) is that an election by the issuer of the $5 million exemption in lieu of the $1 million limit for a refunding issue may be made only if each prior issue being redeemed is an issue which qualified either for the $1 million exemption or, by reason of an election under section 103(c)(6)(D), for the $5 million exemption. In addition, in applying the capital expenditures test under section 103(c)(6)(D)(ii) and paragraph (b)(2)(i)(*b*) of this section to refinancing issues, section 103(c)(6)(D) capital expenditures are taken into account only for purposes of determining whether prior issues which were made under the section 103(c)(6)(D) election qualified under section 103(c)(6)(A) and would have continued to qualify under that section but for the redemption.

(d) *Certain prior issues taken into account*—(1) *In general.* Section 103(c)(6)(B) provides, in effect, that if (i) a prior issue specified in subparagraph (2) of this paragraph is an exempt small issue (including for this purpose an exempt small refunding issue) under section 103(c)(6)(A) and this section, and (ii) such prior issue is outstanding at the time of issuance of a subsequent issue, then in determining the aggregate face amount of such subsequent issue (for purposes of determining whether such issue is a $1 million or $5 million exempt small issue under section 103(c)(6)(A) and this section) there shall be taken into account the outstanding face amount of such prior exempt small issue. For purposes of this paragraph, the outstanding face amount of a prior exempt small issue does not include the face amount of any obligation which is to be redeemed from the proceeds of such subsequent issue.

(2) *Prior issues specified.* The face amount of an outstanding prior exempt small issue is taken into account under subparagraph (1) of this pargraph if—

(i) The proceeds of both the prior exempt small issue and of the subsequent issue (whether or not the State or local governmental unit issuing such obligation is the same unit for each such issue) are or will be used primarily with respect to facilities located or to be located

in the same incorporated municipality or located or to be located in the same county outside of an incorporated municipality in such county (and, for purposes of this subdivision, on or after August 8, 1972, a contiguous or integrated facility which is located on both sides of a border between two or more political jurisdictions shall be treated as if it is entirely within each such political jurisdiction), and

(ii) The principal user of the financed facilities referred to in subdivision (i) of this subparagraph is or will be the same person or two or more related persons (as defined in section 103(c)(6)(C) and paragraph (e) of this section).

(3) *Rules of application.* The rules of this paragraph shall apply—

(i) Only in the case of outstanding prior exempt small issues which are industrial development bonds to which section 103(c)(1) would have applied but for the provisions of section 103(c)(6). Thus, for example, the provisions of this paragraph do not apply in respect of a prior issue of obligations issued on or before April 30, 1968. In addition, the provisions of this paragraph do not apply in respect of a prior issue for an exempt facility under section 103(c)(4) and § 1.103–8, or for an industrial park under section 103(c)(5) and § 1.103–9, whether or not the issue might also have qualified as an exempt small issue under section 103(c)(6)(A) and this section.

(ii) To all prior exempt small issues which meet the requirements of this paragraph. Thus, for example, in determining the aggregate face amount of an issue under section 103(c)(6)(A), the outstanding face amount of prior $1 million or $5 million exempt small issues which meet the requirements of this paragraph shall be taken into account in determining the aggregate face amount of a subsequent issue being tested for the $1 million small issue exemption. Similarly, in determining the aggregate face amount of an issue under section 103(c)(6)(A) and (D), the outstanding face amount of prior $1 million or $5 million exempt small issues which meet the requirements of this paragraph shall be taken into account in determining the aggregate face amount of a subsequent issue being tested for the $5 million small issue exemption.

(e) *Related persons.* For purposes of section 103(c) and §§ 1.103–7 through 1.103–11, the term "related person" means a person who is related to another person if, on the date of issue of an issue of obligations—

(1) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers) and section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships) and the regulations thereunder, or

(2) Such persons are members of the same controlled group of corporations, as defined in section 1563(a), relating to definition of controlled group of corporations (except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)) and the regulations thereunder.

(f) *Examples.* The application of the rules contained in section 103(c)(6) and this section are illustrated by the following examples:

Example (1). County A and corporation X enter into an arrangement under which the county will provide a factory which X will lease for 25 years. The arrangement provides (1) that A will issue $1 million of bonds on March 1, 1970, (2) that the proceeds of the bond issue will be used to acquire land in County A (but not in an incorporated municipality) and to construct and equip a factory on such land in accordance with X's specifications, (3) that X will rent the facility for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself shall be the security for the bonds. Although the bonds issued are industrial development bonds, the bonds are an exempt small issue under section 103(c)(6)(A) and this section since the aggregate authorized face amount of the bond issue is $1 million or less and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property. The result would be the same if the arrangement provided that X would purchase the facility from A.

Example (2). The facts are the same as in example (1) except that, instead of acquiring land and constructing a new factory, the arrangement provides that A will acquire a vacant existing factory building and rebuild and equip the building in accordance with X's specifications. The bonds are an exempt small issue for the same reasons as in example (1).

Example (3). The facts are the same as in example (1) or (2) except that the financed facilities are additions to facilities which were financed by an issue of bonds to which section 103(c)(1) does not apply because such bonds were issued prior to May 1, 1968, or were subject to the transitional provisions of § 1.103–12. The bonds are an exempt small issue since neither of the prior bond issues are taken into account under section 103(c)(6)(B) and this section in determining the status of industrial development bonds which are issued after April 30, 1968, and which are not subject to the transitional provisions of § 1.103–12.

Example (4). The facts are the same as in example (1) except that, subsequently, corporation X proposes to County A that A build a $400,000 warehouse located in Town M (an unincorporated town located in County A) for X under terms similar to the factory arrangement described in example (1). On the proposed issue date of the subsequent bond issue, $600,000 of the first exempt small issue will be outstanding. If A issues $400,000 of bonds for such purposes, the bonds will be an exempt small issue under section 103(c)(6) and this section since, under the rules of section 103(c)(6)(B) and paragraph (d) of this section, if the aggregate authorized face amount of the new issue and the outstanding prior exempt small issue will be $1 million or less, the new issue will be an exempt small issue. If, however, the aggregate authorized face amount of the prior issue outstanding on the date of the subsequent issue were in excess of $600,000, the subsequent issue would not qualify as an exempt small issue because (1) the combined aggregate face amount of the outstanding prior issue and the new issue would be in excess of $1 million, (2) the facilities financed by both issues are to be located in unincorporated areas in the same county, (3) the same taxpayer will be the principal user of both facilities, and (4) but for the rules of section 103(c)(6)(B) and paragraph (d) of this section the prior issue would be an exempt small issue.

Example (5). The facts are the same as in example (1) except that subsequently corporation X proposes to City P and City R (incorporated municipalities located in County A) that P and R each issue bonds and each build $1 million facilities to be located in Cities P and R for the use of X under terms similar to the arrangement in example (1). Each of the $1 million issues will be an exempt small issue because each proposed facility is located within a different incorporated municipality and the proceeds of the prior outstanding exempt small issue were used to construct facilities outside of an incorporated area.

Example (6). The facts are the same as in example (1) except that $95,000 of the $1 million will be used by the corporation as working capital. The bonds are an exempt small issue for the same reason as in example (1) since substantially all of the proceeds will be used for the acquisition of land and the construction of depreciable property.

Example (7). The facts are the same as in example (1) except that on November 1, 1969, County A issued $10 million of industrial development bonds, all of the proceeds of which were issued for the acquisition of land as the site for an industrial park within the meaning of section 103(c)(5) and § 1.103–9. The proceeds of the $1 million of bonds issued in 1970 will be used to construct a factory for corporation X to be located in the industrial park. The bonds issued in 1970 are industrial development bonds within the meaning of section 103(c)(2) and § 1.103–7. Since, however, the prior 1969 issue is not an issue to which section 103(c)(6)(A) applied (see paragraph (d)(3)(i) of this section), the bonds issued in 1970 are an exempt small issue for the reasons stated in example (1).

Example (8). County B enters into three separate arrangements with three unrelated corporations whereby the county will provide separate storage facilities for each corporation. The arrangement provides (1) that the county will issue bonds and loan to each corporation $250,000 of the proceeds which will be used to acquire land in the county and to construct the facilities, (2) that the rental payments by the corporations will be equal to the amount necessary to amortize the principal and pay the interest on any outstanding bonds issued by the county, and (3) that the payments by the corporations and the facilities themselves shall be the security for the industrial development bonds. For convenience, the county issues one series of bonds in the face amount of $750,000 rather than three separate series of bonds of $250,000 each. The issue is an exempt small issue under section 103(c)(6)(A) and paragraph (b)(1) of this section since the aggregate authorized face amount of the bond issue is $1 million or less, and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property.

Example (9). City C and corporation Y enter into an arrangement under which C will provide a factory which Y will lease for 25 years. The arrangement provides (1) that C will issue $4 million of bonds on March 1, 1969, after making the election under section 103(c)(6)(D) and paragraph (b)(2) of this section, (2) that the proceeds of the bond issue will be used to acquire land in the city and to construct and equip a factory on such land in accordance with Y's specifications, (3) that Y will rent the facilities for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay

the interest on the outstanding bonds, (4) that such payments by Y and the facility itself shall be the security for the bonds, and (5) that, if corporation Y pays or incurs capital expenditures in excess of $1 million within 3 years from the date of issue which disqualify the bonds as an exempt small issue under section 103(c)(6)(D), it will either furnish funds to C to redeem such bonds at par or at a premium, or increase the rental payments to C in an amount sufficient to pay a premium interest rate. Although the bonds issued are industrial development bonds, they are an exempt small issue under section 103(c)(6)(A) by reason of the election under section 103(c)(6)(D) and paragraph (b)(2) of this section, since the aggregate authorized face amount of the bond issue is $5 million or less and all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property. The provisions for redemption of the bonds or an increase in rental if the bonds are disqualified as an exempt small issue under section 103(c)(6)(A) will not disqualify an otherwise valid election under section 103(c)(6)(D) and paragraph (b)(2) of this section.

Example (10). The facts are the same as in example (9) except that corporation Y subsequently proposed to the city that it build a $1 million warehouse next to the plant for the use of Y under terms similar to the factory arrangement. Assume further that the factory building was completed by March 1, 1970, and that on January 15, 1972, the proposed issue date of the subsequent bond issue, $2 million of the first exempt small issue will be outstanding. In determining the aggregate authorized face amount of the new issue, the original face amount of a prior outstanding issue must be reduced by that portion which is to be redeemed before it is added to the face amount of the new issue. Therefore, if the city issues $3 million of bonds to redeem the remaining $2 million of bonds and to construct the warehouse the bonds will be an exempt small issue under section 103(c)(6)(A) if an election is made under section 103(c)(6)(D) and paragraph (b)(2) of this section since (1) the face amount of the new issue ($3 million), plus (2) the face amount of the prior outstanding exempt small issue minus the amount of such issue to be refunded ($2 million minus $2 million), plus (3) capital expenditures during the preceding 3 years financed other than out of the proceeds of outstanding issues to which section 103(c)(6)(A) and paragraph (b) of this section applied ($2 million), do not exceed $5 million. If, however, the amount of the January 15, 1972, issue were $3½ million, the issue would not qualify as an exempt small issue under section 103(c)(6)(A) and paragraph (b)(2) of this section.

Example (11). The facts are the same as in example (9), except that on June 15, 1971, Y purchases from an unrelated motor carrier business a warehouse terminal in the same city at a cost of $250,000 and tractor-trailers and other automotive equipment based at the terminal at a cost of $1 million. This subsequent expenditure by Y has the effect of making the interest on the city C bonds includable in the gross income of the holders of such bonds as of June 15, 1971, because the face amount of the March 1, 1969, issue ($4 million) plus the subsequent capital expenditures within 3 years of the date of issue ($1,250,000) exceed $5 million. (See section 103(c)(6)(D) and paragraph (b)(2)(i) of this section.)

Example (12). The facts are the same as in example (9), except that in March, 1970, Y will move $3 million of additional used machinery and equipment into the factory from its factory in another city. The expenditures for such machinery and equipment were incurred by Y more than 3 years prior to the date of issue of the bonds. The transfer of such used equipment into city C does not constitute a section 103(c)(6)(D) capital expenditure within the meaning of paragraph (b)(2)(ii) of this section since the expenditures with respect to such property were incurred more than 3 years prior to the date of issue of the bonds. Had the capital expenditures with respect to such property been incurred during the 6-year period beginning 3 years before the date of issue of the bonds and in the 3 years after such date, they would constitute section 103(c)(6)(D) capital expenditures.

Example (13). The facts are the same as in example (9), except that in March 1970, corporation Y enters into an arrangement with respect to machinery and equipment to be used in the facility. The arrangement is labeled by the parties as a lease but is treated as a sale for Federal income tax purposes. The amount treated as the purchase price of the machinery and equipment is a section 103(c)(6)(D) capital expenditure.

Example (14). On February 1, 1970, city D issues $5 million of its bonds to finance construction of an addition to the manufacturing plant of corporation Z. The bonds will be secured by the facility and lease payments to be made by Z which will be sufficient to pay the principal and interest on such bonds. Assume that the bonds qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section. On February 1, 1971, D plans to issue $1 million of its bonds to construct a pollution control facility to be leased to Z for use at its manufacturing plant. The rental payments from the lease will be sufficient to pay the principal and interest on the bonds. The bonds will be secured by such facility and the lease payments. Capital expenditures for the pollution control facility will be paid or incurred beginning before February 1, 1973. Although the pollution control facility is an exempt facility under section 103(c)(4)(F) and paragraph (g) of § 1.103-8, amounts used for the pollution control facility shall be considered to be a section 103(c)(6)(D) capital expenditure and the interest on the February 1, 1970, issue will become taxable as of the date such capital expenditure began to be paid or incurred. See section 103(c)(6)(G) and paragraph (b)(2)(i) of this section.

Example (15). On February 1, 1970, City E issues $500,000 of its bonds to acquire and develop an industrial park within the meaning of section 103(c)(5) and paragraph (b) of § 1.103-9. The park consists of 100 acres and is divided into one 50 acre plantsite and 4 smaller sites. The aggregate acquisition cost of the undeveloped land is $150,000 or an average per acre cost of $1,500. Roads, sidewalks, sewers, utilities, sewage, and waste disposal facilities serving the entire industrial park cost $300,000. On September 1, 1970, E leases to corporation Y for 30 years the 50 acre plantsite (with an allocated cost of $75,000) and a railroad spur track from the railroad right of way to Y's plantsite for Y's exclusive use. The spur track was constructed using $50,000 of the proceeds of the industrial park bond issue. E also proposes to issue on September 1, 1970, $4,875,000 of its bonds to construct and equip a building on the leased plantsite to be leased to Y at an additional rental sufficient to pay the principal and interest on this issue of bonds. The September 1, 1970, issue will be an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph (b)(2) of this section since the sum of the amount of the second issue ($4,875,000) and the capital expenditures allocated to the plantsite ($75,000 for 50 acres of land plus $50,000 for the railroad spur tract, totaling $125,000) does not exceed $5 million. The sum of $300,000 which was spent in development of the industrial park provided facilities which will serve or benefit the users generally and hence under paragraph (b)(2)(iii) of this section is not considered to have provided facilities as to which Y will be the principal user.

Example (16). On June 1, 1970, corporation Z simultaneously enters into separate arrangements with City F and City G under which each city will issue a $5 million exempt small issue of bonds the proceeds of which will be used by Z to construct separate facilities in each city. By June 1, 1971, the the facilities have been completed in the respective cities. On January 1, 1972, Cities F and G, through a valid legal proceeding, merge into a new City FG. Since in this case F and G were separate cities on June 1, 1970 (the date of the bond issues), the factories are not considered to be located in the same incorporated municipality. Accordingly, each $5 million issue by City F and G will continue to qualify as an exempt small issue.

Example (17). On June 1, 1973, City H issues an exempt small issue of $4.75 million to finance a facility of corporation S to be located in City H. On October 1, 1974, S and corporation T, previously unrelated to S, consummated a statutory merger which qualifies as a reorganization described in section 368(a)(1)(A) and thus as a transaction described in section 381(a). In the transaction, T transferred to S assets with a fair market value of $1.5 million in exchange for stock of S, $300,000 of securities of S, and $100,000 cash. On March 23, 1971, T made $400,000 of capital expenditures for an addition to its factory located in City H. For purposes of testing the H issue of June 1, 1973, such expenditures would have been section 103(c)(6)(D) capital expenditures if T and S had been related persons. Under the provisions of paragraph (b)(2)(v)(a) of this section, the exchange of $1.5 million of stock, securities, and cash by S does not constitute a section 103(c)(6)(D) capital expenditure. Since, however, S and T are treated as related persons starting 3 years prior to the date of issue of the obligations, the $400,000 of expenditures by T constitute section 103(c)(6)(D) capital expenditures. Thus, the interest on the June 1, 1973, issue of obligations would become taxable (since the $5 million limit would be exceeded) on the date of the merger.

Example (18). In 1965 City I issues $10 million of industrial development bonds to construct and equip a factory for corporation Z. In 1975 the remaining principal amount of the bonds outstanding is $4.1 million. If I issues $4.5 million of bonds to redeem the balance of the prior issue, and for other purposes, such issue cannot qualify as an exempt small issue under section 103(c)(6)(D) and paragraph (b)(2) of this section even though at the time of issue the interest on the 1965 bonds was tax-exempt since the prior issue must be one which qualified under section 103(c)(6)(A) and this section. Further, the 1975 issue will be an issue of industrial development bonds notwithstanding the provisions of paragraph (d)(2) of § 1.103-7 which provides that certain bonds issued to refund an issue of obligations issued on or before April 30, 1968 (or January 1, 1969, in certain cases) will not be so treated. Paragraph (d)(2) of § 1.103-7 is not applicable because the 1975 issue makes funds available for a purpose other than the debt service obligation on the 1965 bonds.

Example (19). In 1969 City J issues $4 million of industrial development bonds which qualify as an exempt small issue under section 103(c)(6)(A) pursuant to an election under section 103(c)(6)(D) and paragraph

(b) (2) of this section. In 1971, by reason of a $2 million addition to the factory built with the proceeds of the issue, the 1969 exempt small issue loses its tax-exempt status. In 1972, the city issues a $5 million issue to redeem the prior 1969 issue. The redemption issue will not qualify as an exempt small issue since the prior 1969 issue did not continue to qualify under section 103 (c) (6) (A) and this section.

§ 1.103–11 Bonds held by substantial users.

(a) *In general.* Section 103(c) (4), (5), or (6) (relating respectively to interest on bonds to finance certain exempt facilities, interest on bonds to finance industrial parks, and the exemption for certain small issues of industrial development bonds) does not apply, as provided in section 103(c)(7), with respect to any obligation for any period during which such obligation is held either by a person who is a substantial user of the facilities with respect to which the proceeds of such obligation were used or by a related person (within the meaning of section 103(c) (6) (C) and paragraph (e) of § 1.103–10). Therefore, in such a case, interest paid on such an obligation is includable in the gross income of a substantial user (or related person) for any period during which such obligation is held by such user (or related person).

(b) *Substantial user.* In general, a substantial user of a facility includes any nonexempt person who regularly uses a part of such facility in his trade or business. However, unless a facility, or a part thereof, is constructed, reconstructed, or acquired specifically for a nonexempt person or persons, such a nonexempt person shall be considered to be a substantial user of a facility only if (1) the gross revenue derived by such user with respect to such facility is more than 5 percent of the total revenue derived by all users of such facility or (2) the amount of area of the facility occupied by such user is more than 5 percent of the entire usable area of the facility. Under certain facts and circumstances, where a nonexempt person has a contractual or preemptive right to the exclusive use of property or a portion of property, such person may be a substantial user of such property. A substantial user may also be a lessee or sublessee of all or any portion of the facility. A licensee or similar person may also be a substantial user where his use is regular and is not merely a casual, infrequent, or sporadic use of the facility. Absent special circumstances, individuals who are physically present on or in the facility as employees of a substantial user shall not be deemed to be substantial users.

(c) *Examples.* The application of section 103(c)(7) and this section are illustrated by the following examples:

Example (1). Pursuant to an arrangement with corporation X, County A issues $4 million of its bonds (an exempt small issue under section 103(c) (6) (A) pursuant to an election under section 103(c)(6)(D) and paragraph (b) (2) of § 1.103–10) and will use the proceeds to finance construction of a manufacturing facility which is to be leased to X for an annual rental of $500,000. X subleases space to a restaurant operator at an annual rental of $25,000 for the operation of a canteen and lunch counter for the convenience of X's employees. The canteen is required to be open at least 5 days each week (except holidays) from 8:30 a.m. to 5 p.m., and the lunch counter must be in operation during the noon hour. The canteen regularly sells cigarettes, candy, and soft drinks, and uses advertising displays and dispensers with product names. The space physically occupied and the amount of revenue derived by the restaurant operator are more than 5 percent of the respective amounts with respect to the entire facility. Both X and the restaurant operator are substantial users. However, absent special circumstances none of X's employees, the employees of the restaurant operator, or the customers or salesmen who regularly visit the premises to do business either with X or the restaurant operator are substantial users. Similarly, the manufacturers, distributors, and dealers of products sold in the canteen ordinarily are not substantial users.

Example (2). The facts are the same as in example (1) except that X rents food and beverage vending machines from a local dealer. The machines are regularly serviced by the local dealer under a contract with X. Title to and ownership of the machines are retained by the dealer. The local dealer is not deemed to be a substantial user if the revenue derived by such dealer from, and the space occupied by, such machines do not exceed 5 percent of the respective amounts with respect to the entire facility.

Example (3). City B proposes to issue $2 million of bonds which qualify as an exempt small issue under section 103(c) (6) (A) pursuant to an election under section 103(c) (6) (D) and paragraph (b) (2) of § 1.103–10 in order to construct a medical building for certain physicians and dentists. The facility will contain 30 offices to be leased on equal terms and for the same rental rates to each physician or dentist for use in his trade or business. Each physician or dentist will be a substantial user of the facility since the facility is being constructed specifically for such physicians and dentists. The result would be the same in the case of an office building for general commercial use.

Example (4). City C proposes to expand the airport it owns and operates with the proceeds of its bonds which qualify as bonds issued for an exempt facility under section 103(c) (4) (D) and paragraph (e) of § 1.103–8 and which are secured by a pledge of airport revenues. The airport is serviced by several commercial airlines which have long-term agreements with C for the use of runways, terminal space, and hangar and storage facilities. Each of the airlines either occupies more than 5 percent of the usable space of, or derives more than 5 percent of the revenue derived with respect to, the airport. C also leases counter and vehicle servicing and parking areas to car rental companies, space for restaurants, kiosks for the sale of newspapers and magazines, and space for the operations of a charter plane company. The latter operates its own planes, offers flying lessons and services, and stores private planes for local businesses and individuals. An airport limousine company has an exclusive franchise for passenger pickup at the terminal. Other taxi, transfer, freight, and express companies regularly deliver passengers and freight to the terminal but do not have space regularly assigned to them, nor do they have operating agreements with C. Various business concerns have advertising product displays in the terminal building. In addition to regular telephone service, coin-operated telephones, provided by the telephone company, are located throughout the terminal, at locations specified by C. For the terminal, at locations specified by C. None of the above exceed the 5-percent limitations of paragraph (b) of this section and the bond proceeds will not be specifically used for any of them. Only the commercial airlines, which violate the 5-percent limitations, are substantial users of the airport.

Example (5). City D issues $25 million of its revenue bonds and will use $10 million of the proceeds to finance construction of a sports facility which qualifies as an exempt facility under section 103(c) (4) (B) and paragraph (c) of § 1.103–8, $8 million to acquire and develop land as the site for an industrial park within the meaning of section 103(c) (5) and § 1.103–9, and $7 million to finance the construction of an office building to be used exclusively by the city, an exempt person. The revenues from the sports facility and the industrial park and all the facilities themselves will be the security for the bonds. The sports facility and the industrial park sites will be used in the trades or businesses of nonexempt persons. The bonds are industrial development bonds, but under the provisions of paragraph (a) (1) of § 1.103–8 and paragraph (a) of § 1.103–9, the interest on the $25 million issue will not be includable in gross income. However, the interest on bonds held shall be includable in the gross income of a substantial user of either the sports facility or the industrial park if such substantial user holds any of the obligations of the $25 million issue. The 5-percent limitations of paragraph (b) of this section are applied separately with respect to each facility.

Example (6). Authority E issues $4 million of bonds which qualify as an exempt small issue under section 103(c) (6) (A) pursuant to an election under section 103(c) (6) (D) and paragraph (b) (2) of § 1.103–10 in order to construct a bank building on the grounds of an airport. In addition, E issues $40 million to expand the airport. The bank will not derive revenue in excess of 5 percent of the revenue derived with respect to the airport nor will it occupy more than 5 percent of the usable area of such airport. The bank will be a substantial user of the bank building constructed with the proceeds of the $4 million issue since the facility was constructed specifically for the bank. However, the bank will not be a substantial user with respect to the airport because it does not exceed the 5-percent limitations of paragraph (b) of this section. Had E issued one issue of $44 million in order to expand the airport and construct a bank building, the bank would be a substantial user of the entire facility since the $44 million issue was being used to construct a facility a portion of which was specifically for the bank.

§ 1.103–12 Transitional provisions.

(a) *In general.* Section 103(c) and §§ 1.103–7 through 1.103–11 do not apply with respect to any obligation issued by a State or local governmental unit before January 1, 1969, if before May 1, 1968, any one of the conditions contained in paragraphs (b) through (e) of this section is satisfied. In addition, the interest paid on obligations described in paragraphs (f) and (g) of this section will not be includable in gross income by reason of the provisions of section 103(c) and §§ 1.103–7 through 1.103–11 if the provisions of those paragraphs are satisfied even though such obligations were issued after January 1, 1969. For purposes of this section, obligations are considered to be issued on the date on which there is a physical delivery of the evidences of indebtedness in exchange for the amount of the issue price. For example, a bond issue is "issued" when the

issuer physically exchanges the bonds for the underwriter's (or other purchaser's) check. Obligations which are taken down after December 31, 1968, by purchasers pursuant to a delayed delivery agreement with the issuer are, therefore, subject to the rules contained in section 103(c) and §§ 1.103–7 to 1.103–11.

(b) *Authorized or approved by State or local governmental unit.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, the issuance of the obligation (or the project in connection with which the proceeds of the bond issue are to be used) was authorized or approved by the governing body of the unit issuing the obligation or by the voters of such unit. Therefore, if the governing body of the State or local governmental unit issuing industrial development bonds had, prior to May 1, 1968, adopted a resolution or an ordinance which authorized or approved either (1) the project being financed or (2) the bond issue, then the rules of section 103(c) and § 1.103–7 do not apply to the bond issue. A resolution or an ordinance may for example, have, approved a designated project and authorized the later issuance of one or more series of bonds to finance the project. It may have approved the submission of a particular bond issue to the voters for their authorization. Similarly, if prior to May 1, 1968, the voters of a State or local governmental unit have approved the issuance of such bonds for a designated project, section 103(c) is not applicable to the bond issue.

(c) *Significant financial commitment by State or local governmental unit.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, State or local governmental unit made a signficant financial commitment in connection with the issuance of such obligation, with the use of the proceeds to be derived from the sale of such obligation, or with the property to be acquired or improved with such proceeds. The unit making the significant financial commitment with respect to a project financed by the proceeds of an industrial development bond issue need not be the same unit issuing the bonds. For example, a significant financial commitment may be made if a State builds access roads to a project in one of its counties which will issue the bonds. Similarly, if a city or county makes a significant financial commitment to build roads, power lines, or sewer lines to a project within its jurisdiction which is being financed by a separate State or local governmental unit, such as an industrial development board, the condition of this subparagraph is satisfied. For purposes of this subparagraph, the term "significant financial commitment" means the expenditure of (or a commitment to expend) a sizable amount of money. The amount involved need not be compared to the size of the financed project. For example, a commitment to expend $250,000 in connection with a $10 million project would be considered significant.

(d) *Expenditures equal to 20 percent of bond proceeds.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, any person other than a State or local governmental unit who will use the proceeds to be derived from the sale of such obligation, or who will use the property to be acquired or improved with such proceeds, expended (or entered into a binding contract to expend), for purposes which are related to the use of such proceds or property, an amount equal to or in excess of 20 percent of such proceeds. A prospective user of the proceeds of an industrial development bond issue, or property to be acquired with such proceeds, will be considered to have entered into a binding contract to expend money for purposes related to the project if (1) such person entered into a contract for fuel, power, water, or raw materials and (2) any conditions to which the obligations of one or more parties to such contract are subject are beyond the control of such parties. For example, a binding contract for alumina entered into in connection with the financing of an aluminum reduction mill or such a contract to purchase timber land in connection with a paper mill are contracts related to the use of the financed facility. For purposes of determining whether the expenditures of the prospective user are equal to or in excess of 20 percent of the bond proceeds, binding contracts will be taken into account on the basis of the amounts to be expended over the term of the contract.

(e) *Approval by economic development agency.* The interest paid on any such industrial development bond is not includable in gross income by reason of section 103(c) and §§ 1.103–7 through 1.103–11 if, before May 1, 1968, in the case of an obligation issued in conjunction with a project where financial assistance will be provided by a governmental agency concerned with economic development, such agency approved the project or an application for financial assistance was pending. For purposes of this subparagraph, the term "financial assistance" includes a guaranty by the agency of the payment of the principal and interest on an obligation by a State, or local governmental unit as well as direct financial aid such as a loan or grant-in-aid made by the unit. For example, section 103(c) and § 1.103–7 do not apply if the Federal Economic Development Administration has approved a grant in connection with a project to be financed by industrial development bonds. Similarly, where a State agency has approved a project and the agency has guaranteed the payment of the principal and interest on the bonds, those rules do not apply. The governmental agency concerned with economic development may be a Federal, State, or local agency. The financial assistance extended need not be directly either to the State or local governmental unit issuing the industrial development bonds or to the person who will use the property acquired or constructed with the bond proceeds. It is sufficient that the assistance extended be in conjunction with a project which includes the property in respect of which the bonds are issued.

(f) *Certain cost overrun issues.* (1) If substantially all of the proceeds of one or more issues of obligations is to be used to finance a cost overrun (within the meaning of subparagraph (2) of this paragraph) on a facility used in the trade or business of a nonexempt person, the provisions of section 103(c) and §§1.103–7 through 1.103–11 shall not apply to such cost overrun issue or issues.

(2) For purposes of this paragraph, the term "cost overrun" means the amount necessary to complete a facility, but only if such facility was reasonably expected to be completed with the proceeds of one or more prior issues described in subparagraph (3) of this paragraph, and only if all of the following conditions of this subparagraph are satisfied. Such facility must have been financed with the proceeds of one or more such prior issues in accordance with architectural and engineering plans adopted at the time such prior issue (or the latest prior issue if more than one such prior issue) was issued. The amount of "cost overrun" shall be limited to the amount by which the actual cost of such facility exceeds the reasonably estimated cost of such facility in accordance with such plans at the time that such prior issue (or the latest such prior issue if more than one such prior issue) was issued.

(3) A prior issue of obligations is described in this subparagraph if section 103(c)(1) did not apply to such prior issue because it was issued before May 1, 1968 (or before January 1, 1969, if the transitional provisions of paragraphs (a) through (e) of this section apply to such issue).

(g) *Special rule for certain State or local governmental obligations authorized prior to June 5, 1971.* (1) For purposes of section 103(c) and paragraph (b)(3) of § 1.103–7, the use of 35 percent or less of the proceeds of an issue of obligations described in subparagraph (2) of this paragraph in the trades or businesses of nonexempt persons shall not constitute the use of a major portion of such proceeds in such manner.

(2) An issue of obligations is described in this subparagraph if—

(i) Such issue of obligations was issued prior to June 6, 1971, or

(ii) (*a*) The issuance of such obligations was specifically authorized by an Act or Ordinance of a State or local governmental unit enacted prior to June 5, 1971.

(*b*) The aggregate face amount of obligations which may be issued pursuant thereto is limited to a specific dollar amount by such Act or Ordinance, and

(*c*) The sum of the aggregate face amount of obligations issued pursuant to

such authorization prior to the time of issuance of the issue being tested and the face amount of the issue being tested does not exceed the dollar amount of such limitation in effect on June 5, 1971.

(Sec. 7805, Internal Revenue Code of 1954, 83 Stat. 625; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: July 28, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.72-12050 Filed 7-31-72;9:31 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3113 is amended to reflect a recent reorganization in the Department of Agriculture.

Effective on publication in the FEDERAL REGISTER (8-3-72), subparagraphs (1) and (5) of paragraph (a) and the headnote of paragraph (f), subparagraphs (5) and (6), the headnote of paragraph (k) and subparagraph (2) of paragraph (k) are amended; subparagraph (2) of paragraph (f) is revoked and a new subparagraph (3) is added to paragraph (k) as set out below.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. This authority is not applicable to positions in the Agricultural Research Service, the Animal and Plant Health Inspection Service, or positions in the Statistical Reporting Service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), and tobacco inspection positions.

* * * * *

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS-7 and WG-10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; field enumerators and supervisors; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; collectors of the Farmers Home Administration; agricultural commodity aids in the Agricultural Marketing Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and, subject to prior Commission approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided,* That an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies. Such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of § 213.3102.

* * * * *

(f) *Agricultural Marketing Service.* * * *

(2) [Revoked]

(5) Positions of agricultural commodity graders (processed fruits and vegetables), GS-9 and below, and of graders' aides (processed fruits and vegetables), GS-3 and 4, for temporary employment on a part-time or intermittent basis for not to exceed 1,280 hours a year.

(6) Temporary positions at GS-9 and below of agricultural commodity graders (poultry) who inspect egg products. Employment under this authority may not exceed 1,280 hours a year.

* * * * *

(k) *Animal and Plant Health Inspection Service.* * * *

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock diseases. Persons appointed under this authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate, without prior approval of the Commission. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock industry of the country.

(3) Positions of meat and poultry inspectors (veterinarians at GS-11 and below and nonveterinarians at appropriate grades below GS-11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

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

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

[FR Doc.72-12182 Filed 8-2-72;8:53 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Director, Office of National Narcotics Intelligence is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (8-3-72), paragraph (u) is added to § 213.3310 as set out below.

§ 213.3310 Department of Justice.

* * * * *

(u) *Office of National Narcotics Intelligence.*

(1) One Director.

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

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

[FR Doc.72-12181 Filed 8-2-72;8:53 am]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, and Marketing Practices), Department of Agriculture

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

PART 29—TOBACCO INSPECTION

Subpart C—Standards

HEAVY LEAF (B GROUP); CORRECTION

In F.R. Doc. 72-10636 appearing at page 13626 of the issue for Wednesday, July 12, 1972, the specifications for grade B4M set forth in § 29.2662 should read as follows:

Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.

Done at Washington, D.C., this 31st day of July 1972.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.72-12154 Filed 8-2-72;8:51 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 403]

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

Limitation of Handling

§ 908.703 Valencia Orange Regulation 403.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 1, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 4, 1972, through August 10, 1972, are hereby fixed as follows:

(i) District 1: 330,000 cartons;

(ii) District 2: 343,000 cartons;

(iii) District 3: 27,000 cartons.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: August —, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-12258 Filed 8-2-72;11:17 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER E—ACCOUNT SERVICING

[FHA Instruction 451.5]

PART 1861—ROUTINE

Subpart F—Servicing of Community Program Loans and Grants

On Thursday, April 6, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 6930) to amend 7 CFR, Part 1861 by the addition of Subpart F, "Servicing of Community Program Loans and Grants," which prescribes the policies, authorizations, and procedures for servicing association loans. Servicing will be directed toward assisting the borrower to meet the objectives of the loan, repaying loans on schedule, complying with agreements, and protecting the Farmers Home Administration's financial interest. Interested persons were afforded the opportunity to participate in the rule making through the submission of comments. Due consideration has been given all material presented, and in light of these comments and subsequent review, the regulations are being published as Subpart F of Part 1861 of Subchapter E. The comments resulted in changes with respect to (1) clarifying the issuance of U.S. Treasury checks to the properly authorized designated agent(s) for delivery; (2) execution of Form FHA 400–4, "Nondiscrimination Agreement," in compliance with nondiscriminatory requirements in the transfer or sale of property to be used for the same or similar purposes for which the loan or grant was made; (3) reorganizing §§ 1861.83 and 1861.84 to provide for better continuity in format; and (4) minor editorial changes with respect to §§ 1861.90 through 1861.102 for clarification.

In accordance with the above, the regulations will appear as Part 1861, Subpart F of Subchapter E, Account Servicing, and are hereby adopted effective on the date of their publication in the FEDERAL REGISTER (8–3–72). As adopted, the new Subpart F of Part 1861 will read as follows:

Subpart F—Servicing of Community Program Loans and Grants

Sec.
1861.81 Purpose.
1861.82 Loan servicing.
1861.83 Liquidation of security.
1861.84 Sale or exchange of security property.
1861.85 Transfer of security and assumption of loans.
1861.86 Voluntary conveyance of security to FHA.
1861.87 Foreclosure.
1861.88 Mergers.
1861.89 Special provisions applicable to Economic Opportunity (EO) cooperative loans.
1861.90 Nondiscrimination.
1861.91 Care, management, and disposal of acquired property.
1861.92 Water and waste disposal systems which have become part of an urban area.
1861.93 Determining present market value.
1861.94 Development grants.
1861.95 Comprehensive planning grants.
1861.96 Servicing planning advances.
1861.97 Additional State Director's authorizations.
1861.98 Payment in full.
1861.99 State requirements.
1861.100 Redelegation of authority.
1861.101 Forms.
1861.102 Servicing public bodies.

AUTHORITY: The provisions of this Subpart F of Part 1861 issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Act. Sec. of Agr., 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529; Order of Dir., OEO, 29 F.R. 14764.

Subpart F—Servicing of Community Program Loans and Grants

§ 1861.81 Purpose.

This subpart prescribes the policies, authorizations, and procedures for servicing the following: Community water and waste disposal system loans and grants, comprehensive water and sewer planning grants, loans for grazing and other shift-in-land use projects, community recreation facility loans, community irrigation and drainage loans, watershed loans and advances, resource conservation and development loans, economic opportunity cooperative loans, loans to Indian tribes and tribal corporations, and loans to timber development organizations. Servicing will be directed toward assisting the borrower to meet the objectives of the loan, repaying loans on schedule, complying with agreements, and protecting the Farmers Home Administration's (FHA's) financial interest.

§ 1861.82 Loan servicing.

(a) *Regular payments.* Regular payments are: All payments other than extra payments and refunds; revenue from mineral lease bonuses and delay rentals; proceeds from the sale of timber harvested on a selective cutting basis that does not deplete the Government's security; proceeds from the sale of gravel, rock, fill dirt, or sand when such sale does not reduce the value of the Government's security; and similar transactions which do not reduce the value of the Government's security.

(1) *Order of application.* Regular payments will be applied to accounts in accordance with § 1861.5(a), except as otherwise established by the note or bond.

(b) *Extra payments.* Extra payments are those derived from: Sale of basic chattel or real estate security, including rental or lease of real estate security which is of a depreciating or depleting

nature; minerals royalties and timber other than referred to in paragraph (a) of this section; cash proceeds of real property insurance as provided in § 1806.5(b) of this chapter; and any refund of unused loan funds.

(1) *Application.* Extra payments will be applied in accordance with § 1861.5(b) except where otherwise established in accordance with the note or bond.

(c) *Collections.* Collections will be processed in accordance with Part 1862 of this chapter.

(d) *Actions by FHA for account of borrower including advances for protection of security or lien.* (1) Property insurance will be serviced in accordance with Part 1806 of this chapter in real estate mortgage cases and in accordance with the loan agreement in other cases.

(2) Borrower's real property taxes will be serviced in accordance with Part 1863 of this chapter. If State statutes permit a personal property tax lien to have priority over FHA's lien, personal property taxes will be serviced in accordance with §§ 1863.3 and 1863.4 of this chapter.

(3) The State Director is authorized to approve vouchers to pay costs other than taxes and insurance, necessary to protect FHA's interest. Vouchers will be prepared using Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," in an original and two copies. The name and address of the party to whom payment is due will be inserted in the heading. The amount of the vouchered items will be inserted in the appropriate spaces. The notation inserted in the space for description of the services will include the purpose of the payment, the location and a simple description of the property, the name and case number of the borrower, and the fact that the amount will be charged to the borrower's account. A sample notation could be as follows:

For payment of water rights of real property in _____ _____
(community) (State)
_____ _____ for the period of July 15, 1971, through August 1971 to be charged to the borrower's loan account.
(case number) (loan type code)

(4) After the voucher has been approved by the State Director, the original with any attached reports will be sent to the Finance Office. One copy will be held in the borrower's County Office loan docket and one copy will be given to the borrower.

(i) After the voucher has been processed in the Finance Office, the U.S. Treasury check will be issued to the appropriate payee and mailed to the County Supervisor for delivery. The purpose of the payment will be stated on each check. Any amount advanced will be entered as a recoverable charge on the borrower's account in the Finance Office. The advance will bear interest at the rate specified in the most recent debt instrument under which the advance is authorized to be made. After the check is issued, Form FHA 451–26, "Transaction Record," will be prepared by the Finance Office and sent to the appropriate County Office, showing the amount of the recoverable charge and the applicable rate of interest.

(e) *Subordination of security*—(1) *Request for subordination.* When a borrower requests FHA to subordinate a security instrument so that another creditor or lender can refinance, extend, reamortize, or increase the amount of a prior lien, or place a lien ahead of the FHA lien, it will submit a written request. This request should contain the purpose of the subordination, exact amount of money or property involved, description of security property to be subordinated, type of security instrument, name, address, line of business and other general information pertaining to the party in favor of which subordination will be given, and other pertinent information which will be of assistance in determining need for subordination. The State Director is authorized to execute subordination on form FHA 460–2, "Subordination by the Government," provided all the following requirements and conditions are met:

(i) The amount of the subordination does not exceed the State Director's loan approval authorizations as set forth in Part 1810, Subpart B of this chapter.

(ii) The borrower is unable to refinance the FHA mortgage on terms which it can reasonably be expected to meet.

(iii) The transaction will either further the objectives for which the FHA loan was made or improve the borrower's debt-paying ability and, in either case, result in the FHA debt being adequately or no less well secured.

(iv) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them as well as all other debts.

(v) Any proposed development work will be planned and performed in accordance with § 1823.29 of this chapter or in a manner directed by the creditor which reasonably attains the objectives of Part 1823, Subpart A of this chapter.

(vi) In case of land purchase, the FHA will obtain a mortgage on such purchased land.

(vii) When the transaction involves more than $1,000 and the State Director considers it necessary, a present market value appraisal report will be obtained. However, a current appraisal report need not be obtained if there is an appraisal report not over 2 years old in the file which will permit the proper determination as to the present market value of the total property after the transaction.

(viii) The subordination is for a specific amount.

(ix) All contracts, pay estimates, and change orders will be reviewed and approved by the FHA State Director.

(x) The proposed action will not so change the nature of the borrower's activities as to make it ineligible for FHA loan assistance.

(2) *Processing.* All subordinations pertaining to other than chattel liens will be closed in accordance with Office of the General Counsel's (OGC's) instructions. When National Office approval is required or the State Director desires advice pertaining to a requested subordination, the borrower's loan docket with a current operating budget, balance sheet, copy of proposed lien, appraisal report, borrower's written request, OGC opinion, and other necessary supporting information will be sent to the National Office.

(f) *Loan reamortization.* (1) The State director is authorized to approve reamortization of loans for borrowers having a delinquency which cannot be brought current within 1 year while maintaining a reasonable reserve when all of the following conditions exist:

(i) The debt(s) to be reamortized does not exceed the State director's loan approval authorization.

(ii) The borrower has demonstrated for at least 1 year by actual performance or has presented a budget which clearly indicates that it is able to meet the proposed payment schedule.

(iii) Trere is no extension of the final maturity date.

(2) Proposals for reamortization exceeding the limits set in subparagraph (1) of this paragraph and those evidenced by notes which are not delinquent may be reamortized with prior approval of the National Office. Requests for such reamortization will be forwarded to the National Office along with the loan docket, a current budget and financial statement, and the State director's statement of essential facts and recommendations.

(3) Processing will be handled as follows:

(i) Borrowers other than public bodies requesting reamortization will complete Form FHA 451–33, "Reamortization Request (Association Loan)." All of the note including principal and interest will be reamortized. Reamortization will be accomplished through the use of a new note unless OGC recommends that the terms of the existing note be modified through the use of Form FHA 451–33, or if that is legally inadequate, through the use of other appropriate form.

(ii) Public body borrowers may effect reamortization by any procedure which in the opinion of their counsel and OGC is legally permissible under State law and acceptable to the State director. Appendix 3 of Part 1823, Subpart A of this chapter would not apply to the new bonds.

(4) The properly executed new instrument(s) or endorsement, as appropriate, will be forwarded to the Finance Office and the original existing note or bond will be attached to the Finance Office's copy of the new note or bond or endorsement and will be retained by FHA until the respective account is paid in full or otherwise satisfied.

(g) *Consent to borrower's granting lease of security*—(1) *State Director's consent.* The State Director may consent to the leasing of all or a portion of security property when:

(i) The lease will not adversely affect the repayment of the loan or the Government's rights under the security or other instruments.

(ii) Leasing is not an alternative to, or means of, delaying liquidation action.

(iii) The lease and use of any proceeds from such lease will further the objectives of the loan.

(iv) Rental income is assigned to FHA in an amount sufficient to make regular payments on the loan, and operate and maintain the facility, unless such payments are otherwise adequately assured.

(v) The lease is advantageous to the borrower and is not to the Government's disadvantage.

(vi) If foreclosure action has been approved and the case has been submitted to OGC, consent to lease and use of proceeds will be granted only with the concurrence of the OGC.

(vii) The lease will not exceed a 1-year period. The property may not be under lease more than 2 consecutive years without authorization from the National Office.

(2) *Mineral leases.* The State Director, unless liquidation is pending, is authorized to approve mineral leases when:

(i) The lessee agrees in the lease or elsewhere, or is liable without any agreement, to pay adequate compensation for any damage to the real estate surface and improvements. Damage compensation will be assigned to the FHA or the prior lienholder by the use of Form FHA 443–16, "Assignment of Income from Real Estate Security," or other appropriate instrument.

(ii) Royalty payments are adequate and are assigned to FHA on Form FHA 443–16.

(iii) All or a portion of delay rentals and bonus payments may be assigned on Form FHA 443–16 if needed for protection of the Government's interests.

(iv) The lease, subordination, or consent form is acceptable to the OGC.

(3) *Processing.* When FHA's consent to a lease is required, the borrower will complete and submit Form FHA–465–1, "Application for Partial Release, Subordination, or Consent." The form will show the terms of the proposed lease and will specify the use of proceeds including any proceeds to be released to the borrower. When another lienholder's mortgage requires consent to lease, his consent will be obtained. When the approval of the National Office is required or if the State Director wishes a lease transaction reviewed prior to approval, he will forward the loan docket, a copy of the proposed lease, and any other pertinent information along with his recommendations to the National Office.

(h) *Membership liability.* As a loan approval requirement, some borrowers may have special agreements with members for the purchase of shares of stock or for the payment of a pro rata share of the loan in event of default, or they may have in their corporate instruments authority to make special assessments in such event. Such agreements may be referred to as individual liability agreements and may be assigned to and held by the FHA as additional security for the loan. In other cases the borrower's note may be endorsed by individuals. Such liability instruments will be serviced in a manner indicated by their contents so as to adequately protect the interest of the FHA.

(i) *Other security.* Other security such as collateral assignments, water stock certificates, notices of lienholder interest (Bureau of Land Management grazing permits), and waivers of grazing privileges (Forest Service grazing permits), will be serviced so as to protect the interest of FHA, and pursuant to any special servicing actions developed by the State Director with the assistance of the OGC. Evidence of such security will be filed in the loan docket in the County Office. A notation will be made on Form FHA 405–10. "Management System Card—Association," showing necessary servicing action.

(j) *Correcting errors in security instruments.* Land, buildings, or chattels included in the mortgage through mutual mistake when substantiated by the factual situation may be released from the mortgage by the State Director. The release is contingent on the State Director with the advice of the OGC determining that a mutual error existed at the time such property was included in the Government's mortgage.

§ 1861.83 Liquidation of security.

When the County Supervisor believes that continued servicing will not accomplish the objectives of the loan he will complete the form, "Report on Association Loan Problem Case (Association-Type Projects)," and submit it along with the County Office File to the State Office. If the State Director determines the account should be liquidated he will encourage the borrower to voluntarily sell the property and remit the proceeds to FHA. He will give the borrower a specified period of time not to exceed 180 days to accomplish such action. If the voluntary sale cannot be accomplished the loan will be liquidated in accordance with § 1861.85, § 1861.86, or § 1861.87.

§ 1861.84 Sale or exchange of security property.

(a) *Authority.* The County Supervisor, subject to the condition of this paragraph is authorized to approve a cash sale of all or a portion of the borrowers assets or an exchange of security property when only chattels are involved. The State Director is authorized to approve real estate transactions. Approval may be given when the approval official determines:

(1) The consideration is adequate.

(2) That the release will not prevent carrying out the purpose of the loan.

(3) The remaining property is adequate security for the loan, or the transaction will not adversely affect FHA's security position.

(4) If the property to be sold or exchanged is to be used for the same or similar purposes for which the loan or grant was made, the purchaser will execute Form FHA 400–4, "Nondiscrimination Agreement." This will remain in effect as long as the property continues to be used for the same or similar purposes for which the loan or grant was made.

(5) The proceeds are used for one or more of the following purposes:

(i) To pay on FHA debts in accordance with § 1861.82 (a) and (b), on debts secured by a prior lien, and on debts secured by a subseqeunt lien if it is to FHA's advantage.

(ii) To purchase or to acquire through exchange property more suitable to the borrower's needs, provided the FHA secured debt will be as well secured after the transaction as before.

(iii) To develop or enlarge the facility provided that such action is necessary to improve the borrower's debt-paying ability or place his operation on a more sound basis, or otherwise further the objectives of the loan.

(6) The FHA liens are not released until receipt of the appropriate sale proceeds for application on the Government's claim. In any State in which it is necessary to obtain the insured note from the lender to present to the recorder before a release of a portion of the land from the mortgage, the borrower must pay any cost for postage and insurance of the note while in transit. The County Supervisor will advise the borrower when it requests a partial release that it must pay such costs. If the borrower is unable to pay the cost from personal funds, they may be deducted from the sale proceeds. The amount of the charge will be based on the statement of actual cost furnished by the insured lender.

(b) *Processing.* When a borrower requests permission to sell or exchange a portion of FHA's security property, it will complete Form FHA 465–1, for real estate or Form FHA 462–2, "Statement of Conditions on Which Lien will be Released," for chattels. For real estate transactions the County Supervisor will forward Form FHA 465–1, the appropriate appraisal report, the County Office docket including an executed Form FHA 400–4, his recommendation, and all other pertinent information to the State Director.

(c) *Releasing security*—(1) *Chattel security.* The County Supervisor is authorized to satisfy or terminate chattel security instruments when paragraph (a) of this section and § 1871.8 of this chapter have been complied with. Satisfaction or termination of chattel security instruments will be accomplished in accordance with § 1871.13 of this chapter. Partial releases may be made by using Forms FHA 460–1, "Partial Release," or Form FHA 460–6, "Partial Release (UCC States)." Form FHA 460–4, "Satisfaction," will be used when a debt has been paid in full or satisfied by debt settlement action.

(2) *Real estate.* Subject to paragraph (a) of this section, the State Director is authorized to consent to disposition of a part or all of an interest in real estate security by approving Form FHA 465–1. Partial release of real estate security may be made by use of Form FHA 460–1, or other form approved by OGC. Form FHA 460–4 will be used when a debt has been paid in full or satisfied by debt settlement action.

(d) *Release of liability.* (1) When the FHA debt is paid in full from the sale of proceeds, the borrower will be released from liability by use of Form FHA 465–8, "Release from Personal Liability."

(2) When sale proceeds are not sufficient to pay the FHA debt in full and all security property has been disposed of, the remaining debt will be accelerated and the case reclassified to collection-only.

§ 1861.35 Transfer of security and assumption of loans.

(a) *General.* Transfer and assumption may be approved subject to the following conditions:

(1) Transfers to eligible applicants will receive preference over transfers to ineligible applicants provided recovery to FHA from the sale price is not less than it would be if the transfer were to an ineligible applicant.

(2) The present borrower is unable or unwilling to accomplish the objectives of the loan and the transfer will be to the Government's advantage.

(3) If the debt(s) exceeds the present market value of the security, the transferee will assume an amount at least equal to the present market value.

(4) If the FHA debt is less than the present market value, the transferee will assume an amount at least equal to the debt owed the FHA.

(5) The transfer will not adversely affect the FHA program in the area.

(6) FHA concurs in the plans for disposition of funds in the transferor's debt service, reserve and operation and maintenance account.

(7) The County Committee recommends the transfer.

(b) *Transfers to eligible applicants.* (1) The State Director is authorized to approve transfers of security property to and assumptions of FHA debts by transferees who would be eligible for the type of loan being transferred.

(2) If the interest rate or terms of the loan are changed, Form FHA 460–5, "Assumption Agreement (New Terms)," will be executed by the transferee. The new repayment period may not exceed the repayment period for a new loan of the type involved. If the current interest rate for such loans is higher than the rate specified in the note(s) being assumed, the current rate will apply except in cases of transfers from nonpublic to public bodies and mergers.

(3) If the full debt is assumed and the same interest rate and terms will prevail, Form FHA 460–9, "Assumption Agreement (Same Terms—Eligible Transferee)," will be executed by the transferee.

(4) Where the property to be transferred is to be used for the same or similar purposes for which the loan or grant was made, to avoid any doubt as to the continuation of the nondiscrimination covenants, the transferee will execute Form FHA 400–4.

(5) A loan for which the transferee is eligible may be made in connection with a transfer subject to the policies and procedures governing the kind of loan being made.

(6) If the transferor is to receive a payment for its equity, the total FHA debt must be assumed.

(7) Release of liability will be considered in accordance with the following:

(i) When all FHA security is transferred to an eligible applicant and the total outstanding debt is assumed, it will be the policy to release the transferor from liability.

(ii) In those cases where the transfer is for less than the full amount of the FHA debt, the transferor may be released from liability provided the State Director determines that the transferor has no reasonable debt-paying ability considering its assets and income at the time of the transfer and the County Committee certifies that the transferor has cooperated in good faith, used due diligence to maintain the security property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of its ability. If the County Committee recommends a release of liability such recommendation will be made on Form FHA 440–2, "County Committee Certification or Recommendation," in the blank space following item 10 similar to the following:

_____, in our opinion does not have reasonable debt-paying ability to pay the balance of the debt not assumed after considering its assets and income at the time of the transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of its ability. Therefore, we recommend that the transferor be released of personal liability upon the transferee's assumption of that portion of the indebtedness equal to the present market value of the security.

(c) *Transfers to ineligible applicants.* Transfer of an FHA loan to an ineligible applicant is considered only when needed as a method for servicing problem cases in which objectives of the original loan cannot be realized but not for providing a means by which members can obtain an equity, and not as a method of providing a source of credit for purchasers. The State Director is authorized to approve a transfer of indebtedness to and assumption of the loan by an applicant who does not meet the eligibility requirements for the kind of loan being assumed when the transferee will make a downpayment of at least 20 percent of the amount of the debt to be assumed and the remaining balance is scheduled for repayment in not to exceed five equal annual installments with interest to the transferee at the rate set forth in Part 1810, Subpart A of this chapter, plus 0.125 percent at the time of transfer approval and in accordance with the following:

(1) Transferees must have the ability to pay the FHA debt in accordance with the assumption agreement and the legal capacity to enter into the contract. The applicant will submit a complete financial statement using Form FHA 442–3, "Balance Sheet," or similar form. This information should be supplemented by a credit report from an independent source such as Dun & Bradstreet or verified by an independent certified public accountant. When the transferee is a new corporation, consideration will be given to obtaining individual liability agreements from its members.

(2) Form FHA 465–5, "Transfer of Real Estate Security," modified as appropriate, will be executed by the transferee.

(3) Where the property to be transferred is to be used for the same or similar purposes for which the loan or grant was made, Form FHA 400–4 will be executed by the transferee.

(4) This subpart does not preclude the transferor from receiving equity payments when the full amount of the FHA debt is assumed. However, such equity payments will not be made on more favorable terms than those on which the balance of the FHA debt will be paid.

(5) The State Director may release the transferor from liability when the ineligible applicant assumes the full amount of the FHA debt.

(d) *Submission to the National Office.* All proposed transfers involving the following will be submitted to the National Office for review and approval authorization:

(1) Those to be made on more liberal rates and terms than is set forth in paragraph (c) of this section. There will be no release of liability in connection with transfers involving a repayment period in excess of 5 years.

(2) Those proposing a cash downpayment to the present borrower in an amount which exceeds actual sales expenses.

(3) Water and Waste Disposal loans representing indebtedness for projects financed in part by FHA development grants.

(e) *Processing transfers.* (1) Form FHA 465–5 will be completed to reflect the agreement between the transferor and the transferee. The form will be prepared so as to show agreements on items such as the prorating of taxes and insurance, title, legal, and filing fees, equity and method of payment, and other appropriate items.

(2) The effective date of the transfer will be the actual date the transfer is closed. This is the date on which Forms FHA 460–5 or FHA 460–9 is signed. In connection with the use of either form, the unpaid principal balance and the accrued interest will be shown in Table 1 and the accrued interest will be computed from Form FHA 451–26, Form FHA 451–11, "Statement of Account," or Form FHA 451–25, "Status of Account." If Form FHA 460–9 is used, the transferee will be informed of the amount of principal and interest owed as shown on the latest transaction record or statement of account. He will also be advised as to the amount that would be required to place the account on schedule as of the previous installment due date and any amounts that must be paid to bring any payments up to date. If Form FHA 460–5 is used, he should be advised of the amount needed to be on schedule by the next installment due date.

(3) The transferor will convey title of all assets to the transferee, unless other

arrangements are agreed upon by all parties concerned including FHA.

(4) There must be no lien, judgment, or other claims of parties other than FHA against the security being transferred unless the transferee is willing to accept such claims and the FHA approving official determines that such claims will not affect the transferee's ability to repay FHA's debt, meet all operating and maintenance costs, and to maintain the required reserves. The written consent of any other lienor will be obtained where required.

(5) The County Supervisor will forward the loan docket including forms and documents listed in instructions available in all FHA offices to the State Office.

(6) If the transfer is not within the State Director's approval authority, the State Director will forward the docket along with his recommendation to OGC for review and comments. Upon receipt of OGC's comments, the State Director will forward the complete file along with his recommendation to the National Office. The form, "Report on Association Problem Case (Association-Type Projects)," will be used as a guide to record the borrower's present situation and will be forwarded with the docket.

(7) If an insured loan is involved, the Finance Office will have the insured note assigned to the fund when the Assumption Agreement changes the terms of note or bond.

(8) The transferee will obtain insurance in accordance with the requirements for the outstanding loan(s) involved unless the approval official requires additional insurance as a condition of approval. If insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of a new policy by the transferee. When the full amount of the FHA debt is being assumed and an amount has been advanced for insurance premiums or any other purposes the transfer will not be completed until the Finance Office has charged the advance to the transferor's account.

(9) The parties to the transfer will be responsible for obtaining the legal services necessary to accomplish the transfer. Transfer closing will be accomplished in accordance with OGC's instructions.

(10) When the transferee will be an eligible applicant, any development funds not to be refunded remaining in the transferor's supervised bank account will be transferred to the transferee's supervised bank account simultaneously with the closing of the transfer for use in completing planned development. All funds remaining in the supervised bank account will be refunded to FHA as a condition of transfer to an ineligible applicant.

(f) *Assumption agreement, release from personal liability, receipts.* Forms FHA 460-5 or FHA 460-9, FHA 451-1, "Receipt for Payment," and FHA 465-8, in each case where the full amount of the debt is assumed or a release from personal liability is otherwise approved under this subpart and all of the security is being transferred, will be completed and executed simultaneously with the closing of the transaction. The original (and signed copy for insured loan) Form FHA 460-5 or Form FHA 460-9 and, when applicable, Form FHA 451-1, and a signed copy of Form FHA 465-8 will be transmitted immediately to the Finance Office. If a loan is involved, Form FHA 440-3, "Record of Actions," also will be sent to the Finance Office.

(g) *Transfer not completed.* If for any reason the transfer is not completed after approval, the Finance Office will be notified to resume servicing of the account in the name of the transferor.

§ 1861.86 Voluntary conveyance of security to FHA.

(a) *General.* Voluntary conveyance should be considered only after the borrower has exhausted all reasonable efforts to liquidate the loan either through sale of its property or transfer and assumption.

(1) The State Director, subject to the policies outlined in this paragraph, is authorized to approve a voluntary conveyance with or without release of liability when the present market value of the property to be conveyed to the Government does not exceed $250,000.

(2) The borrower will complete and properly execute Form FHA 465-4, "Offer to Convey Security." A warranty deed using a State-approved form or a deed meeting the requirements of § 1807.2(e)(2) of this chapter and approved by OGC will be required and, whenever possible, completed and signed simultaneously with Form FHA 465-4; however, it will not be recorded until closing of the transaction. Any water rights not fully conveyed in the deed, any necessary assignments or transfers of water stock or membership certificates, or other water right title documents required will be obtained simultaneously with the execution of Form FHA 465-4 whenever possible and in no case later than the closing of the transaction. Proposed bill of sale listing personal property items will be included.

(3) When the borrower's offer provides for less than full satisfaction of the account but is equal to the present market value of the security less any liens that are to remain outstanding, the State Director may accept the offer subject to the conditions outlined in Form FHA 465-4. If the offer provides for full satisfaction of all FHA debts, it may be accepted provided the value of the security less any liens to remain outstanding is sufficient to satisfy the FHA debt. If the offer to convey in full satisfaction of FHA debts is not acceptable, it will be returned to the County Supervisor who will attempt to obtain an offer which will convey the security for its value as determined by the FHA.

(4) When an insured loan not held by the insurance funds is involved and the State Director decides to accept the offer to convey, he will request the Director, Finance Office, to have the insured loan assigned to the Agriculture Credit Insurance Funds (ACIF).

(5) Any funds remaining in the borrower's debt service, reserve or operation and maintenance accounts will be paid to FHA prior to closing the conveyance.

(6) Any funds remaining in the supervised bank account will be applied as a refund prior to assembling the voluntary conveyance docket.

(7) When a prior lien(s) exists, such lien(s) will be paid by Standard Form 1034 only if it is determined that a substantially greater recovery on the Government's investment can be obtained from the sale of the real estate without the lien(s) than could be otherwise obtained, or the property is suitable for sale to an eligible applicant subject to the terms of the prior lien(s) and the holder of the prior lien(s), where his permission is necessary, will not agree for the Government to acquire the property and resell it subject to his lien(s). If the property is acquired subject to prior lien(s), any required payments on the prior lien(s) may be made while title of the property is held by the Government. All junior liens on the property except taxes and assessments which are or will become a lien on the property, must be satisfied by the borrower without FHA assistance, unless in special circumstances it is clearly advantageous to FHA to make advances for the payment of such liens.

(b) *Release of liability.* Release of liability will be in accordance with the following:

(1) When the present market value of the security being conveyed less the amount of the prior lien(s) is equal to or exceeds the total FHA debt, it will be the policy to release the borrower from liability.

(2) When the present market value of the security is less than the total FHA debt, the State Director will determine whether the borrower is to be released from liability. This determination will be based upon the reasonable debt-paying ability of the borrower and recommendation of the County Committee. In arriving at a determination of the reasonable debt-paying ability of the borrower, the State Director will consider its assets and income at the time of the proposed conveyance. If the County Committee recommends a release of liability, a recommendation similar to the following will be recorded on Form FHA 440-2 in the blank space following item No. 10:

In our opinion _____
(Name of Borrower(s))
has no reasonable debt-paying ability taking into consideration its assets and income at the time of the conveyance. The borrower has cooperated in good faith, used due diligence to maintain the security property against loss, and otherwise fulfilled the convenants incident to the loan to the best of its ability. Therefore, we recommend that the borrower be released from personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government.

(c) *Processing*—(1) *Docket submission.* When the State Director determines that voluntary conveyance to FHA is appropriate, he will instruct the County

Supervisor to assemble a voluntary conveyance docket and submit it to the State Office along with the borrower's County Office case folder(s).

(2) *Amount.* If the amount to be conveyed is more than $250,000, the voluntary conveyance docket and other pertinent information along with the State Director's recommendation will be submitted to the National Office for review and authorization to approve.

(3) *Voluntary conveyance docket.* The voluntary conveyance docket will include the forms and documents listed in instructions available in all FHA offices.

(4) *Taxes.* When Form FHA 455–4 is submitted to the State director, Standard Form 1034 will be attached thereto for the payment of any taxes and assessments which are a lien or will become a lien on the property, or water assessments or charges to protect the right to receive water, which are due and payable and which the borrower is not required to pay by the terms of Form FHA 465–4.

(5) *Title examination and closing instructions.* When a decision to accept the borrower's offer is made, title examination will be accomplished in accordance with the advice of OGC. Title defects and encumbrances will be removed by the borrower except those recited in the FHA mortgage or subsequently approved by the FHA. When title defects and encumbrances have been removed, the voluntary conveyance docket including the title examination information will be submitted to OGC for review and issuance of closing instructions. The State Director's transmittal memorandum will include information as to items of expense incident to conveyance of title which have been paid by the FHA but are not shown on the statement of account, items of expense which are to be paid by the FHA, a statement as to whether the account is to be fully satisfied, and a request for preparation of necessary legal instruments not required to be prepared by the borrower's attorney.

(6) *Closing of conveyance.* The conveyance transaction will be closed in accordance with closing instructions issued by OGC. Expenses incident to closing the transaction to be paid by FHA will be handled in accordance with prescribed requirements. After the transaction is closed, all appropriate items will be returned to OGC for review. After OGC determines that the transaction has been properly closed, all documents will be returned to the State Director and he will be advised as to the date when title to the property was vested in the Government. A copy of the memorandum to the State Director will be forwarded to the Finance Office. Property insurance will be handled in accordance with § 1806.4(b)(3) of this chapter. All other insurance such as personal liability or workmen's compensation will be canceled. Ordinarily the fidelity bond coverage will also be dropped. However, in individual cases such as when a caretaker will continue to operate the facility and will be handling a substantial amount of revenue, the State Director may require continuances of fidelity bond coverage.

(7) *Credit of value of property on indebtedness.* The credit to be allowed on the account will be either the value of the security to be conveyed less the amount of any prior liens as determined by a present market value appraisal or the total amount of the indebtedness owed on the account after all expense items referred to in subparagraph (6) of this paragraph have been charged thereto, whichever is less. After the transaction is closed and the amount of the credit to be allowed on the account is determined by the State Director, Form FHA 465–6, "Advice of Mortgaged Real Estate Acquired," and where applicable, Form FHA 465–8, will be completed and transmitted to the Finance Office by the State Director. At the same time, a copy of Form FHA 465–6 will be submitted to the National Office. The County Supervisor will inventory and appraise personal property and submit a list of items to the Finance Office.

(8) *Satisfied account.* The Finance Office will stamp the borrower's note "Satisfied by surrender of security and release from liability" when the account is fully satisfied or the borrower is released from personal liability for any deficiency. The Finance Office will forward the stamped note to the County Supervisor for delivery to the borrower.

(9) *Unsatisfied account.* When the account is not fully satisfied by surrender of the security and the borrower is not released from personal liability, the State Director will reclassify the account as collection-only by submitting Forms FHA 404–1, "Case Reclassification," FHA 450–10, "Advice of Borrower's Change of Address or Name," and FHA 465–6 to the Finance Office. He will accelerate the unpaid indebtedness by written notice to the borrower with a copy to the Finance Office. The Finance Office will retain the note(s) and send the County Office a current Form FHA 451–11. Upon receipt of Form FHA 451–11, the County Supervisor will reconcile the loan record card with the statement of account and service the loan as collection-only in accordance with Subpart A of this part.

§ 1861.87 Foreclosure.

Foreclosure action will be initiated when liquidation has been decided upon and all reasonable attempts to liquidate the loan through voluntary sale, transfer, or voluntary conveyance have been exhausted, and a substantial net recovery can be obtained on the FHA account(s).

(a) *National Office authorization.* Foreclosure will not be initiated without prior authorization of the National Office. The State Director will forward the docket, a report completed in accordance with the forms, "Report on Association Problem Case (Association-Type Projects)," and "Report on Association Loan Problem Case (Additional Information for Recreation Loans)," if appropriate, a statement of essential facts, and his recommendation to the National Office requesting authority to proceed with foreclosure.

(b) *Processing foreclosure.* Upon receipt of National Office authorization, the State Director will forward the docket to OGC requesting necessary instructions. The State Director, with the assistance of OGC, will be guided by the following:

(1) *Prior lienholders.* Prior lienholders will be provided an opportunity to institute the foreclosure proceedings with the FHA taking the action necessary to protect the interest of the Government. If the prior lienholder is unable or unwilling to foreclose, FHA will institute foreclosure proceedings, subject to the prior lien. Whether foreclosure of the FHA mortgage will be subject to the prior lien will depend upon such factors as the State law, the action or inaction of the prior lienholder, the condition of the prior lien account and the amount of the prior lien debt in relation to the FHA debt. When a prior lien foreclosure sale is to be held, the State Director will immediately forward the docket, a copy of OGC's opinion, a statement of all facts essential to a decision, and his recommendations to the National Office for a review and advice as to further handling.

(2) *Existing leases or other agreements.* If the foreclosure is made subject to a lease or other agreement in which the lessor's interest is acquired by FHA through the sale, the original or a copy of the lease will be submitted to the Finance Office along with Form FHA 465–6 for processing. Any oral lease in effect at the time the Government acquires the property will be reduced to writing in a form approved by the State Director with the concurrence of OGC and its execution by the lessee will be obtained if possible. The lessee will be notified in writing that the Government has acquired the lessor's rights under the lease and directed to remit all payments to the County Office. Payments to FHA under a lease which by its terms were due and payable prior to the date of the foreclosure sale will be applied first on any deficiency claim resulting from the foreclosure and then on any other FHA claim against the borrower. Any surplus remaining will be remitted to the borrower. Payments due and payable to the FHA after the date of acquisition pursuant to foreclosure will be collected and forwarded to the Finance Office as miscellaneous income. Receipts for collection made in accordance with this paragraph will be issued to: "Lease proceeds from property formerly owned by (borrower's name and case number) and leased to (name of lessee)." After a foreclosure sale is held, if a redemption period is involved and the borrower has possession of the property during such period or a right to lease proceeds during the redemption period, a lease will not be obtained by the Government or be sent to the Finance Office until the redemption period has expired and the Government has a right to such proceeds.

(3) *Foreclosure sales are subject to Title VI of the Civil Rights Act of 1964.*

Where the purchaser will use the foreclosed property for the same or similar purposes for which the loan or grant was made, the purchaser will be required to execute Form FHA 400–4. The notice of foreclosure, or similar instrument, will contain a specific reference to this requirement and further provide that failure to execute Form FHA 400–4 by the purchaser will void the sale and result in the forfeiture of any required bid deposit.

(4) *FHA debt acceleration.* Unpaid FHA debts will be accelerated unless OGC advises such action is unnecessary. Form FHA 455–21, "Notice of Acceleration and Demand for Payment," may be used as a guide for preparing the notice. After issuance of the acceleration notice, account and security servicing actions, including payment of insurance and taxes will be taken only with the advice of OGC. Expenses incident to the foreclosure action which are approved by OGC for payment by FHA will be paid in accordance with prescribed requirements available in all FHA offices. If the OGC advises that a credit to the borrower's account or a Standard Form 1034 will not be acceptable for payment of the FHA bid, the State Director will obtain a check from the Finance Office for making the payment. Standard Form 1034 will be used for this purpose.

(5) *Obtaining notes from Finance Office.* For a direct loan or an insured loan held in ACIF, the State Director will request the Finance Office to send the original or conformed copy of the note to the County Office. For an insured loan not held in ACIF, the State Director will request the Finance Office to have the loan assigned to the ACIF in accordance with Part 1873 of this chapter, and provide him with the original or conformed copy of the note.

(6) *Certified statements of account.* Form FHA 451–10, "Request for Statement of Account," will be forwarded to the Finance Office to obtain a statement of account for each account to be included in the foreclosure and to request the Finance Office not to issue any statements of account to the borrower until further notice.

(7) *Funds remaining in supervised bank account.* The State Director will prepare an order to the appropriate bank for withdrawal of any funds remaining in the supervised bank account. These funds will be applied as an extra payment.

(8) *Title evidence.* OGC will inform the State Director regarding title evidence requirements.

(9) *Title defects.* Ordinarily, no curative action will be taken with respect to title defects before foreclosure sale. However, where for special reason the State Director, with the advice of OGC, determines it would be in the best interest of FHA to cure certain defects before the foreclosure sale, the State Director may authorize the necessary curative action.

(10) *Deficiency judgments.* If it appears that the recovery to FHA from a sale by foreclosure will be insufficient to fully satisfy the FHA debt, foreclosure action does not automatically result in a deficiency judgment and there are other assets from which recovery can likely be made, a deficiency judgment will be obtained if legally permissible. When a judgment is obtained, the account will be classified as a judgment case and the County Supervisor will send Form FHA 455–20, "Notice of Judgment," to the Finance Office and the account will be serviced in accordance with § 1871.35 (d) of this chapter. When action to obtain a deficiency judgment is pending at the time Form FHA 465–6 is sent to the Finance Office, the fact that it is pending will be indicated on Form FHA 465–6. When a deficiency judgment is not obtained, the borrower will be classified as collection only, if appropriate, and Forms FHA 404–1 and FHA 450–10 will be sent immediately to the Finance Office and the account will be serviced accordingly.

(11) *Bidding.* The State Director will establish the maximum amount of the FHA bid and he or an employee designated by him is authorized to bid on behalf of the FHA. The FHA employee will make only one bid which will be for the authorized maximum bid. Such bid will be the estimated resale value of the security or gross investment, whichever is the less.

(i) The estimated resale value means the amount for which the FHA could expect to resell the property in its present condition, on terms of 20 percent down with the balance payable in five equal annual installments with interest calculated in accordance with § 1861.85(c), and subject to any prior liens that will remain outstanding after the foreclosure sale. In establishing the estimated resale value, the State Director will consider the effect that any outstanding mineral rights, easements, or other interest, or title defects will have on the resale of the property, and any other pertinent information affecting or indicating the resale price including an appraisal report showing present market value.

(ii) Gross investment means the total amount of the FHA debt plus all advances to be made by the FHA and charged to the mortgage debt before the foreclosure sale, plus the amount of any prior liens or other costs which the OGC advises must be paid from proceeds of the foreclosure sale.

(12) *Report on sale.* Immediately after a foreclosure sale the State Director will furnish OGC a report giving complete information relative to the sale, including a copy of Form FHA 465–6. OGC will provide a final opinion regarding the foreclosure including any necessary additional instructions. If the FHA is the successful bidder at the foreclosure sale, Form FHA 465–6 will be completed and forwarded to the Finance Office by the County Supervisor as soon as all information necessary for completion of the form is available without waiting for the final opinion of OGC. At the same time a copy of Form FHA 465–6 will be forwarded to the National Office. The Finance Office will be advised by memorandum of the date the Government actually acquires title to the property if different from the date of the foreclosure sale, and any other pertinent information relating to redemption rights. The form will be dated the date of the sale.

(13) *Cancellation of foreclosure action.* When the State Director determines that foreclosure is unnecessary, he with the concurrence of OGC will notify the Finance Office and the County Supervisor. The loan account will be reinstated. Any expenses incurred prior to cancellation of foreclosure action will be paid by the borrower.

(14) *Form FHA 455–22, "Information for Litigation."* The County Supervisor will complete Form FHA 455–22 as additional information when legal action is recommended which will involve the U.S. Attorney.

§ 1861.88 Mergers.

(a) General: State Directors are authorized to approve mergers or consolidations (which are herein referred to as mergers) when the resulting association will be eligible for an FHA loan and assumes all the liabilities and acquires all the assets of the merged borrowers. Mergers may be accomplished when:

(1) The merger is in the best interest of the Government and the merging borrower.

(2) The resulting borrower can meet all required operating and maintenance expenses, debt repayment, and maintain required reserves.

(3) All security property can be legally transferred to the resulting borrower.

(4) The membership of each organization involved is made aware of the proposed merger and a majority of the members of each is in favor of the proposal.

(5) If the merger involves assumption of less than the full amount of the debt and the merging borrower (transferor) is to be released of liability, the County Committee recommendation must contain the statement contained in § 1861.85 (b) (6) (iii).

(6) The merger will not result in an outstanding FHA debt in excess of $4 million less the amount of any grants advanced to the merging borrowers.

(b) Mergers which will involve assumption of less than the full amount of the FHA debt will be submitted to the National Office along with the loan docket, comments of the OGC, and the State Director's recommendations for review and approval authorization.

(c) Release of liability: When all of the assets and liabilities of a merged borrower have been assumed by the resulting body, it will be the policy to release the merged borrower from liability.

(d) Processing:

(1) When reamortization of one or more notes is being proposed in connection with the merger, § 1861.82(f) will be followed.

(2) Forms FHA 460–5 and 460–9 will be executed as applicable by the resulting body.

(3) A loan for which the resulting body is eligible may be made in connection with a merger subject to the policies and procedures governing the kind of loan being made.

(4) The closing date of the merger will be the actual date the documents are prepared and the merger is effective.

(5) The County Supervisor will submit the County Office docket and other necessary forms and documents to the State Director for approval.

(e) Insured loan: If an insured loan is involved, the Finance Office will have the insured note assigned to the ACIF if the assumption agreement will change the terms of the note.

(f) Merger not completed: If for any reason the merger is not completed after the statement of the account has been received, the Finance Office will be notified to resume servicing of the account in the names of the existing borrowers.

§ 1861.89 Special provisions applicable to Economic Opportunity (EO) Cooperative loans.

(a) *Withdrawal of member and transfer to and assumption by new members of unincorporated cooperatives.* (1) Withdrawal of a member who is no longer utilizing the services of an association and transfer of his interest in the association to a new member who will assume the entire unpaid balance of the indebtedness of the withdrawing member may be permitted, provided the remaining members agree to accept the new member and the transfer will not adversely affect the collection of the loan. The County Supervisor will submit to the State Office the County Office file and the following:

(i) Form FHA 460–9, executed by the proposed new member.

(ii) County Supervisor's statement of the current amount of the indebtedness involved.

(iii) A description and statement of the value of the security property.

(iv) Form FHA 442–15, "Membership Survey for Cooperative Association," for the proposed new member.

(v) A memorandum to justify the transaction.

(vi) Form FHA 440–2.

(vii) Form FHA 450–12, "Bill of Sale (Transfer by Withdrawing Member)," executed by the withdrawing member.

(viii) The form, "Agreement for New Member (With or Without Withdrawing Member)," available in all FHA offices, as executed by remaining members of the association, the proposed new member and the withdrawing member.

(2) If after review of the above information the State Director determines that the proposed new member is an eligible applicant and that there is justification for the transfer, he may approve the transfer and assumption by executing Form FHA 460–9.

(3) Upon completion of the above actions, the State Director may release the outgoing member from personal liability. Form FHA 465–8 will be used for this purpose.

(4) Form FHA 460–9, and if applicable, Form FHA 465–8 should immediately be forwarded to the Finance Office and the Finance Office advised by memorandum that these forms are intended only to establish liability for a new member and release an old member from liability.

(b) *Withdrawal of members from unincorporated cooperatives*—(1) *Withdrawal when new member not available.* Withdrawal of a member who is no longer utilizing the services of an association may be permitted even though a new member is not available, provided:

(i) The State Director determines that:

(*a*) The remaining members have sufficient need for the property, and

(*b*) The withdrawal of the member will not adversely affect the collection of the loan.

(ii) The remaining members obtain from the outgoing member an agreement conveying the outgoing member's interest in the cooperative property to them. They may also wish to agree to protect the outgoing member against liability on the debt owed to FHA as well as any other debts. The form, "Agreement for Withdrawal of Member (Without New Member)," available in all FHA offices, may be used by the cooperative for the preparation of such agreement. The agreement will be between the withdrawing member and the remaining members of the cooperative, and FHA will not be a party to it. Upon execution of such an agreement, the State Director may release the outgoing member from personal liability. Form FHA 465–8 will be used for this purpose.

(iii) Form FHA 465–8 would immediately be forwarded to the Finance Office and the Finance Office advised by memorandum that the form is intended only to release a withdrawing member from liability.

(c) *Addition of new members (no withdrawing member or transfer involved) for both incorporated and unincorporated cooperatives.* (1) A new member may be admitted to the association even though there is no withdrawing member, provided:

(i) The members of the association agree to accept the proposed new member, and

(ii) The State Director determines that the association owns adequate facilities to provide service to the new member.

(2) The County Supervisor will submit to the State Office the County Office file and the following:

(i) Form FHA 460–9 executed by the proposed new member.

(ii) County Supervisor's statement of the current amount of the indebtedness involved.

(iii) A description and statement of the value of the security property.

(iv) Form FHA 442–15 for the proposed new member.

(v) A memorandum to justify the transaction.

(vi) Form FHA 440–2.

(vii) The form, "Agreement for New Member (With or Without Withdrawing Member)," available in all FHA offices, as executed by the members of the association and the proposed new member.

(3) If after review of the above information the State Director determines that the proposed new member is an eligible applicant and there is justification for the transaction, he may approve the transaction by executing Form FHA 460–9.

(4) Form FHA 460–9 should immediately be forwarded to the Finance Office by memorandum with the advice that the form is intended only to establish liability for a new member.

(d) *Deceased members of unincorporated associations.* Paragraph 10 of Form FHA 442–24, "Operating Agreement," provides that in case of the death of any member, the heirs or personal representative of the deceased member shall take his place in the association, this provision also covers sale of the decedent's interest in the association in case such sale is necessary for the payment of the debts of the estate.

(1) If the widow or other heirs do not wish to continue membership in the association, the remaining members may be permitted to continue to operate the property provided it is determined that FHA's financial interest will not be jeopardized. The remaining members should obtain from the deceased member's estate an agreement conveying the estate's interest in the cooperative property to them. They may wish to agree to protect the estate against liability on the debt to FHA as well as any other debts of the cooperative. If an agreement is obtained transferring the estate's interest in the cooperative property to the remaining members, and if such agreement protects the estate against liability on the debt to FHA, the State Director may release the outgoing member from personal liability. Form FHA 465–8, will be used for this purpose. Form FHA 465–8 should be forwarded immediately to the Finance Office by memorandum and advised that the form is intended only to release the deceased member estate's interest from liability.

(2) The requirement of § 1871.39(f) of this chapter will be followed.

(e) *Action which affects individual members of unincorporated EO cooperative security.* The borrower will be expected to protect his own interest in condemnation, trespass, quiet title, and other cases affecting the security. The County Supervisor will immediately furnish the complete facts concerning any action taken against individual members of unincorporated cooperatives to the State Director together with the County Office case file.

§ 1861.90 Nondiscrimination.

Each instrument of conveyance for any servicing action under this subpart will contain the following covenant: "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purposes for which the Federal financial assistance was extended."

§ 1861.91 Care, management, and disposal of acquired property.

Property acquired by FHA will be handled in accordance with Subpart C of Part 1872 of this chapter.

§ 1861.92 Water and waste disposal systems which have become part of an urban area.

(a) Water and/or waste disposal systems serving what were formerly rural areas but have now become a part of an urban area due to the growth of an urban community will be serviced as follows:

(1) If it is not practical for the urban community to immediately purchase the facility by paying FHA's debt in full, or accept a transfer of the debt on an ineligible applicant basis, and if both the borrower and the urban community desire that the urban community operate and maintain the borrower facilities, the FHA borrower may, with prior approval of the National Office, enter into a lease-purchase type arrangement with the urban community which will include:

(i) The urban community agreeing to:

(*a*) Assume responsibility for operation and maintenance of the facility, subject to nondiscrimination requirements and other requirements, to be specified in the agreement between the parties, which are applicable to the borrower; and

(*b*) Pay the association annually an amount necessary to enable it to meet all its obligations including reserve account requirements.

(ii) The FHA borrower agreeing to:

(*a*) Retain its corporate existence until FHA has been paid in full, and if the parties desire;

(*b*) Convey title of the facility to the urban community when the FHA debt has been paid in full.

(2) The State Director, with the advice and guidance of OGC, will review the proposed agreement drafted by the borrower or the urban community. This draft agreement with the docket, any additional pertinent information, the State Director's recommendation, and OGC's comments will be forwarded to the National Office for review and approval authorization.

§ 1861.93 Determining present market value.

(a) The value of security to be subordinated, sold, transferred, voluntarily conveyed, or foreclosed under this subpart, will be determined by the State Director as follows:

(1) Where real estate and/or chattels are being disposed of which represent a relatively small portion of the total value of the security property, the State Director will determine that they are being disposed of at a reasonable price. He may require a current appraisal report.

(2) Where real estate or chattels are being disposed of represent a relatively large portion of the total value of the security property, the sale price will be at least the present market value.

(3) The State Director will require a current appraisal report completed in accordance with Subpart A of Part 1809 and § 1823.16 of this chapter.

§ 1861.94 Development grants.

In any case where it appears that the terms of the grant agreement may have been violated, the State Director will forward the docket to OGC for review and comments. After receipt of OGC's comments, the State Director will forward the docket, a copy of OGC's comments, and a statement of essential facts along with his recommendations to the National Office.

§ 1861.95 Comprehensive planning grants.

Servicing problems with comprehensive planning grant recipients will be reviewed by the State Director with the advice of OGC. The State Director will forward the grant docket, a copy of OGC's comments, and a statement of essential facts along with his recommendations to the National Office.

§ 1861.96 Servicing planning advances.

Obligations incurred by recipients of planning advances may be declared nonreimbursable by the Administrator when the planned facility is not to be constructed, and the borrower does not have, nor can be reasonably expected to raise, the funds to repay such advances. In such cases the State Director will forward to the National Office the following:

(a) A statement of essential facts including reasons why the borrower cannot repay the advance and his recommendation regarding declaration of all or part of the advance as nonreimbursable, and

(1) In the case involving the failure to locate an adequate water supply, copies of all well logs, survey reports, and other pertinent material supporting his recommendation, or

(2) In the case where the advance was based on particularly distressed economic conditions, the loan docket will be submitted. No commitment will be made to the borrower concerning cancellation of any obligations until written authorization has been received from the National Office.

(b) In all cases where advances are not paid in full, plans, reports, well logs, and all other data assembled during investigation financed by the advance will be delivered to the County Supervisor by the borrower.

§ 1861.97 Additional State Director's authorizations.

(a) State Directors are authorized to perform the following functions when they determine that such action likely will promote the loan or grant purposes without jeopardizing collectability of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectability of the loan.

(1) Approve requests for permission to make changes in rules and regulations of associations, whether included in bylaws or resolutions or ordinances, including changes in rate schedules and fees.

(2) Approve association incurring additional indebtedness.

(3) Renew existing security instruments.

(4) Approve, with the concurrence of OGC, changes in a borrower's legal organization including revisions of articles of incorporation or charter and bylaws.

(5) Approve the extension or expansion of facilities and services.

(6) Require additional security when existing security is inadequate and the loan or security instruments obligate the borrower to give security, or in cases where the loan is in default and additional security is acceptable in lieu of other servicing actions.

(7) Release from mortgages securing Rural Renewal (RN) loan properties being sold by the borrower, provided the notes and mortgages given by the purchaser to the borrower are equal to the present market value and are assigned and pledged to the FHA, and any money payable to the borrower is applied as an extra payment on the RN loan.

(b) All proposed servicing actions which the State Director is not authorized by this subpart to approve will be referred to the National Office.

§ 1861.98 Payment in full.

Payment in full of a loan will be handled in accordance with Part 1866 of this chapter. The County Supervisor will notify the bonding company in writing that the Government no longer has an interest in the fidelity bond. He will release the FHA's interest in insurance policies in accordance with the applicable provisions of Part 1806 of this chapter. He will release the FHA's interest in any other security in the manner prescribed by the State Director.

§ 1861.99 State requirements.

State requirements will be prepared with the advice and guidance of OGC, as necessary, to carry out this subpart. Each State requirement will include any and all particular information necessary to comply with appropriate State laws and regulations.

§ 1861.100 Redelegation of authority.

The State Director is authorized to redelegate in writing any authority to the State Director in this subpart to the Chief, Community Programs.

§ 1861.101 Forms.

Forms referred to in this subpart may have to be modified to provide for corporate execution, if appropriate, rather than the individual execution for which they were designed.

§ 1861.102 Servicing public bodies.

Servicing actions involving public bodies will be processed insofar as feasible in accordance with the other provisions of this subpart. The State Director is authorized to vary from such provisions to any extent that he with the

advice and concurrence of OGC determines reasonably appropriate to accomplish the servicing action.

Dated: July 28, 1972.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[FR Doc.72-12152 Filed 8-2-72;8:53 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

Pursuant to provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, paragraph (a) (5) relating to the State of Arizona is amended to read:

§ 82.3 Areas quarantined.

(a) * * *

(5) *Arizona.* (i) That portion of Mohave County bounded by a line beginning at the junction of U.S. Highway 93 and U.S. Highway 66 (in Kingman, Ariz.); thence, following U.S. Highway 93 in a northwesterly direction to the dividing line between Townships 24 N. and 23 N.; thence, following the dividing line between Townships 24 N. and 23 N. in a westerly direction to the eastern bank of the Colorado River; thence, following the eastern bank of the Colorado River in a generally southerly direction to the dividing line between Townships 20 N. and 19 N.; thence, following the dividing line between Townships 20 N. and 19 N. in an easterly direction to Oatman Road (old U.S. Highway 66); thence, following Oatman Road (old U.S. Highway 66) in a northeasterly direction to U.S. Highway 66; thence, following U.S. Highway 66 in a northeasterly direction to its junction with U.S. Highway 93 (in Kingman, Ariz.).

(ii) The Colorado River Indian Reservation in Yuma County located north of U.S. Highway 60, 70 (Interstate Highway 10), and east and south of the Colorado River.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1, 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3, 11, 76 Stat. 130, 132, 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Mohave and Yuma Counties in Arizona from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of July 1972.

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

[FR Doc.72-12156 Filed 8-2-72;8:51 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a) (1) relating to the State of California, subdivision (i) relating to Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties is amended, and new subdivisions (ix) and (x) relating to Santa Barbara County are added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *California.* (i) That portion of the State of California comprised of all of Orange County and the adjoining portions of Ventura, Los Angeles, San Bernardino, Riverside, and San Diego Counties bounded by a line beginning at the junction of the north bank of the Santa Clara River and the Pacific Ocean; thence, following the north bank of the Santa Clara River in a generally easterly direction to the Ventura-Los Angeles County line; thence, following the Ventura-Los Angeles County line in a northwesterly direction to the dividing line between T. 5 N. and T. 4 N. of the San Bernardino Base Line; thence, following the dividing line between T. 5 N. and T. 4 N. in an easterly direction to the dividing line between R. 14 W. and R. 13 W. of the San Bernardino Meridian; thence, following the dividing line between R. 14 W. and R. 13 W. in a southerly direction to the dividing line between T. 3 N. and T. 2 N. of the San Bernardino Base Line; thence, following the dividing line between T. 3 N. and T. 2 N. in an easterly direction to the dividing line between R. 3 E. and R. 4 E. of the San Bernardino Meridian in San Bernardino County; thence, following the dividing line between R. 3 E. and R. 4 E. in a southerly direction to the United States-Republic of Mexico border; thence, following the United States-Republic of Mexico border in a southwesterly direction to its junction with the Pacific Ocean; thence, following the U.S. Pacific Coast shoreline in a generally northwesterly direction to its junction with the north bank of the Santa Clara River.

* * * * *

(ix) The premises of Bill Gill, Santa Maria, Calif., in Santa Barbara County, located E. 520 feet of S. 419 feet of N. 706.53 feet of sec. 9, T. 9 N., R. 33 W.

(x) The premises of H. Paul Jones, Santa Maria, Calif., in Santa Barbara County, comprised of lot 36, tract 10, 336, of Unit 1.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1, 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3, 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude Imperial County and portions of Ventura, Los Angeles, San Bernardino, Riverside, San Diego and Santa Barbara Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of July 1972.

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

[FR Doc.72-12157 Filed 8-2-72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-GL-1, Amdt. 39-1495]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Aircraft Engine

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to General Electric CF6 type aircraft engines.

As a result of failures of dovetail posts in the stage 2 high pressure turbine discs, an investigation was conducted and it appears that improper stress concentration factors were used resulting in lower fatigue life. Since this deficiency can exist or develop in other engines of similar type design, an airworthiness directive is being issued requiring the removal of the affected discs.

As the foregoing affects air safety, expeditious adoption of this rule is required and therefore notice and public procedure hereon are impractical and cause exists for making the rule effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GENERAL ELECTRIC. Applies to Models CF6-6D and CF6-6D1 turbofan engines.

Compliance required as indicated.

To prevent cracking and possible failure of stage 2 high pressure turbine discs, unless already accomplished, remove from service stage 2 high pressure turbine discs Part No. 9687M40P03, P04, P05, or P06 prior to reaching a life limit of 2,100 cycles.

For the purposes of this AD, the definition of cycles is that appearing in the CF6 Shop Manual GEK 9266 Section 72-00-00 Inspection page 301.

(General Electric Alert Service Bulletin CF6 72-320 pertains to this subject.)

This amendment is effective August 8, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill. on July 25, 1972.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.72-12120 Filed 8-2-72;8:49 am]

[Airspace Docket No. 72-SO-59]

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

Alteration of Control Zone

On June 16, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11978), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Biloxi, Miss., control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 12, 1972, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Biloxi, Miss., control zone is amended to read:

BILOXI, MISS.

Within a 5-mile radius of Keesler AFB (lat. 30°24'39" N., long. 88°55'26" W.); within 3 miles each side of the 036° bearing from Keesler RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN; within 1.5 miles each side of Keesler TACAN 050° and 200° radials, extending from the 5-mile radius zone to 7 miles northeast and southwest of the TACAN; excluding the portion west of long. 89°00'00" W. This control zone is effective from 0600 to 2200 hours, local time, daily.

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

Issued in East Point, Ga., on July 25, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-12122 Filed 8-2-72;8:49 am]

[Airspace Docket No. 72-SO-58]

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

Alteration of Control Zone

On June 16, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11978), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the London, Ky., control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 12, 1972, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the London, Ky., control zone is amended as follows:

"* * * longitude 84°04'38" W.) * * *" is deleted and "* * * longitude 84°04'38" W.); within 2 miles each side of London VOR 030° radial, extending from the 5-mile radius zone to 10 miles Northeast of the VOR * * *" is substituted therefor.

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

Issued in East Point, Ga., on July 25, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-12123 Filed 8-2-72;8:50 am]

[Airspace Docket No. 72-SO-60]

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

Alteration of Transition Area

On June 20, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 12154), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Cleveland, Miss., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 12, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Cleveland, Miss., transition area is amended as follows:

"* * * long. 90°45'15" W.) * * *" is deleted and "* * * long. 90°45'15" W.); within 3 miles each side of the 355° bearing from Renova RBN (lat. 33°48' 25" N., long. 90°45'45" W.), extending from the 6.5-mile radius area to 8.5 miles North of the RBN * * *" is substituted therefor.

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

Issued in East Point, Ga., on July 25, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-12124 Filed 8-2-72;8:50 am]

[Airspace Docket No. 72-SO-72]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Lakeland, Fla., transition area.

The Lakeland transition area is described in § 71.181 (37 F.R. 2143, 3409, 8440 and 10661). In the description, an extension is predicated on Lakeland VORTAC 235° radial and is 10 miles wide. The final approach radial for VOR RWY 4 Instrument Approach Procedure has been changed to 233° and the required extension width is 6 miles. A VOR-A Instrument Approach Procedure to Lakeland Municipal Airport, effective September 14, 1972, requires approximately 3 square miles of additional controlled airspace protection, which is an extension 6 miles wide and 0.5 mile long predicated on Lakeland VORTAC 175° radial. To facilitate and expedite the control of air traffic in this terminal complex, it is necessary to alter the description to redesignate the existing extension to the 233° radial and designate an extension on the 175° radial. Since these amendments are minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective September 14, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Lakeland, Fla., transition area (37 F.R. 3409, 8440 and 10661) is amended as follows:

"* * * within 5 miles each side of Lakeland VORTAC 235° radial, extending from the 8.5-mile radius area to 9.5 miles southwest of the VORTAC * * *" is deleted and "* * * within 3 miles each side of Lakeland VORTAC 175° and 233° radials, extending from the 8.5-mile radius area to 9 miles south and 9.5 miles southwest of the VORTAC * * *" is substituted therefor.

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

Issued in East Point, Ga., on July 26, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-12121 Filed 8-2-72;8:49 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-752; Amdt. 4]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Reports of Overseas Military Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of July 1972.

By SPR-54 (Part 372), ER-734 (Part 207), ER-735 (Part 208), ER-736 (Part 212), and ER-737 (Part 214), adopted May 18, 1972,[1] the Board established a new class of charters, called overseas military personnel charters, and authorized air carriers and, until October 1, 1972, foreign air carriers to perform flights in connection with such charters.

Contemporaneously therewith, the Board amended Part 241 of its Economic Regulations[2] so as to provide for the reporting of the new class of charters by air carriers.[3] However, through inadvertence, no provision was made for such reporting by foreign air carriers; this amendment corrects the omission. The amendment contained herein is basically editorial in nature, in that it merely reflects the establishment in Part 372 of a new class of civil charters to be reported. Since it imposes no significant burden upon anyone, the Board finds that notice and public procedure thereon are unnecessary, and the amendment may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 217 of its Economic Regulations (14 CFR Part 217), effective July 27, 1972, as follows:

Amend § 217.6 by adding a new subparagraph (8) to paragraph (b) and revising paragraph (g), the section as amended to read as follows:

§ 217.6 Reporting instructions.

* * * * *

(b) Separate reports shall * * *

(8) Overseas military personnel charter, as defined in Part 372 of the Board's Special Regulations.

* * * * *

(g) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—pro rata; C—study group; D—inclusive tour; and E—overseas military personnel.

* * * * *

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-12159 Filed 8-2-72;8:51 am]

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[1] 37 F.R. 11156, ff.

[2] Uniform System of Accounts and Reports for Certificated Air Carriers.

[3] ER-738.

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5242]

ALASKA

Withdrawal of Lands Pending Determination of Eligibility of Native Communities and for Classification of Lands in Withdrawals: Partial Revocation of Public Land Orders No. 5180 and No. 5186

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, and the provisions of prior withdrawals, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181-287 (1970), but not from selection under sections 12 (a) and (b) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 701, and are hereby reserved pending determination under section 11(b)(3) of said act:

a. *Evansville:*

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

T. 24 N., Rs. 19 and 20 W.
T. 25 N., Rs. 16 thru 19 W.
T. 26 N., Rs. 17 thru 19 W.

The areas described aggregate approximately 207,000 acres.

b. *Healy Lake:*

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

T. 8 S., Rs. 14 thru 16 E.
T. 9 S., Rs. 14 thru 16 E.
T. 12 S., R. 13 E.
T. 13 S., Rs. 15 and 16 E.

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Ts. 25 thru 27 N., R. 5 E. (all fractional)

The areas described aggregate approximately 240,500 acres.

c. *Charlieskin:*

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 12 N., R. 21 E.
T. 13 N., R. 21 E.
T. 15 N., R. 21 E.
T. 16 N., R. 21 E.

The areas described aggregate approximately 92,000 acres.

2. Public Land Orders No. 5180 of March 9, 1972, and No. 5186 of March 15, 1972, are revoked so far as they affect any of the land described above as Ts. 25 thru 27 N., R. 5 E., and Ts. 12 and 13 N., R. 21 E., Copper River Meridian, and T. 8 S., Rs. 14 thru 16 E., T. 13 S., Rs. 15 and 16 E., Fairbanks Meridian.

3. Prior to the conveyance of any of the lands withdrawn by paragraph 1 of this order to any village corporation or regional corporation, the lands shall be subject to administration of the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal. Applications for leases under the Mineral Leasing Act of February 25, 1920, supra, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

4. By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior in section 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, supra, it is ordered as follows:

Subject to valid existing rights, the lands described in paragraph 1 of this order are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970), but not from selection pursuant to section 12 of the Alaska Native Claims Settlement Act, supra, by corporations formed pursuant to sections 7 and 8 of said act, and are hereby reserved for study and review by the Secretary of the Interior for the purpose of classification or reclassification of any of the lands not conveyed pursuant to section 14 of the act.

5. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JULY 20, 1972.

[FR Doc.72-12094 Filed 8-2-72;8:47 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 342—OFFERING OF UNITED STATES SAVINGS NOTES

Issue Dates of Bonds and Notes

Correction

In F.R. Doc. 72-11538 appearing at page 14995, in the issue for Thursday, July 27, 1972, in Table 1-A, the first entry in the fourth column, opposite "First ½ year" should read "$75.87" instead of "$75.58".

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 72-4; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice amends 49 CFR 571.108 and 571.108a, Motor Vehicle Safety Standard Nos. 108 and 108a, *Lamps, Reflective Devices, and Associated Equipment,* to revise the test method for reflex reflectors.

On April 8, 1972, the National Highway Traffic Safety Administration proposed (37 F.R. 7107) that the applicable SAE standard for reflex reflectors incorporated by reference in Table I and Table III of Standards No. 108 and 108a be SAE Standard J594e, "Reflex Reflectors," March 1970, to replace J594d, March 1967. All comments received were in favor of the proposal and the standards are being amended accordingly. The effect of the amendment is to permit photometric testing at a range around a test point if specular reflection is encountered at the test point itself. The amendment does not impose a new performance requirement but allows a more realistic method of testing than J594d, which prohibited testing at other than the specified test points, and which had the effect of causing a technical noncompliance if there were specular reflection at any test point.

Paragraph S4.3.1.2 has been incorporated into J594e and is being deleted from the text of Standard No. 108a. This paragraph specifies that, for purposes of photometric testing, the axis of the side reflex reflectors shall be perpendicular to a vertical plane through the longitudinal axis of the vehicle.

In consideration of the foregoing, 49 CFR 571.108 and 571.108a, Motor Vehicle Safety Standards 108 and 108a, are revised as follows:

1. The applicable SAE standard for reflex reflectors, and intermediate reflex reflectors, incorporated by reference in Column 4 of Table I, and Column 5 of Table III, is revised to read "J594e, March 1970."

2. Paragraph S4.3.1.2 is deleted. Paragraphs S4.3.1.3, S4.3.1.4, S4.3.1.5, S4.3.1.6, and S4.3.1.7 are redesignated S4.3.1.2, S4.3.1.3, S4.3.1.4, S4.3.1.5, and S4.3.1.6 respectively.

3. In Table II footnotes 2, 3, and 4 are revised to read S4.3.1.6, S4.3.1.2, and S4.3.1.4 respectively.

Effective date: Standard No. 108: September 1, 1972; Standard No. 108a: January 1, 1973. Because the amendments create no additional burden and modify a test procedure currently in effect, it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on July 28, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-12138 Filed 7-31-72;3:38 pm]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1094, Amdt. 3]

PART 1033—CAR SERVICE

Lehigh Valley Railroad Co., et al., Authorized To Operate Over Tracks of Lehigh Coal and Navigation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of July 1972.

Upon further consideration of Service Order No. 1094 (37 F.R. 9028, 11066, and

13334), and good cause appearing therefor:

It is ordered, That § 1033.1094 Service Order No. 1094 (Lehigh Valley Railroad Co., John F. Nash and Robert C. Haldeman, trustees, authorized to operate over tracks of Lehigh Coal and Navigation Co. (Formerly operated by the Central Railroad Co. of New Jersey, Robert D. Timpany, trustee)) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this section shall expire at 11:59 p.m., August 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission, provided that any extension of this order shall be subject to the continued concurrence of the Lehigh Coal and Navigation Co.

Effective date. This amendment shall become effective at 11:59 p.m., August 1, 1972.

(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), 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 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 order 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] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-12140 Filed 8-2-72;8:52 am]

[S.O. 1106]

PART 1033—CAR SERVICE

Baltimore and Ohio Railroad Co. Authorized To Operate Over Tracks of Penn Central Transportation Co., et al.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washingon, D.C., on the 31st day of July 1972.

It appearing that because of track and bridge damage resulting from flooding, the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (PC) is unable to operate over its line serving Frederick, Md.; that numerous shippers served by the PC at Frederick are thereby deprived of railroad service, thus creating an emergency; that The Baltimore and Ohio Railroad Co. (B&O) has agreed to operate over PC tracks in Frederick for the purpose of providing rail service to shippers located on such PC tracks; that there is need for the B&O to operate over PC tracks in Frederick, Md., to provide the service required in the interest of the public and the commerce of the people; 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 30 days' notice.

It is ordered, That:

§ 1033.1106 Service Order No. 1106.

(a) The Baltimore and Ohio Railroad Co. authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees. The Baltimore and Ohio Railroad Co. (B&O) be, and it is hereby, authorized to operate over tracks of the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (PC) in Frederick, Md.

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

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

(d) *Effective date.* This section shall become effective at 12:01 a.m., August 1, 1972.

(e) *Expiration date.* The provisions of this section shall expire at 11:59 p.m., October 31, 1972, 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), 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] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-12141 Filed 8-2-72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Clear Lake National Wildlife Refuge, Calif.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8–3–72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

CALIFORNIA

CLEAR LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Clear Lake National Wildlife Refuge, Calif., is permitted on the area designated by signs as open to hunting, and is delineated on a map available at the refuge headquarters, Tulelake, Calif., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 3737, Portland, OR 97208.

Hunting of big game is permitted during the period August 26 through September 4, 1972, in accordance with all applicable State regulations subject to the following special conditions:

(a) Species permitted to be taken: One adult male antelope bearing horns longer than its ears.

(b) Only five permittees shall be allowed on the Peninsula "U" section of the refuge at any one time. This area will be open on the following days during the hunt: August 26–27, September 2, 3, and 4, 1972. Entrance to this area will be granted at the gate entrance located on the Clear Lake Road, on a first-come, first-served basis. This station will be opened from 6 a.m. to 1 hour after sundown. The antelope take from the peninsula will be limited to a specific number based on the number of animals on the area. This area of the refuge will be closed when this quota is reached even though the season may still be open.

The provisions of these special regulations are effective through September 4, 1972.

L. EDWARD PERRY, *Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

JULY 27, 1972.

[FR Doc.72-12101 Filed 8-2-72;8:48 am]

PART 32—HUNTING

Waubay National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8-3-72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

SOUTH DAKOTA

WAUBAY NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Waubay National Wildlife Refuge, S. Dak., is permitted from November 25, 1972, through December 31, 1972, only on the area designated by signs as open to hunting. This area, comprising 4,591 acres, is delineated on a map available at refuge headquarters, Waubay, S. Dak., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

ROBERT R. JOHNSON,
Refuge Manager, Waubay National Wildlife Refuge, Waubay, S. Dak.

JULY 26, 1972.

[FR Doc.72-12102 Filed 8-2-72;8:48 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter IV—St. Lawrence Seaway Development Corporation

PART 402—TARIFF OF TOLLS

Tare Weight of Loaded Cargo Containers

Pursuant to an agreement dated May 19, 1972, between the St. Lawrence Seaway Authority of Canada and the St. Lawrence Seaway Development Corporation, the definition of the term "cargo" in the St. Lawrence Seaway Tariff of Tolls (33 CFR 402.2) is hereby modified and extended to exclude from toll assessment under the tariff the tare weight of loaded cargo containers, such containers having a cubic capacity of 640 feet or more.

The Seaway entities intend this change to further encourage containerized shipping on the seaway since studies show that method of shipping as becoming the most efficient means of transporting most cargo.

The exclusion of the tare weight of cargo containers of 640 cubic feet or more is believed to cover all cargo containers having economic value for seaway users. Therefore, it is considered advisable to give effect to this change without delay to avoid uncertainty as to the status of the tare weight of loaded cargo containers in the Seaway system during the 1972 navigation season.

For the foregoing reasons, I find that notice and public procedure are impractical and unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

Therefore, effective immediately, § 402.2(c) of the Saint Lawrence Seaway Tariff of Tolls (33 CFR Part 402) is amended to read as follows:

§ 402.2 Interpretation.

In this tariff,

* * * * *

(c) "Cargo" means all goods aboard a vessel whether carried as revenue or nonrevenue freight or carried for the vessel's owner, except empty containers and the tare weight of loaded containers, all such containers having a cubic capacity of 640 feet or more, ship's fuel, ballast or stores, and crew or passengers' personal effects;

* * * * *

(68 Stat. 92-96, 33 U.S.C. 981-990; Agreement between the Governments of United States and Canada dated May 19, 1972)

Dated: July 27, 1972.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
Administrator.

[FR Doc. 72-12116 Filed 8-2-72;8:49 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 200—ORGANIZATION AND INFORMATION

Subpart C—Use of Information

The purpose of this amendment is to add a new Subpart C "Use of Information" to Part 200 of the Pay Board regulations, to clarify existing policy and procedures of the Board with respect to use of stabilization information.

Subpart C, as set forth below, clarifies the policy and procedures of the Pay Board with respect to the use by the Internal Revenue Service and the Pay Board of economic stabilization information in the performance of any of their duties or in connection with any proceeding conducted under the Economic Stabilization Act of 1970, as amended.

Since the regulations set forth in the new Subpart are essential to the effective implementation of the economic stabilization program, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective less than 30 days after publication.

In consideration of the foregoing, Part 200 of Title 6 of the Code of Federal Regulations is amended by adding a new Subpart C at the end thereof, as set forth below, effective August 3, 1972.

Issued in Washington, D.C., on July 3, 1972.

GEORGE H. BOLDT,
Chairman.

The following new Subpart C is added at the end of Part 200.

Subpart C—Use of Information

Sec.
200.50 Purpose and scope.
200.51 Definitions.
200.52 Use of economic stabilization information.

AUTHORITY: The provisions of this Subpart C issued under Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210, 85 Stat. 743; Executive Order No. 11640 (37 F.R. 1213, Jan. 27, 1972), as amended; Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971) and No. 6 (37 F.R. 2727, Feb. 4, 1972); and 26 U.S.C. 7602.

Subpart C—Use of Information

§ 200.50 Purpose and scope.

This subpart sets forth the policies and procedures of the Pay Board for the use of economic stabilization information, obtained from or on behalf of the Board for economic stabilization purposes, by the Internal Revenue Service.

§ 200.51 Definitions.

For the purpose of this subpart—"Economic stabilization information" includes—

(a) The amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association obtained in connection with economic stabilization matters;

(b) Any schedule, list, written statement, or other written document filed by or on behalf of any person with the Pay Board, any body under its jurisdiction, or the Internal Revenue Service, in connection with economic stabilization matters; and

(c) All other reports, oral or written information, factual data, documents, papers, abstracts, memoranda, or evidence taken, or any part thereof, relating to any person and held by the Pay Board, any body under its jurisdiction, or the Internal Revenue Service, in connection with economic stabilization matters. "Person" has the meaning given by section 7701(a)(1) of the Internal Revenue Code of 1954 (68 Stat. 911; 26 U.S.C. 7701(a)(1)).

§ 200.52 Use of economic stabilization information.

Any information which is acquired by the Internal Revenue Service, or the Pay Board, or any body under the jurisdiction of the Pay Board, for stabilization purposes, may be used by the Internal Revenue Service or the Pay Board in the performance of any of their duties or in connection with any proceeding conducted under the Economic Stabilization Act of 1970, as amended.

[FR Doc.72-12259 Filed 8-2-72;11:34 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 55]

VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given that the U.S. Department of Agriculture is considering amendments to the Regulations Governing the Voluntary Inspection and Grading of Egg Products (7 CFR Part 55) under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627).

Statement of considerations. Amendments to the regulations for the mandatory Inspection of Eggs and Egg Products (7 CFR Part 59) were printed in the FEDERAL REGISTER on April 1, 1972 (F.R. 37 6656). Included in the amendments were requirements to submit the formulation of egg products when labels are submitted for approval and to list the water content on the labels of egg products to which water has been added in excess of that needed to reconstitute dehydrated ingredients.

The purpose of these proposed amendments is to require the same provisions with respect to formulation and labeling for the voluntary program as now required under the mandatory program. The proposed amendments would also define "Eggs of current production."

All persons who desire to submit written data, views, or comments in connection with this proposal shall file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, no later than August 21, 1972.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

1. In § 55.2 a new definition would be added after the definition of "Department" to read:

§ 55.2 Terms defined.

* * * * *

"Eggs of current production" means shell eggs which have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old.

* * * * *

2. Section 55.300 would be amended to read:

§ 55.300 Approval of official identification.

(a) No label, container, or packaging material which bears official identification shall bear any statement that is false or misleading. Any label, container, or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label, container, or packaging material bearing official identification may be used unless it is approved by the Administrator in accordance with paragraph (b) of this section. If the label is printed on or otherwise applied directly to the container or packaging material, the principal display panel thereof shall be considered as the label.

(b) No label, container, or packaging material bearing official identification shall be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with the regulations in this part, the Egg Products Inspection Act, the Federal Food, Drug, and Cosmetic Act, and the Fair Packaging and Labeling Act. The finished copies or samples of such label must be submitted to the Administrator for approval. Copies of each label submitted for approval shall be accompanied by:

(1) A statement showing by their common or usual names the kinds and percentages of the ingredients comprising the product in the form in which it is to be used (i.e., liquid or dried). Approximate percentages (range) may be given in cases where the percentages may vary from time to time.

(2) When required, scientific data demonstrating that the substance or mixture is safe and effective for its intended use and does not promote deception or cause the product to be otherwise adulterated or misbranded.

(c) Containers of product bearing official identification shall display the following information:

(1) The common or usual name, if any, and if the product is comprised of two or more ingredients, such ingredients shall be listed in the order of descending proportions. When water (excluding that used to reconstitute dehydrated ingredients back to their normal composition) is added to a liquid or frozen product or to an ingredient of such products (in excess of the normal water content of that ingredient) the total amount of water added, including the water content of any cellulose or vegetable gums used, shall be expressed as a percentage of the total product volume in the ingredient statement on the label. This subparagraph (1) is effective September 1, 1972;

(2) The name, address, and ZIP code of the packer or distributor. When the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors";

(3) The lot number or production code number;

(4) The net contents;

(5) Official identification and plant number;

(6) Products containing edible shell eggs of other than current production or other egg products produced from shell eggs of other than current production shall be clearly and distinctly labeled in close proximity to the common or usual name of the product; e.g., "Contains eggs of other than current production;"

(7) Products containing edible shell eggs of the turkey, duck, goose, or guinea, or other egg products which were produced from edible shell eggs of the turkey, duck, goose, or guinea shall be clearly and distinctly labelel as to the common or usual name of the product including the type of eggs or egg products used in the product; e.g., "Containing turkey eggs," "Containing chicken and turkey eggs." Products labeled without qualifying words as to the type of shell egg used in the products, shall contain only edible shell eggs of the domesticated chicken, or the product of such eggs.

(d) When egg products identified as whole eggs and prepared other than in natural proportions are added to products, the egg products added shall have a total egg solids content of 24.70 percent or greater.

(e) If the Administrator has reason to believe that the statement on formulation shows the product to be adulterated or misbranded or that any labeling, or the size or form of any container in use or proposed for use in respect to products at any official plant is false or misleading in any way, he may direct that such use be withheld unless the labeling or container is modified in such a manner as he may prescribe so that it will not be false or misleading, and/or the formulation of the product is altered in such a manner that he may prescribe so that it is not adulterated or would not cause misbranding.

Done at Washington, D.C., this 31st day of July 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-12153 Filed 8-2-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 90, 94, 112]

[CGD 72-121W]

INSPECTION OF BOTTOM BEARING MOBILE OFFSHORE DRILLING AND WORKOVER UNITS

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Item 11 of the Coast Guard's notice of proposed rule making CGFR 72-37 (37 F.R. 4293, March 1, 1972), Marine Safety Council Public Hearing Agenda, March 27, 1972, Item 11, wherein the Coast Guard solicited comments on amendments under consideration in Parts 90, 94, and 112 of Title 46 of the Code of Federal Regulations, whereby Bottom Bearing Mobile Offshore Drilling and Workover Units would be brought under the vessel inspection laws while in the in-transit phase.

This action is based on comments received at the public hearing on March 27, 1972 and in written communications from interested parties which presented valid reasons for the withdrawal of this item. Included in the comments were objections to the grouping of Mobile Offshore Units under the general category of Cargo and Miscellaneous Vessels, because of substantial differences in construction, equipment, and operations between cargo and other miscellaneous vessels and mobile offshore drilling and workover units. The comments included suggestions that mobile offshore units should form a separate category of vessels and appear under a new part of Subchapter I, Title 46, Code of Federal Regulations.

Upon review of the comments received and further discussion with members of the offshore oil industry, the Coast Guard is developing amendments to the regulations specifically for self-elevating and submersible mobile offshore units.

The rule making action on this item is thus terminated.

In consideration of the foregoing, Item 11 of the notice of proposed rule making published in the FEDERAL REGISTER (37 FR 4293, March 1, 1972 and circulated as Item 11 of the Marine Safety Council Public Hearing Agenda, March 27, 1972) entitled "Inspection of Bottom Bearing Mobile Offshore Drilling and Workover Units" is hereby withdrawn.

(R.S. 4405, as amended; R.S. 4472 as amended; sec. 6(b)(1), 80 Stat. 937, 46 U.S.C. 375, 391a, 416, 170; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: July 27, 1972.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.72-12128 Filed 8-2-72;8:50 am]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[Docket No. 24636; SPDR-30]

DISCRIMINATION IN AIRLINE EMPLOYMENT

Advance Notice of Proposed Rule Making

Notice is hereby given that the Civil Aeronautics Board is considering whether it should issue a notice of proposed rule making to establish, by Special Regulation, rules regarding racial, sexual, religious, and ethnic discrimination in airline employment practices. The nature of the questions upon which the Board wishes to focus is described and discussed in the attached Explanatory Statement. This notice is issued pursuant to the authority of sections 102, 204(a), and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 788; 49 U.S.C. 1302, 1324, 1481.

Interested persons may participate in the rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before September 25, 1972, will be considered before issuing a proposed rule. Copies of all communications timely received in response to this notice will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

Dated: July 27, 1972.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

I. The United States Commission on Civil Rights, in its 1970 report on the Federal Civil Rights Enforcement Effort, has recommended that the Civil Aeronautics Board take action to insure that equal opportunity employment practices prevail in the air transportation industry. According to the Commission, the Board "would appear to have clear legal authority" to use its "broad rule making power in support of the established national policy of equal employment opportunity."[1] The Commission is of the view that, in any event, to the extent that the Board permits discriminatory employment practices to exist in the air transportation industry which it regulates, it may be in violation of the Constitution.[2]

The Equal Employment Opportunity Commission (EEOC), in a letter to the Chairman of the Board, has urged the Board to condition awards of operating authority or other benefits to carriers upon compliance by the carriers with the national policy, set out in title VII of the Civil Rights Act of 1964 and proclaimed by the President, to eliminate discrimination in employment and insure equal employment opportunity for all citizens. The basis for this condition would be that such compliance is an essential part of the public interest which the Board must take into account when granting an award of operating authority or other benefit. In addition, the EEOC suggests that the Board may not constitutionally grant a benefit to a carrier which discriminates in employment, because granting the benefit would involve the Board in a discriminatory form of private action, and the Board itself may not constitutionally engage in such discrimination. Thus, the EEOC recommends that the Board scrutinize a carrier's record in the area of employment discrimination before granting that carrier any benefit. The EEOC also urges the Board to adopt procedures whereby charges of discrimination against a carrier may be "processed."

A group of students at the George Washington University Law School, styling themselves as Future Lawyers Investigating Transportation Employment (FLITE), have filed a petition asking the Board to issue a rule under which the Board, before awarding a route or approving a merger, would ascertain that the applicant's hiring practices are in accordance with the policy of racial equality in employment. Several letters from Members of Congress have been received in support of this petition.

II. All these communications clearly raise important questions concerning the

[1] U.S. Commission on Civil Rights, Federal Civil Rights Enforcement Effort 843-4 (1970).

[2] Id. 1095-1109. The argument is that the Due Process clause of the Fifth Amendment imposes on the Federal Government the same duties as fall on the States under the Fourteenth Amendment not to deny any person the Equal Protection of the Laws, including in particular, not to permit racial discrimination through governmental action. *Bolling* v. *Sharpe*, 347 U.S. 497, 499-500 (1954). Discrimination practiced by private groups may become governmental action when those groups perform public functions or have some measure of involvement or interdependence with the Government. The argument asserts that the Board is so closely involved in the practices of the airlines under its economic regulatory power—and the Board and the airlines are so interdependent—that racial discrimination in the practices of the airlines falls within the scope of the Fifth Amendment. The Board, as an agency of the Federal Government, therefore may not permit racial discrimination in those practices. It may be noted that this argument assumes that the Board has been given statutory power to perform such a duty. It is the validity of that assumption which is the subject of this advance notice of rule making.

Board's constitutional and statutory responsibility and jurisdiction for the employment practices of air carriers, the relationship of possible Board programs in the employment field to the existing programs of other Federal and State agencies, and the manner in which the Board should exercise what authority it does have.

Fundamentally, the issues are these:

(1) Whether the Board has constitutional and statutory responsibility and jurisdiction to assure that the employment practices of air carriers are nondiscriminatory and in accord with the national policy of equal employment opportunity, notwithstanding that it is an agency of limited powers which are primarily directed to the economic practices of the carriers as they affect air passengers and shippers, and notwithstanding that other agencies—both Federal and State—have specific responsibilities and authorities concerning carrier employment practices; and

(2) Whether the nature of the Board's authority, if any, is such that it may issue and enforce rules which regulate the carriers' equal employment opportunity practices, or may consider a carrier's equal employment opportunity practices as a public interest factor in passing upon an application of that carrier for some benefit, or both.

Ordinarily, the Board, in rule making proceedings, issues a notice containing proposed rules or statements of policy in regulatory format and issues final rules after receiving comments. In this case, we have chosen the additional step of issuing this advance notice, because we regard the matters here at issue as being both important and novel to the Board's experience, and we believe that the Board needs further preliminary information and comments in order properly to formulate rules or policy statements in the area under discussion, if it be found in order to do so.

In setting this matter out for comment, we wish to make unmistakably plain that we support, without equivocation, the national policy of equal employment opportunity. We desire public comment to assist us in determining whether and how the Board may and should play its part in helping to secure and maintain that policy.

Our action herein should not be interpreted as a finding that the carriers, either individually or as a group, have not been carrying out their equal employment responsibilities. Indeed, we are well aware that virtually all of the carriers have established affirmative action programs for achieving equal employment. We firmly encourage and support such programs. However, because the Board has not previously felt authorized to deal with the matter, it has not studied the results of these programs and hence we have no record on which to base a view as to their effectiveness. Moreover, the existence of such programs does not relieve the Board of a responsibility it may otherwise have under the law. Thus, our request for comments is not so much to review whether there is or may be a need for the Board to act as it is to determine whether the Board has the authority and the duty to act, and if so in what fashion.

III. The Civil Aeronautics Board is vested under the Federal Aviation Act (Act) with substantial economic regulatory powers over civil air transportation in the United States and between the United States and foreign countries. However, the Board does not have plenary jurisdiction over all aspects of civil aviation. Its rules and orders, although issued under the broad authority of section 204(a) of the Act, 49 U.S.C. 1324(a), and other relevant sections, must be pursuant to and consistent with the provisions of the Act and necessary to carry them out. There is no provision of the Act which expressly empowers the Board to eliminate discriminatory employment practices of air carriers.[3] Thus, any authority in this area must be derived by inference from the Act itself or the Act construed in harmony with some other law.

The Board has not heretofore considered that it had authority to adopt regulations governing equal employment opportunity and has not done so. While the Board has not previously felt authorized to deal with employment discrimination, there has been no dispositive holding that such power may not exist under the Act. Arguably, Board jurisdiction over employment discrimination might flow from a number of provisions of the Act.

First, under section 404(b) of the Act, 49 U.S.C. 1374(b), carriers are forbidden from subjecting "any particular person * * * in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever." Section 1002(c) of the Act, 49 U.S.C. 1482(c), empowers the Board to enforce compliance with this provision of the Act. Under section 102(c) of the Act, 49 U.S.C. 1302(c), the Board in performing its duties must consider as being in the public interest and in accordance with the public convenience and necessity the "promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices."

The Board has assumed that these sections conferred jurisdiction on it to restrain not only rate discrimination but also racial or other discrimination in service to airline passengers or shippers.[4] It has required carriers to correct any racially discriminatory situations involving airline service which have come to its notice. However, the Board has heretofore considered that these sections were limited to discrimination in service to persons in air transportation and did not empower it to act against discrimination in a carrier's own employment because that was not service discrimination and employees were not "persons in air transportation" under the Act.

The Supreme Court has characterized these sections as "familiar types of regulation aimed primarily at rate discrimination injurious to shippers, competitors, and localities." "Colorado Anti-Discrimination Commission et al. v. Continental Airlines, Inc.," 372 U.S. 714, 723 (1963). However, the Court expressly refrained from ruling that these sections were not applicable to prohibit racial discrimination against not only airline passengers but also airline job applicants and employees. Indeed, the Court was willing—without passing on the matter—to assume arguendo that they did apply in this manner in order to hold that they did not bar State legislation against employment discrimination by an interstate carrier in that State. Such State legislation, reasoned the Court, would not frustrate Federal purposes, at least so long as any powers the Board may have remain "dormant and unexercised." (372 U.S. at 724.)[5]

Accordingly, the question whether or not these sections empower the Board to issue and enforce orders against employment discrimination has not been judicially settled at this time, and the Board intends to reexamine the question in the light of comments received in the proceeding.

There are other sections in the Act from which Board jurisdiction over employment discrimination might flow. Many of the regulatory activities of the Board depend upon the Board's view of what is required in the "public interest" or by the "public convenience and necessity," e.g. granting and conditioning certificates of authority to engage in air transportation, sections 401 (a) and (e); altering, amending, or transferring certificates, sections 401 (g) and (h); approving mergers and acquisitions, section 408; granting exemptions from the Act, sections 416 and 101(3).

While it would appear that the Board has wide discretion in construing the

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[3] Section 401(k) of the Act, 49 U.S.C. 1371, requires the carriers to provide rates of compensation, maximum hours, and other working conditions and relations for pilots and copilots no less than those in conformity with Decision No. 83 of the National Labor Board dated May 10, 1934, but provides that carrier employees may secure more favorable compensation and working conditions and relations through collective bargaining. However, nothing in Decision No. 83 relates to discriminatory employment practices.

Section 401(k)(4) conditions each air carrier's certificate on compliance with the Railway Labor Act, which concerns making and maintaining agreements on rates of pay, work rules, and working conditions and procedures for settling disputes. While the Railway Labor Act does not place a duty on air carriers to engage in fair nondiscriminatory hiring practices, air carriers may not enter into discriminatory collective-bargaining agreements. Colorado Anti-Discrimination Commission et al. v. Continental Airlines, Inc., 372 U.S. at 714, 724 (1963).

[4] See e.g., Fitzgerald v. Pan American World Airways, 229 F. 2d 499 (C.A. 1956).

[5] The Court noted, however, that if "the Federal authorities seek to deal with discrimination in hiring practices and their power to do so is upheld, that would raise questions not presented" in the case then before the Court. 372 U.S. at 724, fn. 22.

"public interest," that discretion is not unfettered. Under prevailing court interpretations,[6] the Board believes that in general its determinations of what the public interest requires must reasonably grow out of, or be reasonably related to, one or more of the various elements of the public interest laid down for the Board's guidance by the Congress in section 102 of the Federal Aviation Act.[7]

Thus, the Board's consideration of antitrust principles, although arguably part of the general public interest, see infra, stems from the public interest standard in section 102(d), "competition to the extent necessary to assure the sound development of an air-transportation system * * *"[8] The Board's consideration of environmental matters is grounded in the standard in section 102 (f), "promotion, encouragement, and development of civil aeronautics."[9] The various conditions which the Board attaches to air transportation certificates as being in the "public interest" ultimately are derived from the standard in section 102(a), "encouragement and development of an air-transportation system * * *."[10] The standard in section 102(c)—"promotion of * * * efficient service * * * without unjust discriminations"—has been adverted to above.

It may be that section 102(f)—"promotion, encouragement, and development of civil aeronautics"—provides an alternate support for Board action to promote equal opportunity in the air carrier's employment practices. It is beyond dispute that equal employment opportunity is a national policy of the highest priority and importance. Moreover, it appears that title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–2, which makes discrimination in employment unlawful, is remedial legislation which the Congress enacted to deal with a pervasive national problem needing correction at all levels of national life.[11] It may well follow that the correction of this problem in the civil air transportation industry, among others, is an essential part of the promotion, encouragement, and development of civil aeronautics and thus part of the public interest factors which the Board is empowered under the Act to consider and act upon.[12]

Another potential source of jurisdiction over employment discrimination might stem from the sections of the Act which empower the Board to grant authorizations to air carriers to engage in interstate and foreign air transportation. The most important of these, section 401 of the Act, 49 U.S.C. 1371, provides that before issuing a certificate to engage in air transportation to a carrier the Board must find, among other things, that the applicant is "fit, willing, and able to perform such transportation properly" and to comply with the law and the rules of the Board.

It is possible that employment considerations are relevant to determinations as to the "fitness" of an air carrier under section 401. Whether the Board could consider discrimination in employment in relation to the fitness of a carrier well might turn on whether a violation of law is involved which could be said to adversely affect the rendition of air carrier services. Regulatory agencies including the Board have been upheld by the courts in denying applications for benefits filed by law violators on the grounds of fitness.[13] However, while discrimination in employment is a violation of title VII of the 1964 Civil Rights Act, allegations of such discrimination have yet to be pursued by any party in a Board certification proceeding.

Standing against these various interpretations are the facts, also beyond dispute, that the Congress has not explicitly empowered the Board to deal

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[6] Transcontinental Bus System, Inc. v. Civil Aeronautics Board, 383 F. 2d 466 (C.A. 5, 1967), cert. denied, 390 U.S. 920 (1968). (Board has no delegated authority from Congress to consider social policy factors not incorporated in the Federal Aviation Act or deemed relevant in the history of rate regulation in the transportation industry.)

[7] "In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

"(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by air carriers;

"(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

"(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

"(e) The promotion of safety in air commerce; and

"(f) The promotion, encouragement, and development of civil aeronautics."

[8] National Aviation Trades Association v. Civil Aeronautics Board, 420 F. 2d 209 (C.A.D.C., 1969).

[9] The Palisades Citizens Association, Inc., et al. v. Civil Aeronautics Board, 420 F. 2d 188 (C.A.D.C., 1969). The National Environmental Policy Act of 1969 also adds significant duties on the Board with respect to the environmental aspects of its decisions.

[10] These conditions are almost entirely restrictions of a purely transportation nature, such as requirements to serve certain points in conjunction with other points. With the exception of the statutory condition that carriers comply with the Railway Labor Act, 49 U.S.C. 1371, the certificate conditions have not mandated compliance with other laws of either a transportation or nontransportation nature.

The Board has authority under section 408 (b) of the Act, in approving a merger or acquisition, to impose conditions it finds to be "just and reasonable." Such conditions have regularly included provisions for the protection of employees adversely affected by the merger or acquisition. However, the authority for imposing such conditions is derived from the authority to approve the merger and does not spring from any general power over employee welfare. In interpreting the Board's powers under section 408(b), the court in Kent v. Civil Aeronautics Board, 204 F. 2d 263 (C.A. 2, 1953), stated that although there was "no express statutory grant of power to improve conditions which will lessen the adverse impact of a merger upon employees of the merged companies, such power is implicit as one necessary to the performance of the Board's duty to condition approval with due regard to terms which are just and reasonable in the interest of the public. This public interest, though not broadly one of general employee welfare, is to obtain the degree of stability in air transportation that freedom from industrial strife will provide."

[11] In this respect, title VII may be distinguishable from many other statutes which play a more tangential role in civil aeronautics and which the Board is not empowered to enforce.

[12] Courts have held that the term "public interest" by itself encompasses consideration of matters of fundamental national policy such as the antitrust laws. City of Pittsburgh v. Federal Power Commission, 237 F. 2d 741 (C.A.D.C., 1956); Denver v. Rio Grande Western Railroad Co. v. United States, 387 U.S. 485 (1967). Consideration of such matters, however, may be more properly an issue in disposing of applications for operating authorizations than a positive source of authority for promulgating regulations. It may be noted that section 102, footnote 5 supra, permits the Board to consider "other things" than the six enumerated elements as being in the public interest. But see Transcontinental Bus System, Inc. v. Civil Aeronautics Board, footnote 3 supra, which appears to limit Board discretion in considering matters not explicitly set forth or necessarily implied in the Federal Aviation Act. Also, the Board's discretion would appear to be limited to the national policy set forth in title VII. The Board does not establish—although it may be empowered to carry out—national policy in these areas. Actions beyond that policy, such as preferential hiring or establishment of quotas, would similarly be beyond the Board's power to mandate.

[13] Great Lakes Airlines v. CAB, 294 F. 2d 217, cert. denied, 366 U.S. 965 (C.A.D.C. 1961); ABC Freight Forwarding Corp. v. United States, 125 F. Supp. 926 (D.C.S.D. N.Y. 1954).

with air carrier employment practices, and that the Congress has not laid down for the Board any public interest standard parallel to the provision in the National Transportation Policy in the Interstate Commerce Act, 49 U.S.C. preceding 1, 301, 901, and 1001, which declares the policy of Congress, among other things, "to encourage * * * equitable working conditions" in all modes of transportation subject to that Act and directs that the Act is to be administered and enforced to carry out that policy. The omission of this or any comparable provision in the Federal Aviation Act may be a positive limitation on the power of the Board to regulate employment practices.

In addition, the regulation and enforcement of equal employment opportunity within the civil air transportation industry is already entrusted specifically to a number of other agencies, so there is a question as to the propriety of an additional and possibly duplicative role for the Board in this area which would depend largely on inference. Thus, the Equal Employment Opportunity Commission has specific, although not exclusive,[14] authority to enforce title VII of the Civil Rights Act, which sets out the national policy against discrimination. The antidiscrimination commissions of the several states are empowered to bar discriminatory practices against air carrier employees within the respective States.[15] The courts of course provide a forum for direct enforcement by aggrieved individuals.[16]

Lastly, all of the trunklines, the local service carriers,[17] and the major supplemental carriers have contracts with the Federal Government which impose on them as contractors equal employment opportunity responsibilities under Executive Order 11246 and regulations of the Department of Labor issued thereunder. These responsibilities include establishing and carrying out affirmative action programs to assure equal employment opportunity in all aspects of employment. Carrier performance under these plans and the fulfillment of each carrier's contractual responsibilities are actively monitored and inspected on site by the Federal Aviation Administration through its Office of Civil Rights under an assignment from the Office of Federal Contracts Compliance in the Department of Labor. The Federal Aviation Administration must certify that the carrier is in adequate compliance with the requirements of E.O. 11246 in order for the carrier to qualify for additional contracts.[18]

IV. The foregoing section set forth possible interpretations of the Federal Aviation Act which bear on the extent of the Board's authority over the equal employment opportunity practices of air carriers. The nature of the Board's role, if any, will depend on the source of its jurisdiction. Thus, under one interpretation, the Board may be empowered to regulate equal employment opportunity practices directly by rule or by conditioning awards of operating authority. Under another interpretation, the Board may have no direct regulatory authority, but nevertheless may consider employment practices as a factor in making determinations of public interest in exercising its delegated functions under the Federal Aviation Act. Yet another interpretation would be that the Board has no statutory authority in this area.

In addition to seeking public comment to assist us in resolving the extent of our authority, we also seek comment on what the Board might appropriately do, assuming one or another interpretation of the Act. Within this context, there are two basic approaches to be considered.

One approach could be for the Board by regulation to require affirmative programs for assuring that employment and promotion opportunities are wholly free from considerations (as set out in title VII of the Civil Rights Act) of race, color, religion, sex, or national origin. As the Federal Communications Commission has done, the Board might establish rules requiring that air carriers institute and maintain a "positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practices."[19] The regulation might set forth the minimum elements to be included in acceptable programs. The programs might cover such aspects as definition of responsibility of each management level to apply, enforce, and review equal employment policy within the carrier; assurance of equal opportunity recruiting and promotion practices; and communication of policy and program to employees, prospective employees, minority spokesmen, and communities. These programs would also be filed with the Board and made available to the general public. Failure to file and adhere to such antidiscrimination programs could be grounds for imposition of appropriate sanctions applicable for violations of agency rules.[20]

In connection with this approach, the Board might establish reporting and perhaps posting requirements, under which the carriers would be required to furnish information to the Board (and available to the general public) as to the distribution of the carriers' employees, both in total and in the various job categories in terms of race, sex, and ethnic origin. These reports, which might be based in part upon an annual employment report similar to the one used by the FCC,[21] would be available for the use of the Board or other appropriate State and Federal agencies.

Comment is desired as to the appropriatness and efficacy of the reporting requirement. In addition, comment is desired on whether the Board should establish itself as a forum for judging individual complaints of employee discrimination, as suggested by the EEOC, or whether other agencies are better suited to this task. In this connection, it should be noted that while the Board imposes labor protective conditions on approved mergers or acquisitions, it does not ordinarily act to adjudicate or arbitrate individual problems arising under such conditions, leaving these problems to the arbitration procedure set up in the labor protective conditions or to the courts.[22] Its policy in this regard is based

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[14] 110 Cong. Rec. 13650–52 (June 12, 1964). All air carriers employing 25 or more persons submit reports on employment practices to the Equal Employment Opportunity Commission.

[15] Colorado Anti-Discrimination Commission, et al. v. Continental Airlines, Inc., 372 U.S. 714 (1963).

[16] Diaz v. Pan American World Airways, Inc., 442 F. 2d 385 (C.A. 5, 1971).

[17] Two Hawaiian carriers and two Alaskan carriers are exceptions.

[18] The statutes and Executive orders relating to the elimination of discrimination in connection with Government procurement or contracting do not afford a basis for the Board to control airline employment practices. Board procurement is miniscule and is executed from GSA schedules. Airmail services are procured by the Post Office and, with minor exceptions, are authorized by statute rather than by contract.

Section 406(b) of the Act governs the award of subsidies to local service carriers. Because this is an activity receiving Federal financial assistance, the provisions of title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, apply and, as implemented by the Board in Part 379 of its special regulations, 14 CFR Part 379, prohibit subsidized carriers from discriminating against users of their services on grounds of race, color, or national origin. Procedures are provided for complaints against such carriers and proceedings which could result in termination of subsidy to a noncomplying carrier. No such proceedings have been conducted. Title VI, 42 U.S.C. 2000d–3, expressly does not authorize action with respect to the employment practices of the carriers. However, an amendment to Part 379 is pending presidential approval, which would prohibit discrimination in the employment practices of subsidized air carriers to the extent necessary to assure nondiscriminatory treatment of passengers and shippers.

[19] Federal Communications Commission rules, Parts 21 and 23, §§21.307 and 23.49; 35 F.R. 12892, August 14, 1970.

[20] Under section 901 of the Act, 49 U.S.C. 1471, any person, who violates a rule or condition of certification established pursuant to the Act, is subject to a civil penalty not in excess of $1,000 for each such violation. In addition, if the violation is "knowing and willfull," the person, under section 902, 49 U.S.C. 1472, is deemed guilty of a misdemeanor and subject for the first offense to a fine not exceeding $500. Finally, under section 1002(c), 49 U.S.C. 1482(c), the Board is empowered to issue cease and desist orders against any person who fails to comply with any provision of the Act or any requirement established pursuant thereto.

[21] A copy of the FCC report form is attached as Appendix A which is filed as part of the original document.

[22] See, e.g., American-Transcaribbean Merger Case, Docket 21828, Order 71–5–30 (May 7, 1971), affirmed, American Airlines, Inc., et al. v. Civil Aeronautics Board et al., 445 F. 2d 891 (C.A. 2, 1971), cert. denied, 404 U.S. 1015 (1972).

on its lack of expertise in the labor field and its vital need to husband its resources. These considerations would apply equally strongly in the field of equal employment opportunity practices of air carriers.

The second broad approach is to consider equal employment opportunity issues in route, merger, and carrier agreement cases. While it appears clear that the Board can consider evidence of violations of title VII of the Civil Rights Act in judging applications, the question is whether the Board is empowered to go further. Thus it might be that a carrier applicant before the Board would be required to make a positive showing of what its programs are accomplishing with respect to nondiscriminatory employment practices. Its evidence of compliance in this field would then be one of the elements taken into account in making route awards or approving mergers or agreements, somewhat akin to the manner in which the Board is required to consider environmental factors.[23]

[FR Doc.72-12153 Filed 8-2-72;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 162]

LABELING FOR ECONOMIC POISONS

Prohibition of Nontoxic Claims

Pursuant to the provisions of section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135d), notice is hereby given that it is proposed to amend § 162.14(a)(5) of the regulations for the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act (40 CFR 162.14(a)(5)) to read as follows:

§ 162.14 Misbranding.

(a) * * *

(5) Unwarranted claims as to the safety of the economic poison or its ingredients, including a statement such as "safe," "nontoxic," "nonpoisonous," "noninjurious," or "harmless" with or without such a qualifying phrase as "when used as directed."

* * * * *

In connection with the above-proposed amendment, notice is also given that it is proposed to revoke Interpretation No. 24 "Interpretation with Respect to Claims for Safety and Nontoxicity on Labeling of Economic Poisons" (40 CFR 162.122).

All persons desiring to submit written data, views, or arguments in connection with this matter should file the same with the Director, Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at a time and place and in a manner convenient to the public business.

Done at Washington, D.C. the 28th day of July 1972.

JOHN QUARLES,
Acting Administrator.

[FR Doc.72-12149 Filed 8-2-72;8:51 am]

[23] See footnote 9 supra.

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING

Credit Other Than Open End

1. Pursuant to the authority contained in the Truth in Lending Act (15 U.S.C. 1601 et seq.), the Board of Governors proposes to amend Part 226 (Regulation Z), in the manner and for the reasons set forth below:

Section 226.8(a) would be amended and § 226.8(q) would be added to read as follows:

§ 226.8 Credit other than open end—specific disclosures.

(a) *General rule.* Any creditor when extending credit other than open-end credit shall, in accordance with § 226.6 and to the extent applicable, make the disclosures required by this section with respect to any transaction consummated on or after July 1, 1969. Except as otherwise provided in this section, such disclosures shall be made before the transaction is consummated. At the time disclosures are made, the creditor shall furnish the customer with a duplicate of the instrument or a statement by which the required disclosures are made and on which the creditor is identified. Except as provided in paragraph (q) of this section, all of the disclosures shall be made together on either:

(1) The note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or

(2) One side of a separate statement which identifies the transaction.

* * * * *

(q) *Purchase or acquisition of a dwelling.* In any transaction involving the purchase or acquisition of a dwelling or subsequent refinancing of such transaction, the disclosures required by this section shall be delivered to the customer before consummation of the transaction but not less than 10 business days[23c] before the date on which the customer executes the note or other evidence of debt. Notwithstanding the provisions of paragraph (a) of this section, such disclosures may, at the creditor's option, be made on single sides of a multipaged statement which identifies the transaction. In the event of a bona fide personal emergency, the customer may waive all or a portion of the minimum 10-day period by furnishing the creditor with a separated dated and signed personal statement describing the personal emergency and stating the number of days being waived. The use of printed forms for such a waiver is prohibited.

2. The amendment to § 226.8(a) involves merely technical changes to accommodate the addition of the new paragraph § 226.8(q).

3. The new paragraph, § 226.8(q), relates only to a consumer credit transaction involving the purchase, acquisition, or refinancing of a dwelling. Section 226.8(a) would provide that the required disclosures must be made before consummation of the transaction but not less than 10 business days before the customer executes a note or other evidence of debt. Presently, many creditors follow the practice of making disclosures at the time of settlement, which usually does not enable the customer to shop for more favorable credit terms. Under the proposal, the customer would have a reasonable period to compare credit terms before becoming obligated. The proposal would permit the customer to reduce or waive the 10-day disclosure period in bona fide personal emergencies. The proposal would also allow creditors in such transactions to use a multipage statement in making the disclosures.

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to any Federal Reserve Bank for transmittal to the Board, to be received at the Board not later than September 8, 1972. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, July 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12083 Filed 8-2-72;8:46 am]

[23c] For the purpose of this section, a business day is any calendar day except Sunday and those legal public holidays specified in section 6103(a) of title 5 of the United States Code (New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day).

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1660, 1661]

SELECTIVE SERVICE REGULATIONS

Conscientious Objectors; Alternate Service

The Director of Selective Service on May 12, 1972, published a Notice of Proposed Amendments of Selective Service

Regulations (37 F.R. 9566) to add Part 1661 and a Notice of Proposed Amendments of Selective Service Regulations (37 F.R. 9567) to revoke §§ 1660.2, 1660.3, and 1660.4 and to amend § 1660.7.

The Director of Selective Service hereby gives public notice that the proposed amendments of Selective Service regulations, identified above, will not be made.

BYRON V. PEPITONE,
Acting Director.

JULY 31, 1972.

[FR Doc.72-12129 Filed 8-2-72;8:53 am]

PRICE COMMISSION

[6 CFR Part 300]

LUMBER AND WOOD PRODUCTS

Notice of Public Hearing Regarding Price Stabilization

Notice is hereby given that the Price Commission will hold a public hearing beginning at 9:30 a.m., Tuesday, August 8, 1972, at the U.S. Department of Interior, Bonneville Power Building Auditorium, 1002 Northeast Holladay Street, Portland, OR, to receive information and the views of interested persons on—

(1) The lumber industry in general;

(2) The impact of broader application of Price Commission regulations on the lumber industry; and

(3) Specific term limit pricing (TLP) orders that the Price Commission has issued to major lumber producers.

The public hearing hereby scheduled is consistent with the Commission's intent to comport with the stated desire of Congress (section 207 of the Economic Stabilization Act of 1970, as amended) for public hearings on matters which have a significantly large impact on the national economy.

Any person who has a substantial interest in the subject of the hearing, or who is a representative of a group or class of persons which has a substantial interest in the subject of the hearing, may submit, on or before 12 noon, August 7, 1972, a written request to make an oral presentation. Any such written request should include a description of the substantial interest concerned; if appropriate, a statement of why the requesting person is a proper representative of a group or class of persons which has such an interest; and a concise summary of the proposed oral presentation. Oral presentations may be supplemented by written submissions filed with the Commission before August 25, 1972. The Commission reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation will be limited to approximately 15 minutes. In addition, the Commission requests all other interested persons to submit written suggestions and comments on the subject for Commission consideration by August 25, 1972.

All written submissions and requests to make an oral presentation should be sent to Mr. Otto S. Reid, Price Commission, c/o District Director, IRS, Post Office Box 3341, Portland, OR 97208.

A transcript of the hearing will be made; anyone may buy a copy of the transcript from the reporter.

Issued in Washington, D.C., on August 2, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc.72-12261 Filed 8-2-72;12:10 pm]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972-93]

ANNUAL SALES AND REVENUES—DIFFERENT FISCAL YEARS

Cost of Living Council Ruling

Facts. Company A owns 60 percent of the stock of Company B, a subsidiary of A. Company B is controlled by Company A. The companies do not prepare consolidated accounting statements or file consolidated income tax returns. In its last fiscal year ending December 31, 1971, Company A had sales of $90 million. Company B's most recent fiscal year ended June 30, 1972, at which time it had sales of $7 million; in its fiscal year ended June 30, 1971, it had annual sales of $11 million.

Issue. Is Company A a "price category I firm" for purposes of the Economic Stabilization Regulations?

Ruling. Company A is a "price category I firm" within the Economic Stabilization Regulations, and it must prenotify the Price Commission of its proposed price adjustments.

The regulations provide that firms with annual sales or revenues of $100 million or more are included as price category I firms; 6 CFR 101.11 (1972). A "firm" includes any entity that is part of or is directly or indirectly controlled by the firm, and "annual sales or revenues" means the total gross receipts of a firm during its most recent fiscal year form whatever source derived; Economic Stabilization Regulations 6 CFR 101.2 (1972).

For purposes of determining "firm" under the Cost of Living Council Regulations, 6 CFR 101.2, Company A includes Company B, because A controls B.

While Company B has completed a fiscal year since the end of the most recent fiscal year of Company A, the annual sales and revenues which it is deemed to contribute towards the firm's annual sales or revenues are those of the fiscal year completed during Company A's last fiscal year. This is because the definition of annual sales and revenues includes the total gross receipts "of a firm" during "its" most recent fiscal year, and the "firm" under the above circumstances is Company A.

Since the annual sales of Company B for its fiscal year ending June 30, 1972, could not be determined as of the close of A's most recent fiscal year (ending December 31, 1971), its annual sales or revenues for purposes of determining the annual sales or revenues of the firm shall be those of its most recent fiscal year ending prior to the end of the firm's most recent fiscal year. Therefore Company A is a "price category I firm" within the regulations.

If Company A's total gross receipts for the fiscal year ending December 31, 1972 do not equal or exceed $93 million, it will no longer be a "price category I firm" because its "annual sales or revenues" for its most recent fiscal year, when added to those of Company B will not be $100 million or more (Economic Stabilization Regulations, 6 CFR 101.11 (1972)).

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: July 21, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 21, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11605 Filed 8-2-72;8:53 am]

[Cost of Living Council Ruling 1972-94]

SMALL BUSINESS EXEMPTION

Cost of Living Council Ruling

Facts. A union, which has traditionally negotiated on a master contract basis, has changed its negotiating procedures since the publication of the small business exemption regulations on May 3, 1972. Economic Stabilization Regulations, 6 CFR 101.51 (1972). Since that date, the union is now negotiating its contracts with individual firms in an effort to avoid § 101.51(a)(2)(iv).

Issue. Can the benefits of the small business exemption be obtained by use of the individually negotiated contract, if employees of the firm were previously covered by a master contract which covered more than 60 employees?

Ruling. No. The provisions of § 101.51(a)(2)(iv) specify that a firm which was in existence or or before December 31, 1971, does not qualify for the small business exemption if the pay adjustments applicable to 50 percent or more of its employees immediately preceding the effective date of the regulation were set by a master employment or similar contract covering more than 60 employees. The firm would therefore be disqualified for both pay and price adjustments. A subsequent change in collective bargaining practices will not change this result.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: July 24, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11609 Filed 8-2-72;8:53 am]

DEPARTMENT OF DEFENSE

Department of the Army

CIVIL WORKS PROJECTS

Proposed Guidelines for Assessment of Social, Economic, and Environmental Effects

Correction

In F.R. Doc. 72-11616, appearing at page 15013, in the issue of Thursday, July 27, 1972, the last two lines of paragraph 2. should read as follows: "the date of this publication and terminating 40 days thereafter, on September 5, 1972".

DEPARTMENT OF THE INTERIOR

Geological Survey

MISSISSIPPI, NORTH DAKOTA, AND WYOMING

Definitions of Known Geologic Structures of Producing Oil and Gas Fields

Pursuant to 43 CFR 3120.2-2(b) notice is hereby given that the known geologic structures of producing oil and gas fields have been defined as follows:

NAME OF FIELDS, EFFECTIVE DATE, ACREAGE

(24) MISSISSIPPI

South Thompson Creek, March 10, 1972, 760.
West Bude, January 20, 1972, 450.
West Clara, May 8, 1972, 1,031.

(34) NORTH DAKOTA

Newburg-South Westhope, February 25, 1972, 23,821.
Starbuck, February 25, 1972, 2,640.

(50) WYOMING

Hilight, February 16, 1972, 66,536.
Kitty, February 11, 1972, 23,962.
Pleasant Valley, May 10, 1972, 674.
Prospect Creek, May 24, 1972, 1,200.
Stewart-Windmill, March 1, 1972, 4,240.

Maps and diagrams showing the boundaries of the defined structures have been filed with the appropriate land office of the Bureau of Land Management and are also of record in the Geological Survey, Washington, D.C.

V. E. McKELVEY,
Director.

JULY 27, 1972.

[FR Doc.72-12151 Filed 8-2-72;8:52 am]

National Park Service

FORT BOWIE NATIONAL HISTORIC SITE, ARIZ.

Designation and Establishment

The Act of August 30, 1964 (78 Stat. 681; 16 U.S.C. 461, note), authorizes the desgination, for preservation as the Fort Bowie National Historic Site, of the site and remaining historic structures of old Fort Bowie in Cochise County, Ariz., together with such additional land, interests in land and improvements thereon as deemed necessary to accomplish the purposes of the act, but not more than 1,000 acres may be designated for inclusion in such site.

In furtherance of the aforesaid act, the Fort Bowie National Historic Site is designated to include the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 15 S., R. 28 E.,
Sec. 1, S½NE¼SW¼ and SE¼SW¼;
Sec. 2, S½N½SE¼ and S½SE¼;
Sec. 3, S½SE¼SW¼, S½SW¼SE¼ and SW¼SE¼SE¼;
Sec. 10, N½NE¼NW¼ and N½N½NE¼;
Sec. 11, N½NW¼NW¼, SE¼NW¼NW¼, NE¼NW¼, N½SE¼NW¼, N½S½SE¼NW¼, N½NE¼, N½SE¼NE¼, SE¼SE¼NE¼, N½SW¼NE¼, and N½S½SW¼NE¼;
Sec. 12, NW¼, N½SW¼, S½N½NE¼, and S½NE¼, and N½SE¼.
Containing 970 acres.

Notice is given that the historic remains of old Fort Bowie and all privately-owned lands within the above designated area have been acquired and, further, that the Fort Bowie National Historic Site is hereby established.

Dated: July 28, 1972.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

[FR Doc. 72-12095 Filed 8-2-72;8:47 am]

Office of the Secretary

[INT FES 72-73]

PROPOSED JIM BRIDGER PROJECT, IDAHO AND WYOMING

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act the Bureau of Land Management has prepared the final environmental statements for the proposed Jim Bridger Project. The Project includes a 1,500 MW coal-fired steam-electric generating plant, a strip mine, a 42-mile water delivery system, road and rail access, and three 345-kv. transmission lines extending 235 miles west from the generator site near Rock Springs, Wyo., into Bingham and Bannock Counties, Idaho. The final statement is submitted prior to issuance of the right-of-way permits authorizing construction of the 345-kv. transmission lines, 42-mile water delivery system, and a 230-kv. transmission line across public lands.

Copies are available for inspection at the following locations:

Idaho State Office, Bureau of Land Management, Room 334 Federal Building, 550 West Fort Street, Boise, ID 83702, Telephone (208) 324-2401.
Wyoming State Office, Bureau of Land Management, U.S. Post Office and Courthouse Building, 2120 Capitol Avenue, Post Office Box 1828, Cheyenne, WY 82001, Telephone (307) 778-2326.
Rock Springs District Office, Bureau of Land Management, Post Office Box 1068, 12 Elk Street, Rock Springs, WY 82901, Telephone (302) 362-6613.

A limited number of the final statements are available from the Wyoming State Office, Cheyenne, Wyo. Copies may also be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151, and enclosing $3. Please refer to the statement number above.

Dated: July 26, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-12103 Filed 8-2-72;8:48 am]

[INT DES 72-75]

PROPOSED SECOND WATERTOWN-BROOKINGS 115-KV. TRANSMISSION LINE, SOUTH DAKOTA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the second Watertown-Brookings, S. Dak., transmission line as a part of the Transmission Division, Pick-Sloan Missouri Basin Program. The statement concerns construction of the 45 mile second 115-kv. transmission line between the existing Watertown and Brookings substations. The principal functions of the transmission line are to improve reliability and provide increased capacity of the system presently serving the city of Brookings (population 10,588) and the surrounding area. Comments are invited within 45 days. Comments can be directed to the Regional Director, Billings, Mont., (full address is below).

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.
Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, Telephone (303) 234-3007.
Office of the Regional Director, Post Office Box 2553, Billings, Mont. 59103, Telephone (406) 245-6711.
Missouri-Oahe Projects Office, Bureau of Reclamation, Post Office Box No. 825, Huron, S. Dak. 57350, Telephone (605) 352-8651.

Single copies of the draft environmental statement may be obtained on request from the above offices. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: July 26, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-12104 Filed 8-2-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[PP 639, Amdt.]

SOIL SAMPLES

List of Approved Laboratories Authorized To Receive Interstate Shipments for Processing, Testing, or Analysis

Pursuant to the Japanese Beetle, Whitefringed Beetle, European Chafer, Soybean Cyst Nematode, Witchweed, Imported Fire Ant, and Golden Nematode Quarantines (Notices of Quarantine Nos. 48, 72, 77, 79, 80, 81, and 85; 7 CFR 301.48, 301.72, 301.77, 301.79, 301.80, 301.81, and 301.85), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the list of laboratories (37 F.R. 7813) operating under a compliance agreement and approved under said quarantines to receive interstate shipments of soil samples for processing, testing or analysis is hereby amended by adding thereto, deleting therefrom, and correcting certain listings as follows:

ADDITIONS

A & H Engineering Corp., Springfield, Ill.
Agronomics International Corp., Barnesville, Minn.
Alfred University, Alfred, N.Y.
Associated Laboratories, Orange, California.[2] (6-30-73)[1]
California, University of, Department of Plant Pathology, Berkeley, Calif.[2] (12-31-72) [1]
Dames & Moore, Park Ridge, Ill.[2] (6-30-73) [1]
Denver University, Department of Geography, Denver, Colo.[2] (6-30-77)[1]
Earth Sciences Associates, Palo Alto, Calif.[2] (6-30-73)[1]
Hanson Engineers, Inc., Springfield, Ill.
Harris Laboratories, Inc., Lincoln, Nebr.
Illinois Division of Highways, Carbondale, Ill.

Illinois Division of Highways, Ottawa, Ill.
Illinois Division of Highways, Peoria, Ill.
Illinois, Division of Highways, East St. Louis, Ill.
Illinois, University of, at Chicago Circle, Department of Geography, Chicago, Ill.[2] (6-30-73)[1]
Indiana State Highway Commission, Division of Materials, and Testing, Indianapolis, Ind.
Kaiser Agricultural Chemical Co., Sullivan, Ill.
Langan Engineering Associates, Clifton, N.J.
Lewin, David W., Corp., Geotechnical Engineering, The Arcade, Cleveland, Ohio.
Miami, University of, Department of Biology, Coral Gables, Fla.[2] (6-30-73)[1]
Michigan Testing Engineers, Inc., Michigan Drilling Division, Detroit, Mich.
Minnesota, University of, Department of Plant Pathology, St. Paul, Minn.[2] (6-30-73)[1]
Missouri, University of, Department of Agronomy, Columbia, Mo.
Na-Churs, Red Oak, Iowa.
North Dakota State Highway Department, State Highway Department Laboratory, Bismarck, N. Dak.
Penniman & Brown, Inc., Baltimore, Md.
Pfeiffer Foundation, Inc., Threefold Farm, Spring Valley, N.Y.[2] (6-30-73)[1]
Pickett, Ray, and Van Silver, St. Charles, Mo.
Raymond International, St. Louis, Mo.
Rochester, University of, School of Medicine and Dentistry, Department of Radiation, Biology and Biophysics, Rochester, N.Y.[2] (6-30-73)[1]
Rummel, Klepper & Kahl, Lansdowne, Md.
Soil and Materials Engineers, Detroit, Mich.
South Dakota State Highway Department, Materials and Testing Department, Pierre, S. Dak.
Southern Illinois University, Department of Plant Industries, Carbondale, Ill.[2] (6-30-73)[1]
U.S. Department of Agriculture, ARS, U.S. Water Conservation Laboratory, Phoenix, Ariz.[2] (6-30-73)[1]
U.S. Department of Agriculture, CRD, ARS, U.S. Fruit, Vegetable, Soil, and Water Laboratory, Nematology Investigation, Weslaco, Tex.[2] (6-30-77)[1]
U.S. Department of Agriculture, SCS, Soil Survey Laboratory, Riverside, Calif. (6-30-77)[1]
U.S. Department of Defense, U.S. Army Corps of Engineers, Chicago, Ill.
U.S. Department of Defense, AF/PRECES, Civil Engineering Center Building 1, Wright Patterson Air Force Base, Ohio.[3]
U.S. Department of Defense, U.S. Army Engineer Power Group, Engineering Division, Pollution Control Laboratory, Fort Belvoir, Va.[2] (6-30-73)[1]
Vermilion Co. Farm Bureau, Danville, Ill.
W. R. Grace & Co., Washington Research Center, Clarksville, Md.[2] (6-30-77)[1]
Willchemco Testing Laboratory, Grand Island, Nebr.
Woodward-Gardner and Associates, Philadelphia, Pa.
Yale University, Department of Geology & Geophysics, New Haven, Conn.[2] (6-30-73)[1]

DELETIONS

Gulf Oil Corp., Forest City, Iowa.
Iroquois FS, Inc., Watseka, Ill.
North Carolina Highway and Public Works Commission, Fayetteville, N.C.

CORRECTIONS

Change "Earlham College, Department of Biology, Richmond, Ind." to read: "Earlham College, Department of Biology, Richmond, Ind.[2] (6-30-75.[1]"

Change "Hoffmann-Laroche, Inc., Nutley, N.J." to read: "Hoffman-LaRoche Inc., Nutley, N.J.[2] (6-30-73).[1]"

Change "Massachusetts, University of, Amherst, Mass." to read: "Massachusetts, University of, Department of Plant and Soil Sciences, Amherst, Mass."

Change "Miles Laboratories, Inc., Elkhart, Ind.[3] (6-30-72)[1]" to read: "Miles Laboratories, Inc., Marschall Division, Elkhart, Ind.[3] (6-30-77).[1]"

Change "Missouri Highway Department, Jefferson City, Mo." to read: "Missouri Highway Commission, Jefferson City, Mo."

Change "Monsanto Co., St. Louis, Mo." to read: "Monsanto Co., Agricultural Division, St. Louis, Mo.[3] (6-30-73).[1]"

Change "Portland State College, Portland, Oreg." to read: "Portland State College, Department of Biology, Portland, Oreg.[3] (6-30-77).[1]"

Change "Woodward, Clyde, and Associates, Kansas City, Mo." to read "Woodward-McMaster & Associates, Inc., Kansas City, Mo."

Change "Woodward, Clyde, Sherard, and Associates, St. Louis, Mo." to read: "Woodward-McMaster & Associates, Inc., St. Louis, Mo."

Change "Yale University, New Haven, Conn." to read: "Yale University, Greeley Laboratories, New Haven, Conn.[3] (6-30-77).[1]"

The import permits for the following organizations have been extended as indicated:

Agricultural Service Laboratories, Pharr, Tex.[3] (6-30-77)[1] changed from (6-30-72).[1]
Dames & Moore, San Francisco, Calif.[3] (6-30-77)[1] changed from (6-30-72).[1]
Georgia, University of, Department of Agronomy, Athens, Ga.[3] (6-30-73)[1] changed from (6-30-72).[1]
U.S. Department of Defense, U.S. Army, Corps of Engineers, Engineering Division Laboratory, Marietta, Ga.[3] (6-30-77)[1] changed from (6-30-72).[1]
U.S. Department of Transportation, Federal Highway Administration, Materials Testing Laboratory, Vancouver, Wash.[3] (6-30-77)[1] changed from (6-30-72).[1]

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 37 F.R. 6327, 6505)

This amendment to the list of approved laboratories, PP 639, shall become effective upon publication in the FEDERAL REGISTER (8-3-72).

Under the provisions of the regulations supplemental to the notices of quarantine cited herein, soil samples for processing, testing, or analysis may be moved interstate from any regulated area specified in the regulations to laboratories approved by the Deputy Administrator and so listed by him. A laboratory may be approved if a compliance agreement is signed; samples are packaged to prevent spillage of soil; and soil residues, hazardous water residues, and shipping containers are treated in accordance with specified procedures.

The Deputy Administrator of Plant Protection and Quarantine Programs has approved the above-listed additions to the list of laboratories as establishments which meet the qualifications required under the regulations. These laboratories listed as additions are, therefore, authorized to receive soil samples from the regulated areas specified in the regulations without certificates or permits attached.

The Deputy Administrator has information available that the Gulf Oil Corp., Forest City, Iowa, is no longer in the business of analyzing soil; Iroquois FS, Inc., Watseka, Ill., is no longer handling interstate shipment of soil; and North Carolina Highway and Public Works Commission, Fayetteville, N.C., should not have been included on the list because it had been deleted previously.

With respect to the establishments added to the list of approved laboratories, this amendment relieves certain restrictions presently imposed and should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions that are being relieved. The deletion of laboratories from such list imposes certain restrictions that are necessary to prevent the spread of the above-named pests and should be made effective promptly to prevent the interstate spread of such dangerous pests. The corrections of previously listed establishments are nonsubstantive in nature and notice and other public procedure with respect thereto would serve no useful purpose. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of July 1972.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.72-12165 Filed 8-2-72;8:51 am]

[1] Date that import permit expires.
[2] Authorized to receive unsterilized foreign samples only.
[3] Authorized to receive unsterilized foreign samples also.

Soil Conservation Service

GEORGETOWN CREEK WATERSHED PROJECT, IDAHO

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Georgetown Creek Watershed Project, Idaho, USDA-SCS-ES-WS-(ADM)-73-3 (D).

The environmental statement concerns a plan for reducing floodwater, sediment, and erosion damages and agricultural

water management. The planned works of improvement include conservation land treatment, supplemented by 8,500 feet of channel alteration and conversion from a surface distribution irrigation system to a pressure distribution system for 3,500 acres of cropland.

This draft environmental statement was transmitted to CEQ on July 24, 1972.

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

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th and Independence Avenue SW., Washington, DC 20250.

USDA, Soil Conservation Service, Room 345, 304 North Eighth Street, Boise, ID 83702.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement above when ordering.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from anyone having knowledge of or special expertise with respect to environmental impacts.

Comments concerning the proposed action and requests for additional information should be addressed to Guy W. Nutt, Room 345, 304 North Eighth Street, Boise, ID 83702.

Comments must be received within 60 days of the date of publication of this notice in order to be considered in the preparation of the final environmental statement.

NORMAN A. BERG,
Acting Administrator,
Soil Conservation Service.

JULY 27, 1972.

[FR Doc.72-12134 Filed 8-2-72;8:50 am]

LITTLE CREEK WATERSHED, GA.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Little Creek Watershed Project, Ga., USDA-SCS-ES-WS-(ADM)-73-4(D).

The environmental statement concerns a plan for providing irrigation water and recreation. Project measures consist of conservation land treatment, 12 reservoirs with irrigation storage capacity, and one multiple purpose reservoir with irrigation and recreation storage capacity.

This draft environmental statement was transmitted to CEQ on July 24, 1972.

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

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th and Independence Avenue SW., Washington, DC 20250.

USDA, Soil Conservation Service, Heritage Building, 468 North Milledge Avenue, Post Office Box 832, Athens, GA 30601.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement above when ordering.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from anyone having knowledge of or special expertise with respect to environmental impacts.

Comments concerning the proposed action and requests for additional information should be addressed to C. W. Bartlett, Heritage Building, 468 North Milledge Avenue, Post Office Box 832, Athens, Ga. 30601.

Comments must be received within 60 days of the date of publication of this notice in order to be considered in the preparation of the final environmental statement.

NORMAN A. BERG,
Acting Administrator,
Soil Conservation Service.

JULY 27, 1972.

[FR Doc.72-12133 Filed 8-2-72;8:50 am]

PATTERSON WATERSHED, CALIF.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Patterson Watershed Project, Calif., USDA-SCS-ES-WS-(ADM)-73-7(D).

The environmental statement concerns a plan for reducing floodwater, sediment, and erosion damages and agricultural water management. The planned works of improvement include conservation land treatment, supplemented by 10.9 miles of open-joint concrete tile, 4.5 miles of closed-joint concrete pipe, and cleaning and deepening of about 1.6 miles of existing open ditches.

The draft environmental statement was transmitted to CEQ on July 24, 1972.

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

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th and Independence Avenue SW., Washington, DC 20250.

USDA, Soil Conservation Service, Tioga Building, Room 203, 2020 Milvia Street, Berkeley, CA 94704.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement above when ordering.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from anyone having knowledge of or special expertise with respect to environmental impacts.

Comments concerning the proposed action and requests for additional information should be addressed to George H. Stone, Jr., Tioga Building, Room 203, 2020 Milvia Street, Berkeley, CA 94704.

Comments must be received within 60 days of the date of publication of this notice in order to be considered in the preparation of the final environmental statement.

NORMAN A. BERG,
Acting Administrator,
Soil Conservation Service.

JULY 27, 1972.

[FR Doc.72-12132 Filed 8-2-72;8:50 am]

POPLAR RIVER WATERSHED, WIS.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Poplar River Watershed Project, Wis., USDA-SCS-ES-WS-(ADM)-73-5(D).

The environmental statement concerns a plan for reducing floodwater, sediment, and erosion damages. Project measures consists of conservation land treatment supplemented by one multiple-purpose reservoir for flood prevention and fish and wildlife, about 1,400 feet of dike, and 2.73 miles of channel work.

This draft environmental statement was transmitted to CEQ on July 24, 1972.

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

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th and Independence Avenue SW., Washington, DC 20250.

USDA, Soil Conservation Service, 4601 Hammersley Road, Post Office Box 4248, Madison, WI 53711.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement when ordering.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from anyone having knowledge of or special expertise with respect to environmental impacts.

Comments concerning the proposed action and requests for additional information should be addressed to Richard W. Akeley, 4601 Hammersley Road, Post Office Box 4248, Madison, WI 53711.

Comments must be received within 60 days of the date of publication of this

notice in order to be considered in the preparation of the final environmental statement.

NORMAN A. BERG,
Acting Administrator,
Soil Conservation Service.

JULY 27, 1972.

[FR Doc.72-12136 Filed 8-2-72;8:51 am]

SPRING BROOK WATERSHED, WIS.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Spring Brook Watershed Project, Wis., USDA-SCS-ES-WS-(ADM)-73-6(D).

The environmental statement concerns a plan for reducing floodwater, sediment, and erosion damages. Project measures consist of conservation land treatment supplemented by one floodwater retarding structure, 1,340 feet of dike, and about 10,340 feet of clearing and snagging of Spring Brook through Antigo.

This draft environmental statement was transmitted to CEQ on July 24, 1972.

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

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th Street and Independence Avenue S.W, Washington, DC 20250.

USDA, Soil Conservation Service, 4601 Hammersley Road, Post Office Box 4248, Madison, WI 53711.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement above when ordering.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from anyone having knowledge of or special expertise with respect to environmental impacts.

Comments concerning the proposed action and requests for additional information should be addressed to Richard W. Akeley, 4601 Hammersley Road, Post Office Box 4248, Madison, WI 53711.

Comments must be received within 60 days of the date of publication of this notice in order to be considered in the preparation of the final environmental statement.

NORMAN A. BERG,
Acting Administrator,
Soil Conservation Service.

JULY 27, 1972.

[FR Doc.72-12135 Filed 8-2-72;8:50 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(71)-11]

MAURICE J. FLUXMAN

Order Terminating Indefinite Denial Order

In the matter of Maurice J. Fluxman, North State Building, Corner Kruis and Market Streets, Johannesburg, South Africa, File No. 23(71)-11.

On April 14, 1972, effective as of April 20, 1972 (37 F.R. 7818), an order was issued against Oporto Trading (Pty.) Ltd., of Johannesburg, South Africa, denying export privileges for an indefinite period. The order was made applicable to Maurice J. Fluxman as agent or representative of the respondent.

Said Maurice J. Fluxman has now furnished evidence to show that he is no longer agent or representative of the respondent. Accordingly, the order as it affects Maurice J. Fluxman is terminated.

Dated: July 27, 1972.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.72-12082 Filed 8-2-72;8:46 am]

Maritime Administration

OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

Adoption of Certain New Standard Part II Forms

Notice is hereby given that the Maritime Subsidy Board on this date ratified the adoption of certain new forms of Standard Part II to the Operating-Differential Subsidy Agreements as of the date of original adoption in fact, as follows:

Form:	*Date adopted*
II-A(1)	May 8, 1972
II-A(2)	December 28, 1971
II-A(3)	February 15, 1972
II-B	January 4, 1972

The Parts II-A(1), II-A(3), and II-B are finalized forms of drafts that were noticed in the FEDERAL REGISTER on August 21, 1971 (36 F.R. 16520). They reflect comments received in response to that notice. The Part II-A(2), another version of the Standard Part II, was developed in close consultation with counsel responding to the aforesaid notice in the FEDERAL REGISTER.

Copies of Standard Parts II-A(1), II-A(2), II-A(3), and II-B to Operating-Differential Subsidy Agreements are available from the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: July 31, 1972.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-12241 Filed 8-2-72;8:53 am]

Office of Import Programs

HUMBOLDT STATE COLLEGE AND UNIVERSITY OF MISSOURI—COLUMBIA

Notice of Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00376-33-46500. Applicant: Humboldt State College, Arcata, Calif. 95521. Article: Ultramicrotome, Model Om U2. Manufacturer: C, Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used for original research into a variety of biological phenomena which include the following studies:

1. Ultrastructure of the "vacuole-like" inclusions of the cells lining the stomach and cerata of the eolid nudibranch *Hermissenda crassicornia.*

2. Ultrastructure of the rare gametophyte stage of the vascular cryptogam *psilotum nudum.*

3. Muscle ultrastructure with an investigation of the subcellular structure of avion muscles.

4. Physiological effects of fluorides on plant cells.

5. Research in microbiology, and on the parasites of animals.

6. Origin and development of the mitotic spindle apparatus in normal and abnormal divisions.

7. Ultrastructure of motile protozoa, in particular the structure of the subpilicular cytoplasm of hypotrick ciliates.

8. Ultrastructure of the membrane systems of bacteria. The article will also be used in Biology 203, Electron Microscope Techniques, for the training of graduate students and advanced undergraduate students in electron microscopy.

Application received by Commissioner of Customs: February 9, 1972. Advice submitted by Department of Health, Education, and Welfare on July 7, 1972.

Docket No. 72-00389-33-46500. Applicant: University of Missouri—Columbia, Department of Veterinary Anatomy, 103 Connaway Hall, Columbia, MO 65201. Article: Ultramicrotome, Model Om U2. Manufacturer: C. Reichert Optische Werke, AG, Austria. Intended use of article: The article is intended to be used to:

(a) Establish the topography of corticotrophs in the rostral zone of the pars intermedia and adjacent neural stalk region and their relationship with the hypophysial portal system (rat, mouse, cat);

(b) Determine the nature of the synaptoid contacts between axons and corticotrophs and possible origin of the nerve fibers;

(c) Determine morphologic changes in the corticotrophs following the attempt to cause degeneration of the synaptoid contacts (rat, mouse);

(d) Establish the topography of the CRF nerve terminals in the outer zone of the median eminence, their possible relationship with other axon endings and the primary capillary loops of the hypophysial portal system and their fine structural changes following adrenalectomy (mouse, rat);

(e) Detect possible correlative changes in other axon terminals which are topographically assoicated with the CRF axon terminals;

(f) Determine the ACTH activity of the rostral zone in the rat;

(g) And analyze the various cell types in the paraneural epithelium of the cat.

Application received by Commissioner of Customs: February 11, 1972. Advice submitted by Department of Health, Education, and Welfare on: July 7, 1972.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.5 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high quality sections that are uniform in thickness depend to a large extent on the hardness, consistency, toughness, and other properties of the specimen materials, the properties of the embedding materials, and the geometry of the block.

In connection with a prior application (Docket No. 69-00118-33-46500) which relates to the duty-free entry of an article identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such (other) obvious factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69-00665-33-46500) relating to the duty-free entry of an article similar to those described above, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is * * * a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with still another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an article similar to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc.," requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applicatoins relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-12080 Filed 8-2-72;8:46 am]

INDIANA UNIVERSITY AND HOWARD UNIVERSITY

Notice of Consolidated Decision on Applications for Duty-Free Entry of *Ultramicrotomes*

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00378-33-46500. Applicant: Indiana University, Indianapolis, 630 West New York Street, Indianapolis, IN 46202. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in studies concerned with the electron microscopic examination of tissues from the brains of diseased human beings. The article will also be used in an elective course for medical students entitled "Introduction to Electron Microscopy" for training in electron microscopy. Application received by Commissioner of Customs: February 9, 1972. Advice submitted by Department of Health, Education, and Welfare on: July 7, 1972.

Docket No. 72-00396-33-46500. Applicant: Harbor General Hospital, Attending Staff Association, 1124 West Carson Street, Torrance, CA 90509. Article: Ultramicrotome, Model 4800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section the following:

1. Isolated spermatozoa and ova of moose, rabbit, hamster, monkey, and woman, and the fertilization process;
2. Biopsies of kidneys, livers, brains, muscles, skin, and bone marrows of patients affected by a variety of diseases;
3. Developing organs of embryos from mouse, rabbit, and woman.

These sections will be used in investigations aimed at obtaining a better understanding of the various aspects of the fertilization process and of the lesions produced by diseases on a variety of organs. The article will also be used for training of pathology interns and residents as well as postdoctoral fellows in Reproductive Biology. Application received by Commissioner of Customs: February 18, 1972. Advice submitted by Department of Health, Education, and Welfare on: July 7, 1972.

Docket No. 72-00397-33-46500. Applicant: Howard University, College of Medicine, 520 W Street NW., Washington, DC 20001. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare ultrathin sections for observations in an electron microscope in studies of the role of lymphatic capillaries in healthy and diseased tissues. Application received by Commissioner of Customs: February 22, 1972. Advice submitted by Department of Health, Education, and Welfare on: July 7, 1972.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan

Sorvall, Inc. (Sorvall). The Model MT–2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness, and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69–00665–33–46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned.

The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket No. 70–00077–33–46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT–2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72–12081 Filed 8–2–72;8:46 am]

TARIFF COMMISSION

[TEA–W–150]

OTTO GOEDECKE, INC.

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Otto Goedecke, Inc., Hallettsville, Tex., the U.S. Tariff Commission, on July 31, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with cotton yarns (of the types provided for in items 301.03–.19 and 302.03–.10 of the Tariff Schedules of the United States (TSUS)) and plain woven fabrics wholly of cotton (of the types provided for in items 320.01–.16 of the TSUS), manufactured by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such company or an appropriate subdivision thereof.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: July 31, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72–12163 Filed 8–2–72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 2B2808]

AIR PRODUCTS AND CHEMICALS, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act, (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2808) has been filed by Air Products and Chemicals, Inc., Five Executive Mall, Swedesford Road, Wayne, Pa. 19087 proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of *alpha* - [*p* - (1,1,3,3 - tetramethylbutyl) phenyl] - *omega*-hydroxypoly(oxyethylene) sodium sulfate ester as a surface active agent in the manufacture of paper and paperboard coating intended to contact food.

Dated: July 24, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72–12099 Filed 8–2–72;8:47 am]

BIO-RAD LABORATORIES

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Bio-Rad Laboratories, 32d and Griffin Ave., Richmond, Calif. 94804, has withdrawn its petition (2B2755), notice of which was published in the FEDERAL REGISTER of March 21, 1972 (37 F.R. 5764), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of acrylamide-*N,N'*-methylenebisacrylamide copolymer as a filtration medium intended for use in food processing.

Dated: July 24, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72–12100 Filed 8–2–72;8:48 am]

[DESI 3044]

CERTAIN PREPARATIONS INTENDED TO STIMULATE BILE FLOW

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for oral use:

1. Triketol Tablets, containing dehydrocholic acid and dehydrodesoxycholic acid; Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, N.Y. 11530 (NDA 3–745).

2. Gallogen Tablets, containing tocamphyl; Beecham-Massengill Pharmaceuticals, Division Beecham Inc., 527 Fifth Street, Bristol, Tenn. 37620 (NDA 8–854).

3. Oxabil Tablets, containing ox bile extract; The Blue Line Chemical Co., 302 South Broadway, St. Louis, Mo. 63102 (NDA 4–294).

4. Droxolan Tablets, containing desoxycholic acid; Cooper Laboratories, Inc. (formerly Tilden-Yates Laboratories, Inc.), Fairfield Road, Wayne, N.J. 07470 (NDA 3–044).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

NDA 3–044, listed above, formerly held by Geo. A. Breon & Co. and subsequently transferred to Tilden-Yates Laboratories, Inc., was the subject of an order published in the FEDERAL REGISTER April 6, 1971 (36 F.R. 6529) withdrawing approval of various new drug applications on the grounds of failure to submit required reports.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well

as other available evidence, and concludes that:

1. All of these drugs are possibly effective for hydrocholeresis following cholecystectomy and for other situations in which hydrocholeresis is desirable.

2. In addition, ox bile extract is possibly effective as a laxative.

3. All of the drugs lack substantial evidence of effectiveness for their other labeled indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any approved new drug application for which a drug is classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking. Such a supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph A above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. The notice Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273) describes in paragraphs (d), (e), and (f) the marketing status of a drug labeled with those indications for which it is regarded as possibly effective.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 3044, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-12097 Filed 8-2-72;8:47 am]

[DESI 8854]

COMBINATION PREPARATION INTENDED TO STIMULATE BILE FLOW

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Gallogen Compound Tablets containing tocamphyl, homatropine methylbromide, and phenobarbital; Beecham-Massengill Pharmaceuticals, Div. Beecham, Inc., 527 Fifth St., Bristol, Tenn. 37620 (NDA 8-854).

The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of such drug contributes to the total effects claimed.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of that part of above-listed new drug application which provides for Gallogen-Compound Tablets. Any related drug for human use, not the subject of an approved new drug application, may be affected by this action.

Prior to initiating such action, however, the Commissioner invites the holder of the new drug application for this drug and any interested person who might be adversely affected by its removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the NAS-NRC report for this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market.

The above-named holder of the new drug application for this drug has been mailed a copy of the NAS-NRC report. Communications forwarded in response to this announcement should be identified with the reference number DESI 8854, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Requests for the Academy's report; Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-12093, Filed 8-2-72;8:47 am]

[FAP 2B2800]

IMPERIAL CHEMICAL INDUSTRIES, LTD. (MOND DIVISION)

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 2B2800) has been filed by Imperial Chemical Industries, Ltd. (Mond Division), The Heath, Runcorn, Cheshire, England, proposing that the food additive regulations be amended to provide for the safe use of chlorinated paraffins as plasticizers for polyvinyl chloride compositions intended for use in closure-sealing gaskets that contact food.

Dated: July 26, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-12131 Filed 8-2-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24180]

HAWAIIAN AIRLINES, INC.

Notice of Hearing Regarding Hana Suspension Case

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended,

that the above-entitled proceeding is hereby assigned for hearing on August 30, 1972, at 10 a.m. (local time), in Helene Hall, Hana, Maui, Hawaii, before Chief Examiner Ralph L. Wiser.

In this proceeding, the Board will determine (1) whether the public interest requires that Hawaiian Airlines, Inc., be authorized to suspend service temporarily at Hana, Hawaii, and (2) whether the public convenience and necessity require the amendment of Hawaiian's certificate of public convenience and necessity to delete its authority to serve Hana. For further details with respect to the issues involved in this proceeding, interested persons are referred to the orders and notices rendered by the Board and the Chief Examiner, the documents filed by the parties, and the Chief Examiner's prehearing conference report, all of which are on file with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than parties of record desiring to be heard in this proceeding shall file with the Board on or before August 18, 1972, a statement setting forth the issues of fact or law raised by this proceeding which he desires to controvert.

Dated at Washington, D.C., July 28, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-12160 Filed 8-2-72;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

CHEMAGRO CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Correction

In F.R. Doc. 72-11838 appearing at page 15340 of the issue of Saturday, July 29, 1972, the number in parentheses now reading "(PP2F1282)", should read "(PP2F1292)".

PROPOSED IMPLEMENTATION PLAN REGULATIONS

Notice of Cancellation of Public Hearings

On June 14, 1972, the Administrator published proposed regulations (37 F.R. 11826) to correct certain deficiencies in State plans for the implementation of national ambient air quality standards. In that publication, the Administrator also gave notice of his intent to hold public hearings on the proposals. Notice of the date, time, and place of a hearing for the State of Delaware was published June 15, 1972 (37 F.R. 11915).

In the preamble to the June 14 proposal, the Administrator pointed out that where States submit approvable regulations subsequent to the EPA proposal, the Agency would withdraw the proposed regulations and approve the State regulations. It has now been determined that the State of Delaware has taken the necessary actions to make all regulatory portions of its plan approvable. Formal approval of the previously disapproved portions of Delaware's implementation plan will be published shortly and the proposed regulations will be withdrawn.

Accordingly, the need for a public hearing on the proposed regulations no longer exists and the hearing is hereby canceled. Notice of cancellation has also been provided by the Regional Administrator through the news media.

Dated: July 31, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-12150 Filed 8-2-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[SA-432]

AIRCRAFT ACCIDENT AT FORT WORTH, TEX.

Notice of Accident Investigation Hearing

In the matter of investigation of accident involving Delta Air Lines, Inc., McDonnell Douglas DC-9, of U.S. Registry N3305L, Fort Worth, Tex., May 30, 1972, SA-432.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., local time, on August 22, 1972, at the Green Oaks Inn, Fort Worth, Tex.

Dated this 27th day of July 1972.

[SEAL] ROBERT L. ALLARD,
Hearing Officer.

[FR Doc.72-12117 Filed 8-2-72;8:49 am]

FEDERAL MARITIME COMMISSION

GOLD STAR LINE (JAPAN), LTD., AND UNITED STATES LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015, or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John Williams, Esq., Kirlin, Campbell & Keating, 900 17th Street NW., Washington, DC 20006.

Agreement No. T-2663, between Gold Star Line (Japan), Ltd. (GSL), agents of the Zim Container Service division of Zim Israel Navigation Co., Ltd. (Zim), and United States Lines, Inc. (U.S. Lines), is a cooperative working arrangement whereby GSL will use certain terminal facilities allocated to U.S. Lines at the Kobe Port Island Terminal at Kobe, Japan, for all containerships calling at the Kansai area of Japan. The services to be provided by U.S. Lines include (1) berthing of vessels; (2) lashing and unlashing of containers; (3) loading and unloading containers to and from vessels; and (4) container yard and container freight station services. U.S. Lines is to be compensated on a basis set forth in detail in the agreement.

Dated: July 31, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-12161 Filed 8-2-72;8:51 am]

NORFOLK MARINE TERMINAL ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement

shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. S. D. Adsit, Jr., Chairman, Norfolk Marine Terminal Association, Post Office Box 89, Norfolk, VA 23501.

Agreement No. 8435-2, between the members of the Norfolk Marine Terminal Association (NMTA), modifies the basic agreement (as amended) which provides for the creation of an association for the purpose of establishing and maintaining among the members just and reasonable terminal rates, charges, classifications, rules, regulations, and practices at Norfolk, Va. The purpose of the modification is to provide that, by consent of the majority of all NMTA members, the Virginia Port Authority may become a member of the NMTA.

Dated: July 28, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-12162 Filed 8-2-72;8:51 am]

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORP.

Acquisition of Bank

Atlantic Bancorp., Jacksonville, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (21 U.S.C. 1842(a)(3)) to acquire not less than 80 percent of the voting shares of Bank of New Smyrna, New Smyrna Beach, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 22, 1972.

Board of Governors of the Federal Reserve System, July 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12084 Filed 8-2-72;8:46 am]

CENTRAL COLORADO BANCORP., INC.

Acquisition of Bank

Central Colorado Bancorp., Inc., Colorado Springs, Colo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire not less than 90 percent of the voting shares of State Bank of Greeley, Greeley, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 22, 1972.

Board of Governors of the Federal Reserve System, July 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12085 Filed 8-2-72;8:46 am]

FIDELITY AMERICAN BANKSHARES, INC.

Acquisition of Banks

Fidelity American Bankshares, Inc., Lynchburg, Va., has applied in three separate applications as set forth below for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)):

(1) To acquire 90 percent or more of the voting shares of Fairfield National Bank of Highland Springs, Highland Springs, Va.;

(2) To acquire 90 percent or more of the voting shares of Citizens National Bank of Herndon, Herndon, Va.; and

(3) To acquire indirectly voting shares of Peoples Bank of Virginia Beach, Virginia Beach, Va., through acquisition of 80 percent or more of Peoples Corp., Virginia Beach, Va., a one-bank holding company which owns all of the voting shares of Peoples Bank of Virginia Beach. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 21, 1972.

Board of Governors of the Federal Reserve System, July 27, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12086 Filed 8-2-72;8:46 am]

FIRST BANCORP., INC.

Formation of Bank Holding Company

First Bancorp., Inc., Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the Athens National Bank, Athens, Ohio, and the New Richmond National Bank, New Richmond, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 22, 1972.

Board of Governors of the Federal Reserve System, July 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12087 Filed 8-2-72;8:46 am]

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Bank

First National Charter Corp., Kansas City, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Butler State Bank, Butler, Mo. ("Bank"). The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the fifth largest banking organization in Missouri, controlling eight subsidiary banks which have aggregate deposits of $553.9 million, representing 4.4 percent of total deposits in commercial banks in the State. (All banking data are as of December 31, 1971, and are adjusted to reflect holding company acquisitions and formations approved by the Board to date.) Acquisition of Bank by Applicant will increase its share of statewide deposits by 0.1 percentage points and will not increase its

ranking among the State's largest banking organizations.

Bank controls deposits of $15 million and is located about 60 miles south of Kansas City, Mo. It is the largest bank in the market controlling 43.6 percent of the deposits in Bates County. There are nine other banks competing in the market, with the next largest controlling approximately 24.5 percent of market deposits. There is no existing competition between Bank and any of Applicant's existing subsidiary banks, the nearest of which is located 40 miles from Bank. The area is not attractive for de novo entry and the smaller banks in the area would not appear to be likely entry vehicles due to their locations and limited growth prospects. The other alternative, Bank's major competitor, has correspondent relationships with a large Kansas City bank. Consummation of the proposal would eliminate no present competition nor would it foreclose any significant possibility of competition developing in the future due to an alternative entry into the market by Applicant.

Consummation of the proposed transaction will have the effect of strengthening Bank's position in the market, however, the Board does not believe that it will give Bank a dominant position. Further, any adverse effects of the affiliation on competing banks in the market are outweighed in the public interest by the considerations relating to the financial and managerial resources and prospects of Bank and the convenience and needs of the communities to be served.

Bank is presently in need of capital and approval of the application will result in Applicant's immediate addition of $400,000 to Bank's capital accounts. Bank is also in need of strong executive management, which Applicant will furnish upon consummation of the proposal. Bank's prospects will be substantially improved by Applicant's proposed changes in Bank's operations and considerations relating to the financial and managerial resources and prospects of Bank lend strong weight toward approval of the application.

There is no evidence on the record that significant banking needs of the communities involved are going unserved. However, affiliation of Bank with Applicant will enable larger loans and specialized banking services to be provided as the demand for them increases. These considerations provide some weight for approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective July 27, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-12088 Filed 8-2-72;8:46 am]

FLORIDA BANCORP, INC.

Acquisition of Bank

Florida Bancorp, Inc., Pompano Beach, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 98.60 percent of the outstanding voting shares of Northwestern Bank of Broward County, Margate, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than August 21, 1972.

Board of Governors of the Federal Reserve System, July 27, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12089 Filed 8-2-72;8:47 am]

FORT WORTH NATIONAL CORP.

Acquisition of Bank

Fort Worth National Corp., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire directly 2,499 voting shares and indirectly (through its subsidiary the Fort Worth National Bank, Fort Worth, Tex.), 445 voting shares of West Side State Bank, Fort Worth, Tex., through a rights offering. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than August 25, 1972.

Board of Governors of the Federal Reserve System, July 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12091 Filed 8-2-72;8:47 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governors Daane, and Bucher.

MERRILL BANKSHARES CO.

Acquisition of Bank

Merrill Bankshares Co., Bangor, Maine, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Houlton Trust Co., Houlton, Maine. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 22, 1972.

Board of Governors of the Federal Reserve System, July 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12092 Filed 8-2-72;8:47 am]

STANDARD PRUDENTIAL CORP.

Acquisition of Bank

Standard Prudential Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly voting shares of Kings Lafayette Bank, Brooklyn, N.Y., through acquisition of 51 percent or more of the voting shares of Kings Lafayette Corp., Brooklyn, N.Y., a one-bank holding company which owns approximately 98 percent of the voting shares of Kings Lafayette Bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 21, 1972.

Board of Governors of the Federal Reserve System, July 27, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12090 Filed 8-2-72;8:47 am]

UNITED JERSEY BANKS

Proposed Acquisition of Gibraltar Corp. of America

United Jersey Banks, Hackensack, N.J., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12

U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Gibraltar Corp. of America, New York, N.Y. Notice of the application was published on June 23, 1972, in the New York Times, a newspaper circulated in New York City, N.Y.; on June 21, 1972, in The Trenton Evening Times, a newspaper circulated in Trenton, N.J.; on June 22, 1972, in The Record, a newspaper circulated in Hackensack, N.J.; on June 23, 1972, in The Daily Advance, a newspaper circulated in Dover, N.J.; and on June 22, 1972, in the Asbury Park Press, a newspaper circulated in Asbury Park, N.J.

Applicant states that the proposed subsidiary would engage in the activity of making secured loans to businesses for various business purposes, more precisely accounts receivable financing, equipment financing, dealer sales, and lease financing, and the financing of mergers, acquisitions, and buy-outs. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 28, 1972.

Board of Governors of the Federal Reserve System, July 27, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-12093 Filed 8-2-72;8:47 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 4-72]

KANSAS CITY, MO.

Notice of Filing and Investigation Regarding Application for a Foreign Trade Zone at Three Sites

Notice is hereby given that the Greater Kansas City Foreign-Trade Zone, Inc., a Missouri nonprofit corporation, has applied to the Foreign-Trade Zones Board (the Board) for a grant of authority to establish and operate a foreign-trade zone at three sites in the area of Kansas City, Mo., a Customs port of entry, pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (48 Stat. 998; 19 U.S.C. 81a), and the regulations of the Board (15 CFR Part 400). The applicant corporation is authorized to make the application under a special act of the Missouri legislature enacted June 22, 1971.

The application has been reviewed for compliance with the filing requirements of the Board's regulations and was filed on July 25, 1972. In accordance with the regulations an Examiners Committee has been appointed by the Acting Executive Secretary to conduct a thorough investigation of the proposal and report its findings to the Board. The Committee is composed of: Sidney R. Donner (Chairman), U.S. Department of Commerce, Washington, D.C. 20230; Donald E. Grimwood, Acting Deputy Assistant Regional Commissioner, Office of the Regional Commissioner of Customs, Region IX, Chicago, Ill. 60606; and Col. W. R. Needham, District Engineer, U.S. Army Engineer District Kansas City, Kansas City, Mo. 64106.

Notice is hereby given that a public hearing on the application will be held by the Examiners Committee beginning at 10 a.m. local time, September 14, 1972, at the Federal Building, Room 140, 601 East 12th Street, Kansas City, MO. The purposes of the hearing are to inform interested persons on the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the Examiners Committee.

Interested persons or their representatives will be afforded the opportunity of being heard at the hearing. Such persons should notify the Acting Executive Secretary in writing by September 6 of their desire to be heard. A written summary of their views should be submitted with an estimate of the time their presentation will require.

A copy of the application and accompanying exhibits will be available prior to the hearing and for 15 days after its conclusion at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2203, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.
Office of the District Engineer, U.S. Army Engineer District, Kansas City, Room 801, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

The proposal calls for the establishment of two general purpose zones (Sites 1 and 2) and one special purpose subzone (Site 3). Site 1 would be established at an existing warehouse facility located at 1500 Warren Street, North Kansas City, MO, with 250,000 square feet of space available for storage, display, assembly, and manipulation type operations. The grantee would designate the owner of the facility, Radial Warehouse Co., as operational manager. At the outset about one-half of the facility would be occupied by a distributor of foreign motorcycles and parts. There is 500,000 square feet available for expansion adjacent to the site.

Site 2 would comprise 315,000 square feet of space within a storage facility located at 7800 East Birmingham Road, Kansas City, MO. Operational management would be assigned by the grantee to Great Midwest Corp., the owner. Two firms are prepared at the outset of operations to lease a total of 15,000 square feet of space for storing and displaying imported goods including carpets. There is room for expansion within the facility which has 7 million square feet of space.

Site 3 would be established at an existing warehouse at 1232 Vernon Street, North Kansas City, MO, having 54,000 square feet of space. The sole occupant of the subzone would be Midland International Corp., which would assemble electronic equipment for domestic and foreign markets. Operational management would be assigned to Midland which leases the property.

The applicant states that a prime reason for this proposal is to make foreign-trade zone procedures available to businessmen in inland America. It is felt that zone operations will help create jobs in the area by expanding operations that are related to international trade. The multiple site approach with assignment of management functions is considered to be necessary by the applicant to assure successful operations in the area.

As soon after the hearing as the transcript is available, a copy will be placed for public inspection at the two locations mentioned above for a period of 21 calendar days from the close of the hearing. The hearing record will remain open for the same period during which time submissions in writing may be made to the Examiners Committee. Such submissions should be mailed to the Acting Executive Secretary, Foreign-Trade Zones Board, Room 2203, U.S. Department of Commerce, 14th and Constitution Avenue, Washington, DC 20230.

Dated: July 28, 1972.

JOHN J. DAPONTE, Jr.,
Acting Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.72-12077 Filed 8-2-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

JULY 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Accurate Calculator Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 29, 1972, through August 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-12105 Filed 8-2-72;8:48 am]

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

JULY 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period July 31, 1972, through August 9, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-12106 Filed 8-2-72;8:48 am]

[File No. 500-1]

CRESCENT GENERAL CORP.

Order Suspending Trading

JULY 27, 1972.

The common stock, $0.10 par value of Crescent General Corp. being traded on the Intermountain Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Crescent General Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934 that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 29, 1972, through August 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 72-12107 Filed 8-2-72;8:48 am]

[File No. 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

JULY 27, 1972.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 1, 1972, through August 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-12108 Filed 8-2-72;8:48 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

JULY 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stock, $0.15 par value, of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 29, 1972, through August 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-12109 Filed 8-2-72;8:48 am]

[File No. 500-1]

LEISURE CONCEPTS, INC.

Order Suspending Trading

JULY 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Leisure Concepts, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:00 a.m., e.d.t., on July 26, 1972, through August 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-12110 Filed 8-2-72;8:49 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

JULY 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of LDS Dental Supplies, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of the investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 30, 1972, through August 8, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-12111 Filed 8-2-72;8:49 am]

[812-3198]

PMT TAX EXEMPT BOND FUND, FIRST SERIES (AND SUBSEQUENT SERIES) AND PRESCOTT, MERRILL, TURBEN & CO.

Notice of Filing of Application for Order of Exemption for Order Granting Confidential Treatment

JULY 27, 1972.

Notice is hereby given that PMT Tax Exempt Bond Fund, First Series (Fund), a unit investment trust registered under the Investment Company Act of 1940 (Act) and its sponsor, Prescott, Merrill, Turben & Co. (Sponsor) (hereinafter the Sponsor and the Fund are collectively referred to as "Applicants") 900 National City Bank Building, Cleveland, Ohio 44114, have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting the Fund (and subsequent Series) from compliance with the provisions of section 14(a) of the Act and exempting frequency of the capital gains distributions of the Fund and the secondary market operations of the Sponsor from the provisions of Rule 19b-1 and Rule 22c-1, respectively, under the Act. Applicants further seek an order pursuant

to section 45(a) of the Act granting confidential treatment to the profit and loss statements of the Sponsor supplied in connection with certain registration statements filed with the Commission from time to time. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

The exemptive order is requested for the Fund and subsequent Series sponsored by the Sponsor and meeting the description of such Funds in the application. The confidential treatment sought is to extend to the profit and loss statements of the Sponsor supplied in connection with registration statements and amendments thereto filed with the Commission by the Fund, and all subsequent Series sponsored by the Sponsor and meeting the description of such Funds in the application. PMT Tax Exempt Bond Fund, First Series, and each future series of such Fund will be governed by a trust agreement for that Fund (hereinafter called the "Agreement") to be entered within 2 months of the registration of such Fund Series with the Securities and Exchange Commission under which the Sponsor will act as such and United States Trust Co. of New York will act as Trustee. Standard & Poor's Corp. will act as Evaluator. The Trust Agreement will contain standard terms and conditions of trusts common to each Fund series. Pursuant to the Agreement, the Sponsor will deposit with the Trustee not less than $3 million principal amount of bonds (hereinafter called "Bonds") which the Sponsor shall have accumulated for such purpose. Simultaneously with such deposit the Trustee will deliver to the Sponsor registered certificates for not less than 3,000 Units, which will represent the entire ownership of the Fund. These Units are in turn to be offered for sale to the public by the Sponsor.

Applicants state that the Bonds will not be pledged or be in any other way subjected to any debt at any time after the Bonds are deposited in the Fund. All of the Bonds will be interest bearing obligations of States and territories of the United States and political subdivisions and authorities thereof, the interest on which is exempt from Federal income taxation. The Sponsor has been accumulating the Bonds for the purpose of deposit in the Fund and will follow a similar procedure of accumulating the Bonds for each future Series. In selecting the Bonds, the following factors are considered: (i) Standard & Poor's Corp.'s rating of "BBB" or better, or equivalent; (ii) the price of the Bonds relative to other bonds of comparable quality and maturity; (iii) diversification as to the purpose of issue and location of issuer and (iv) income to the Certificateholder of the Fund.

Each Fund will consist of the Bonds, such Bonds as may continue to be held from time to time in exchange or substitution for any of the Bonds upon certain refundings, accrued and undistributed interest and undistributed cash. Certain of the Bonds may from time to time be sold under the special circumstances set forth in the Agreement or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions will be distributed to Certificateholders and not reinvested. There is no provision in the Agreement for the Fund, and there will be no provision in the Agreement for any future Series, for the sale and reinvestment of the Bonds, and such activity will not take place. Reference is made to the Agreement and to the Prospectus for the Fund for a full explanation of the operation of the Funds.

Each Unit for a particular Fund will represent a fractional undivided interest in that Fund. The numerator of the fractional interest represented will be 1; the denominator, the number of Units then in the Fund. Units will be redeemable. In the event that any Units shall be redeemed, the denominator of the fraction will be reduced and the fractional undivided interest represented by each Unit increased. Units will remain outstanding until redeemed or until the termination of the Agreement. The Agreement may be terminated by 100 percent agreement of the holders of Units of the Fund ("Certificateholders"), or, in the event that the value of the Bonds shall fall below 20 percent of the principal amount of Bonds originally deposited in the Fund, upon direction of the Sponsor to the Trustee. There is no provision in the Agreement, and there will be no provision in the Agreements for future Funds, for the issuance of any Units after the initial offering of Units (except to the extent that the secondary trading by the Sponsor in the Units is deemed the issuance of Units under the Act) and such activity will not take place.

Following the deposit of Bonds for each Fund series by the Sponsor with the Trustee, and following the declaration of effectiveness of that Fund's registration statement under the Securities Act of 1933 and clearance by the securities authorities of the various States, the Sponsor will offer the Units of that Fund to the public at the public offering price set forth in the Prospectus, plus accrued interest.

It is the purpose of each Fund series to provide a diversified investment of quality not less than Standard & Poor's Corp's rating of BBB or better, or equivalent. In the opinion of counsel, none of the Funds will be associations taxable as corporations under the Internal Revenue Code and to the extent that income of any Fund consists of interest excludable from gross income under the Internal Revenue Code such income is excludable from the gross income of the Certificateholders when distributed to them.

The Sponsor, while under no obligation to do so, intends to maintain a market for the Units of the Fund and continually to offer to purchase such Units at prices based on the most recent evaluation by the Evaluator, which prices will exceed the redemption price at the time of such evaluation for such Units by amounts which depends upon supply and demand for Units.

SECTION 14(a)

Section 14(a) of the Act requires that a registered investment company (a) have a net worth of at least $100,000 prior to making a public offering of its securities, (b) have previously made a public offering and at that time have had a net worth of $100,000, or (c) have made arrangements for at least $100,000 to be paid in by 25 or fewer persons before acceptance of public subscriptions.

Applicants seek an exemption from the provisions of section 14(a) in order that they may make a public offering of Units of the Fund as described above. In connection with the requested exemption from section 14(a), the Sponsor has agreed: (i) To refund on demand and without deduction the sales load to purchasers of Units, if within 90 days after the registration of a Fund under the Securities Act of 1933 becomes effective, the net worth of that Fund shall be reduced to less than $100,000 or if the Fund is terminated, (ii) to instruct the Trustee on the date the bonds are deposited in each Fund that if the Fund shall at any time have a net worth of less than 20 percent of the principal amount of bonds originally deposited in the Fund, as a result of redemption by the Sponsor of Units constituting a part of the unsold Units, the Trustee shall terminate the Fund in the manner provided in the Trust Agreement and distribute any bonds or other assets deposited with the Trustee pursuant to the Trust Agreement as provided therein; and (iii) in event of termination for the reasons described in (ii) above to refund any sales load to any purchaser of Units purchased from the Sponsor on demand and without any deduction.

RULE 19b-1

Rule 19b-1(a) provides in substance that no registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any 1 taxable year.

Applicants propose to make distributions of principal and interest to Certificateholders of the Fund quarterly. Distions of principal and interest to Certificateholders of the Fund quarterly. Distributions of principal constituting capital gains to Certificateholders may arise in two instances; (1) If an issuing authority calls or redeems an issue held in the portfolio, the sums received by the Fund will be distributed to a Certificateholder on the next distribution date; and (2) if units are redeemed by the Trustee and bonds from the portfolio are sold to provide the funds necessary for such redemption each Certificateholder will receive his pro rata portion of the proceeds from the bonds sold. In such instances, a Certificateholder may receive in his distribution funds which constitute capital gains since in many cases the value of the portfolio bonds redeemed

or sold will have increased since the date of initial deposit.

Paragraph (b) of Rule 19b–1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Applicants state that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end. Applicants further allege that their situation places them squarely within the purpose of such provision. However, in order to comply with the literal requirements of the rule, a Fund would be forced to hold any moneys which would constitute capital gains upon distribution until the end of its taxable year. Applicants contend that such a practice would clearly be to the detriment of the Certificateholders.

In support of the requested exemption, the application states that the dangers against which Rule 19b–1 is intended to guard do not exist in Applicants' situation since they have no control over events which might trigger capital gains, i.e., the tendering of Units for redemption and the prepayment of portfolio bonds by the issuing authorities. In addition, it is alleged that the amounts involved in a normal distribution of principal are relatively small in comparison to the normal interest distribution, and such distributions are clearly indicated in accompanying reports to Certificate holders as a return of principal.

RULE 22c–1

Rule 22c–1 provides, in pertinent part, that no registered investment company, issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants seek an order exempting the secondary market operations of Sponsor from the provisions of Rule 22c–1 under the Act.

Applicants assert that the pricing by the Sponsor in the secondary market will in no way affect the Funds' assets, and that the public Certificateholders will benefit from such pricing procedure by receiving a normally higher repurchase price for their Units without the cost burden of daily evaluations of the Unit redemption value. In addition, the application states that Sponsor has undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide estimated evaluations on trading days. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, the Sponsor will order a full evaluation. Sponsor has agreed that, in case of the resale of Units in the secondary market, if the Evaluator cannot state that the previous Friday's price is not more than one-half point ($5 on a unit representing $1,000 principal amount of underlying bonds) greater than the current offering price, a full evaluation will be ordered.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SECTION 45(a)

Section 45(a) of the Act provides in pertinent part that information filed with the Commission "shall be made available to the public, unless and except insofar as the Commission * * * by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors."

Applicants seek an order granting confidential treatment to the profit and loss statements of the Sponsor supplied in connection with registration statements and amendments thereto filed with the Commission by the Fund, and all subsequent Series sponsored by the Sponsor and meeting the description of such funds in the application.

Applicants submit that public disclosure of the profit and loss statements of the Sponsor is neither necessary nor appropriate in the public interest, or for the protection of investors. Investors in the Funds are not offered an opportunity to acquire any interest whatsoever in the Sponsor. Apart from the Sponsor's minimal obligation under the Trust Agreement to direct the disposition of Bonds which are, or are likely to be, defaulted upon by the Issuers thereof (which obligation may be performed by the Trustee or successor Sponsor if not performed by current Sponsor), Applicants state that the Sponsor will function solely as underwriter of the Funds. Applicants also assert that there is no legitimate interest on the part of investors in the public disclosure of the profit and loss statements of the underwriter from whom the Units are purchased.

In addition, Applicants submit that to the extent the Sponsor's solvency may conceivably be thought relevant to the maintenance of the secondary market in the Units of the Funds, the Sponsor's statement of financial condition, which is included in the Prospectus filed with the Commission and which is furnished various stock exchanges, is readily available to the public and contains fully adequate information. Further, the prospectuses disclose the Sponsor's right to terminate secondary market activities in a particular Fund. Should the Sponsor exercise this right, for whatever reason, the Certificateholders would be fully protected by their right under the Trust Agreements to redeem their units upon presentation of such Units properly endorsed to the Trustee, and to receive the redemption value of the Units computed on the underlying assets of the particular Fund.

In addition, Applicants state that the soundness of the investors' interest in the Funds is solely a function of the fiscal conditions of the issuing municipalities. Applicants thus represent that the financial operations of the Sponsor will in no way enhance or diminish the prospect for an orderly payment of the underlying bonds.

Notice is further given that any interested person may, not later than August 11, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission orders a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in the matter, including the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-12112 Filed 8-2-72;8:49 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

JULY 27, 1972.

The common stock, $1 par value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19 (a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 28, 1972, through August 6, 1972.

By the Commission.

RONALD F. HUNT,
Secretary.

[FR Doc.72-12113 Filed 8-2-72;8:49 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5279]

MINORITY ASSISTANCE CORP.

Notice of License Surrender

Notice is hereby given that Minority Assistance Corp., 40 West 40th Street, New York, NY 10018, has surrendered its license to operate as a minority enterprise small business investment company (MESBIC) pursuant to § 107.105 of the Rules and Regulations of the Small Business Administration (SBA) governing small business investment companies (13 CFR 107.105 (1972)).

Minority Assistance Corp., a New York corporation was licensed by SBA on July 1, 1970, to operate solely as a MESBIC under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the SBA regulations issued thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender by Minority Assistance Corp. of its license is hereby accepted and all rights, privileges, and franchises derived therefrom are hereby canceled.

Dated: July 24, 1972.

JAMES THOMAS PHELAN,
Acting Associate Administrator for Operations and Investment.

[FR Doc.72-12115 Filed 8-2-72;8:49 am]

[License 06/10-5155]

PHILLIPS INDUSTRIAL FINANCE CORP.

Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Phillips Industrial Finance Corp. of Bartlesville, Okla. (PIFC), a Federal licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. sec. 661 et seq.) (Act) has filed an application pursuant to § 107.1004(b) of the Small Business Investment Company regulations (13 CFR 107.1004 (1972)) with the Small Business Administration (SBA) for an exemption under the Conflict of Interest provision of the Act.

The Plan. Phillips Scientific Corp. (Scientific), an Associate of the licensee, owns 14,700 shares of Navajo Chemicals, Inc. (Navajo). First, the licensee intends to purchase these shares from its Associate at cost, as part of its overall financing (45,000 shares) of Navajo. Second, Navajo is an Associate of the licensee by virtue of Scientific's interest in excess of 10 percent therein. Third, Navajo will use in excess of 75 percent of the funds provided by the licensee to purchase goods from the licensee's parent, Phillips Petroleum Co.

The exemption, if granted, will permit PIFC to carry out the plan, as described above.

Notice is hereby given that any interested person may, not later than 15 days from the publication of this notice, submit to SBA, in writing, comments on this transaction. Any such comments should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Notice is further given that any time after said date, SBA may, under the regulations, dispose of the application upon the basis of the information set forth therein and other relevant data.

Dated: July 25, 1972.

JAMES THOMAS PHELAN,
Acting Associate Administrator for Operations and Investment.

[FR Doc.72-12114 Filed 8-2-72;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

[Sec. Order 25-72]

CONTROL OF DATA AND INFORMATION

Establishment of Policy and Procedure

1. *Purpose.* The purpose of this Secretary's Order is to establish a Department of Labor policy and procedure for the handling of data and information collected by the Bureau of Labor Statistics and employed or processed either by the Bureau, by or for some other Administration or Office within the Department, or by persons or agencies outside the Department. Among other things, this Order is intended to centralize and clarify the authority and responsibility for application to such data and information of the provisions of 5 U.S.C. 552 and 29 CFR Part 70.

2. *Background.* The Bureau of Labor Statistics of the Department of Labor (referred to hereinafter as BLS) collects a large quantity of individual and establishment data in the course of its operations. A great deal of this data is provided voluntarily by individuals and establishments who would not themselves make it available to members of the public. This voluntary cooperation is facilitated by informants' understanding that information supplied by them will not be publicly disclosed or used in such a way as to constitute an unwarranted invasion of personal privacy, a serious financial disadvantage to such informant, or a disclosure of privileged or confidential trade secrets and commercial or financial information. The continuing availability of such information furnished voluntarily and accepted under a pledge of confidentiality is essential to the maintenance of BLS and various other Departmental programs. In recent years there has been a growth in the number of Federal-State and intra and interdepartmental cooperative programs as well as an expanded use of contractors and of computer technology in information processing. Consequently, the application of the Department of Labor's policy on confidentiality needs to be clarified in the light of these changed circumstances.

3. *Policy.* It is the policy of the Department of Labor:

(a) That all data collected by BLS shall, at all times, be subject to the primary jurisdiction and control of the Commissioner of Labor Statistics in regard to any matter involving the public or intragovernmental disclosure of such data.

(b) That all employees of the Department shall be subject to rules promulgated by the Commissioner of Labor Statistics governing the disclosure of confidential data and information collected by BLS. (Commissioner's Administrative Order No. 6-2.)

(c) That no official or employee of the Department regardless of the subdivision he represents who, under rules promulgated by the Commissioner of Labor Statistics, has access to or knowledge of data collected by BLS, shall disclose any information from or pertaining to such data to any person except pursuant to the written approval of the Commissioner of Labor Statistics.

4. *Scope.* This policy applies to all Administrations and offices of the Department of Labor and to all programs and projects including Federal-State cooperative programs sponsored or participated in by the Department in which BLS data is processed or employed.

5. *Definitions.* For the purposes of this Secretary's Order:

(a) Data includes, but is not limited to, information provided by individuals subject to a pledge of confidentiality.

(b) Individual includes, but is not limited to, a person, household, corporation, or other business or public service enterprise.

6. *Assignment of Responsibilities.*

(a) The Commissioner of Labor Statistics is responsible for approving the confidentiality policies and procedures relating to the protection of BLS data in connection with any activities of non-BLS organizations within or outside the Department of Labor which provide collection or processing support services to BLS programs or are otherwise allowed access to such data. The Commissioner will certify that all relevant activities of such an organization meet the appropriate standards of confidentiality before any BLS data is entrusted to that organization for any purpose. In addition, he will have the responsibility pursuant to

29 CFR Part 70 for passing upon all requests for public disclosure of data collected by BLS whether the data requested is in the physical possession of that Bureau or not.

(b) The Solicitor of Labor is responsible for reviewing and approving the confidentiality policies and procedures promulgated by the Commissioner of Labor Statistics in the light of the Department's general disclosure regulations, 29 CFR Part 70, The Freedom of Information Act (5 U.S.C. 552) and any other pertinent provisions of law.

(c) The heads of Administrations and Offices of the Department of Labor are assigned the responsibility for promulgating, implementing, and insuring continued compliance with procedures and policies consistent with this Secretary's Order.

7. *Effective Date.* This Secretary's Order shall become effective upon publication in the FEDERAL REGISTER (8–3–72).

Signed at Washington, D.C., this 17th day of July, 1972.

J. D. HODGSON,
Secretary of Labor.

[FRDoc. 72-12127 Filed 8-2-72;8:50 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AND STUDENT WORKERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 621 (36 F.R. 12819) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended)

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Aalfs Manufacturing Co., Spencer, Iowa; 5–18–72 to 5–17–73; 10 learners (men's jeans).

Aalfs Manufacturing Co., Storm Lake, Iowa; 6–12–72 to 6–11–73; 10 learners (boys' jeans).

Altamont Shirt Corp., Altamont, Tenn.; 6–18–72 to 6–17–73 (men's and boys' shirts).

Bee & Gee Pants Manufacturing Co., Inc., Dickson City, Pa.; 5–15–72 to 5–14–73 (men's and boys' trousers).

Blackwelder Manufacturing Co., Inc., Mocksville, N.C.; 6–14–72 to 6–13–73 (men's and boy's shirts).

Brunswick Manufacturing Co., Brunswick, Ga.; 5–20–72 to 5–19–73 (ladies' and children's car coats, zipper jackets, all-weather coats and corduroys).

Carolina Girls Wear, Inc., St. George, S.C.; 6–18–72 to 6–17–73 (children's dresses).

Covington Industries, Inc., Opp, Ala.; 6–7–72 to 6–6–73 (hunting clothes).

Crane Manufacturing Co., Crane, Mo.; 6–5–72 to 6–4–73 (men's, boys', girls,' and ladies' jeans).

Crane Manufacturing Co., Republic, Mo.; 6–5–72 to 6–4–73 (men's and boys' trousers).

E & W of Ilmo, Inc., Ilmo, Mo.; 4–30–72 to 4–29–73 (men's and boys' dungarees).

Edward Hyman Co., Prentiss, Miss.; 5–17–72 to 5–16–73 (work clothes).

Elder Manufacturing Co., Carl Junction, Mo.; 5–5–72 to 5–4–73 (boys' and juveniles' shirts).

Fair Play Manufacturing Co., Fair Play, S.C., 5–21–72 to 5–20–73; 10 learners (ladies' blouses, dresses, and pants dresses).

Fred Ronald Manufacturing Co., Inc., Parsons, Kans.; 6–1–72 to 5–31–73 (boys' pants).

Freeland Sportswear Co., Inc., Freeland, Pa.; 5–27–72 to 5–26–73; 10 learners (men's outerwear jackets).

G-B Manufacturers, Inc., Chetopa, Kans.; 4–29–72 to 4–28–73; 10 learners (men's trousers).

G-B Manufacturers, Inc., Crane, Mo.; 6–1–72 to 5–31–73 (men's trousers).

Georgetown Dress Corp., Georgetown, S.C.; 4–26–72 to 4–25–73 (children's clothes).

Hicks-Ponder Co., Eagle Pass, Tex.; 6–4–72 to 6–3–73 (men's and boys' jeans).

Imperial Reading Corp., La Follette, Tenn.; 5–26–72 to 5–25–73 (men's shirts).

Kinston Shirt Co., Kinston, N.C.; 5–1–72 to 4–30–73 (men's and boys' shirts).

Lavonia Industries, Inc., Lavonia, Ga.; 5–18–72 to 5–17–73 (women's dresses).

Linn Manufacturing Co., Linn, Mo.; 5–1–72 to 4–30–73 (men's trousers).

Lisa's Inc., Grifton, N.C.; 4–26–72 to 4–25–73 (children's jackets).

Louisburg Sportswear Co., Louisburg, N.C.; 6–13–72 to 6–12–73 (men's and boys' shirts).

Louisiana Industrial Manufacturing Co., Gonzales, La.; 6–12–72 to 6–11–73 (men's pants).

Lyons Manufacturing Co., Inc., Lyons, Ga.; 5–22–72 to 5–21–73 (men's shirts and ladies' blouses).

Middleburg Sportswear, Inc., Middleburg, Pa.; 5–30–72 to 5–29–73 (women's, misses', and juniors' dresses).

Mode O'Day Co., Salt Lake City, Utah, 6–19–72 to 6–18–73 (women's dresses).

Pajama-Craft of North Carolina, Middlesex, N.C.; 5–25–72 to 5–24–73; 10 learners (men's and boys' pajamas).

Piedmont Industries, Inc., Greenville, S.C.; 6–3–72 to 6–2–73 (men's and boys' shirts).

Portland Manufacturing Corp., Portland, Tenn.; 5–1–72 to 4–30–73 (men's and boys' knit shirts and women's and girls' woven blouses).

Raritan Sportswear Co., Perth Amboy, N.J.; 6–1–72 to 5–31–73; 5 learners (men's and boys' outerwear jackets).

Saf-T-Bak, Inc., Altoona, Pa.; 5–30–72 to 5–29–73 (men's, women's, and children's hunting and fishing clothing).

Samsons Maufacturing Co., Washington, N.C.; 5–1–72 to 4–30–73 (men's and boys' shirts).

Sherman Manufacturing Co., Darlington, S.C.; 5–7–72 to 5–6–73; 10 learners (ladies' dresses).

Sweet-Orr & Co., Inc., Dawsonville, Ga.; 5–28–72 to 5–27–73 (boys' shirts).

Wilgree Manufacturing Co., Inc., Camilla, Ga.; 5–15–72 to 5–14–73 (men's shirts).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Barad & Co., Rolla, Mo.; 5–26–72 to 11–25–72; 15 learners (ladies' sleepwear).

Creedmoor Sportswear Co., Creedmoor, N.C.; 5–10–72 to 11–9–72; 10 learners (men's and boys' shirts).

Johnsonville Manufacturing Co., Johnsonville, S.C.; 6–12–72 to 12–11–72; 20 learners (ladies' jeans, shorts, and jamaicas).

Lisa's, Inc., Grifton, N.C.; 6–20–72 to 12–19–72; 30 learners (children's jackets).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Banner Elk Glove Co., Banner Elk, N.C.; 5–15–72 to 11–14–72; 18 learners for plant expansion purposes (work gloves).

Brookville Glove Manufacturing Co., Inc., Brookville, Pa.; 4–26–72 to 4–25–73; 10 learners for normal labor turnover purposes (work gloves).

N. Churchill Manufacturing Co., Inc., Centralia, Wash.; 5–25–72 to 5–24–73; 10 learners for normal labor turnover purposes (work gloves).

Good Luck Glove Co., Rosiclare, Ill.; 5–8–72 to 11–7–72; 20 learners for plant expansion purposes (work gloves).

Indianapolis Glove Co., Inc., Glenwood, Ark.; 5–11–72 to 5–10–73; 10 percent of the total number of machine stitchers for normal labor turnover purposes (flannel and leather work gloves).

Indianapolis Glove Co., Inc., Vardaman, Miss.; 5–4–72 to 5–3–73; 10 learners for normal labor turnover purposes (work gloves).

Wells Lamont Corp., Philadelphia, Miss.; 5–24–72 to 5–23–73; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Casa Grande Mills, Casa Grande, Ariz.; 6–15–72 to 6–14–73; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants', boys', and men's underwear).

Louis Gallet, Inc., Uniontown, Pa.; 5–18–72 to 5–17–73; 5 learners for normal labor turnover purposes (men's shirts and sweaters).

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Randy Knitting Mills, Inc., Quebradillas, P.R.; 5–8–72 to 5–7–73; 24 learners for normal labor turnover purposes in the occupations of: (1) Sweater knitting, for a learning period of 480 hours at the rates of $1.27 an hour for the first 240 hours and $1.44 an hour for the remaining 240 hours; and (2) Machine stitching-seaming, for a learning period of 320 hours at the rates of $1.27 an hour for the first 160 hours and $1.44 an hour for the remaining 160 hours (full-fashioned sweaters).

The following student-worker certificates were issued pursuant to the regulations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration dates, occupations, wage rates, number of student-workers, and learning periods for the certificates issued under Part 527 are as indicated below.

Garfield Business Institute, Beaver Falls, Pa.; 6-8-72 to 6-7-73; authorizing the employment of three student-workers in the clerical industry in the occupations of secretary and general clerk for a learning period of 1,000 hours at the rate of $1.20 an hour for the first 500 hours and $1.30 for the remaining 500 hours.

New Castle Business College, New Castle, Pa.; 5-30-72 to 5-29-73; authorizing the employment of 30 student-workers in the clerical industry in the occupations of secretary, stenographer, and general clerk for a learning period of 1,000 hours at the rates of $1.20 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours.

The student-worker certificates were issued upon the applicant's representations and supporting materials fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 24th day of July.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72-12126 Filed 8-2-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice 62]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JULY 28, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 531 (Sub-No. 278), filed June 15, 1972. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit juice concentrates*, in bulk, in tank vehicles, (1) from points in Michigan, Pennsylvania, New York, Arkansas, Washington, and Texas to points in Florida; and (2) from points in Florida and Texas to points in Michigan, Pennsylvania, New York, Arkansas, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 531 (Sub-No. 279), filed June 23, 1972. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals, vegetable oils, vegetable oil products, and blends thereof*, in bulk, in tank vehicles, from Louisville, Ky., to points in California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or San Francisco, Calif.

No. MC 531 (Sub-No. 280), filed June 29, 1972. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chloral*, in bulk, in tank vehicles, from the plantsite of Montrose Chemical Co., Henderson, Nev., to Newark, N.J., Nitro, W. Va., and New Haven, Conn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 1263 (Sub-No. 16), filed July 13, 1972. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, MO 64683. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special, and those injurious or contaminating to other lading) between Bethany, Mo., on the one hand, and, on the other, Kansas City, St. Joseph, St. Louis, and Trenton, Mo., serving all points within 25 miles of Bethany, Mo., Lineville, Iowa, and South Lineville, Mo., as off-route points in connection with the described regular route operation. Restriction: No service shall be rendered on shipments moving between Kansas City, and St. Louis, Mo. (1) from Kansas City over Interstate Highway 29 to St. Joseph, Mo., thence over U.S. Highway 36 to junction U.S. Highway 69 or Interstate Highway 35, thence over U.S. Highway 69 or

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Interstate Highway 35 to Bethany, Mo., and return over the same route; (2) from Kansas City, Mo., over U.S. Highway 69 or Interstate Highway 35 to Bethany, Mo., and return over the same route; (3) from St. Louis, Mo., over Interstate Highway 70 to junction U.S. Highway 61, thence over U.S. Highway 61 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Missouri Highway 6, thence over Missouri Highway 6 to junction Missouri Highway 146, thence over Missouri Highway 146 to junction U.S. Highway 136, thence over U.S. Highway 136 to Bethany, Mo., and return over the same route; (4) from St. Louis, Mo., over Interstate Highway 70 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Missouri Highway 6, thence over Missouri Highway 6 to junction Missouri Highway 146, thence over Missouri Highway 146 to junction U.S. Highway 136, thence over U.S. Highway 136 to Bethany, Mo. and return over the same route; (5) from St. Louis, Mo., over Interstate Highway 70, thence over Interstate Highway 70 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction U.S. Highway 136, thence over U.S. Highway 136 to Bethany, Mo., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at (1) Trenton, Mo., (2) Bethany, Mo., or (3) Kansas City, Mo.

No. MC 1494 (Sub-No. 23), filed July 5, 1972. Applicant: GROSS COMMON CARRIER, INC., 660 West Grand Avenue, Wisconsin Rapids, WI 54494. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Stevens Point, Wis., and Weyauwega, Wis., from Stevens Point, Wis. over U.S. Highway 10 to Weyauwega, Wis., and return over the same route. Service is authorized to and from all intermediate points and to and from the off-route point of King, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 3581 (Sub-No. 17), filed July 13, 1972. Applicant: THE MOTOR CONVOY, INC., Post Office Box 82432, Hapeville, GA 30054. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor buses*, in secondary movements, in truckaway service, between points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 4405 (Sub-No. 498) filed July 6, 1972. Applicant: DEALER TRANSIT, INC., 2200 East 170th Street, Post Office Box 361, Lansing, IL 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower—5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Outfits, telephone community dialing offices*, between Western Electric Co. plantsites at Columbus, Ohio; Lisle, Ill.; Omaha, Nebr., or Oklahoma City, Okla., and points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 5623 (Sub-No. 14) filed July 5, 1972. Applicant: ARROW TRUCKING COMPANY, a corporation, 3131 North Lewis, Post Office Box 6027, Tulsa, OK 74106. Applicant's representative: Larry E. Wells, 2005 1 Elm Place, Post Office Box 50064, Dallas, TX 75250. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Terminal tractors*, (1) from Longview, Tex., to points in the United States (except Hawaii) and (2) between points in the United States (except Hawaii). Part (2) above is restricted to traffic originating at, or destined to the display sites of Capacity, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 5623 (Sub-No. 15) filed July 17, 1972. Applicant: ARROW TRUCKING COMPANY, a corporation, 3131 North Lewis, Post Office Box 6027, Tulsa, OK 74106. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo containers and cargo vans, and/or empty cargo containers and cargo vans, between Galveston, Tex., on the one hand, and, on the other, points in Kansas, Oklahoma, Texas, Louisiana, Mississippi, Arkansas, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 13250 (Sub-No. 117) filed July 10, 1972. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities, in cargo containers and/or cargo vans;* and (2) *empty cargo containers and empty cargo vans*, between points in the United States (except Hawaii but including Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex. or San Francisco, Calif.

No. MC 19227 (Sub-No. 170), filed July 7, 1972. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. Fred Dowhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in cargo containers and cargo vans, and empty cargo containers and cargo vans, between points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at (1) San Francisco, Calif.; (2) Houston, Tex.; or (3) Washington, D.C.

No. MC 30766 (Sub-No. 1), filed July 7, 1972. Applicant: ALCO MOTOR TRUCKING CORP., 303 Washington Street, Jersey City, NJ 07302. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products and flocking material*, between the New York, N.Y. Commercial Zone and Newark, N.J., on the one hand, and, on the other, points in Warren, Hunterdon, Sussex, and Somerset Counties, N.J., and Westchester, Nassau, and Suffolk Counties, N.Y. Restricted to shipments having a prior movement by truck, rail, or water. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 30844 (Sub-No. 417), filed July 10, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drawer and cabinet wall facings and particle board*, from Dowagiac, Mich., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 31389 (Sub-No. 151), filed July 6, 1972. Applicant: McLEAN TRUCKING COMPANY, a Corporation,

617 Waughtown Street, Post Office, Box 213, Winston-Salem, NC 27102. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. 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 commodities requiring special equipment), (1) (between Atlanta, Ga., and Milledgeville, Ga., serving all intermediate points, and points within 15 miles of Atlanta: From Atlanta over Georgia Highway 12 to Madison, Ga., thence over U.S. Highway 129 to Eatonton, Ga., thence over Georgia Highway 24 to Milledgeville, Ga., and return over the same route; (2) between junction Georgia Highways 12 and 142 approximately 6 miles east of Covington, Ga., and Eatonton, Ga., as an alternate route for operating convenience only, serving no intermediate points: From junction Georgia Highways 12 and 142 over Georgia Highway 142 to Willard, Ga., and thence over Georgia Highway 16 to Eatonton, and return over the same route; (3) between junction Georgia Highways 142 and 11, approximately 11 miles southeast of Covington, Ga., and Macon, Ga., serving all intermediate points: From junction Georgia Highways 142 and 11 over Georgia Highway 11 to Gray, Ga., thence over U.S. Highway 129 to Macon, and return over the same route; (4) between Macon, Ga., and Milledgeville, Ga., serving no intermediate points: From Macon over Georgia Highway 49 to Milledgeville and return over the same route;

(5) Between Memphis, Tenn., and Jacksonville, Fla., serving the intermediate points in Georgia on Georgia Highway 55, Richland and south thereof, and the intermediate points in Florida and Georgia on U.S. Highways 82 and 23, and serving the intermediate points of Tupelo, Miss., and Columbus, Ga., as points of joinder only: From Memphis over U.S. Highway 78 to Birmingham, Ala., thence over U.S. Highway 280 to Richland, Ga., thence over Georgia Highway 55 to Dawson, Ga., thence over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 23 to Jacksonville and return over the same route; (6) between Tupelo, Miss., and Pensacola, Fla., serving the intermediate points of Perdue Hill and Frisco City, Ala., as points of joinder only, serving Tupelo as a point of joinder only, and serving all points within 15 miles of Pensacola: From Tupelo over U.S. Highway 45 to Columbus, Miss., thence over Mississippi Highway 69 to the Mississippi-Alabama State line, thence over Alabama Highway 14 to Eutaw, Ala., thence over U.S. Highway 43 to Grove Hill, Ala., thence over U.S. Highway 84 to Junction Alabama Highway 21, thence over Alabama Highway 21 to the Alabama-Florida State line, thence over Florida Highway 97 to Pensacola and return over the same route; (7) between Columbus, Ga., and Savannah, Ga., serving the intermediate point of Macon, Ga., and serving Columbus, Ga., as a point of joinder only: From Columbus over U.S. Highway 80 to Savannah and return over the same route;

(8) Between Savannah, Ga., and Marianna, Fla., serving all intermediate points and the off-route points of Attapulgus and Clyattville, Ga.: From Savannah over U.S. Highway 17 to junction U.S. Highway 82 near Midway, Ga., thence over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 84 to Donalsonville, Ga., thence over Georgia Highway 91 to the Georgia-Florida State line, thence over Florida Highway 2 to junction Florida Highway 165, thence over Florida Highway 165 to junction Florida Highway 71, thence over Florida Highway 71 to Marianna and return over the same route; (9) between Macon, Ga., and Donalsonville, Ga., serving all intermediate points and the off-route point of Warner Robins, Ga.: From Macon over U.S. Highway 41 to Cordele, Ga., thence over Georgia Highway 257 to Albany, Ga., thence over Georgia Highway 91 to Donalsonville, and return over the same route: (10) between Thomasville, Ga., and Tallahassee, Fla., serving all intermediate points: From Thomasville over U.S. Highway 319 to Tallahassee and return over the same route; (11) between junction U.S. Highways 17 and 82 near Midway, Ga., and Jacksonville, Fla., serving all intermediate points and the off-route point of St. Marys, Ga.: From junction U.S. Highways 17 and 82 near Midway over U.S. Highway 17 to Jacksonville and return over the same route; (12) between Brunswick, Ga., and Waycross, Ga., serving no intermediate points: From Brunswick over U.S. Highway 84 to Waycross and return over the same route;

(13) Between Cordele, Ga., and Lake City, Fla., serving all intermediate points: From Cordele over U.S. Highway 41 to Lake City and return over the same route; (14) between Albany, Ga., and Quitman, Ga., serving all intermediate points: From Albany over Georgia Highway 133 to Moultrie, Ga., thence over Georgia Highway 33 to Quitman, and return over the same route; (15) between Albany, Ga., and Thomasville, Ga., serving all intermediate points: From Albany over U.S. Highway 19 to Thomasville, and return over the same route; (16) between Tifton, Ga., and Thomasville, Ga., serving all intermediate points: From Tifton over U.S. Highway 319 to Thomasville, and return over the same route. Alternate routes for operating convenience only: *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), (17) between Atlanta, Ga., and junction U.S. Highways 11 and 80 near Cuba, Ala., in connection with carrier's regular route operations, serving no intermediate points, and serving said junction for purpose of joinder only: From Atlanta over U.S. Highway 78 to Birmingham, Ala., thence over U.S. Highway 11 to junction U.S. Highway 80, and return over the same route; (18) between Atlanta, Ga., and junction U.S. Highway 80 and Interstate Highway 20 near Toomsuba, Miss., in connection with carrier's regular route operations, serving no intermediate points, and serving said junction for purpose of joinder only: From Atlanta over Interstate Highway 20 to junction U.S. Highway 80, and return over the same route;

(19) Between Atlanta, Ga., and junction U.S. Highways 29 and 80 east of Tuskegee, Ala., in connection with carrier's regular route operations, serving no intermediate points, and serving said junction for purpose of joinder only: From Atlanta over U.S. Highway 29 to junction U.S. Highway 80, and return over the same route; (20) between Atlanta, Ga., and junction Interstate Highway 85 and U.S. Highway 80 at or near Waugh, Ala., in connection with carrier's regular route operations, serving no intermediate points and serving said junction for purpose of joinder only: From Atlanta over Interstate Highway 85 to junction U.S. Highway 80, and return over the same route; (21) between junction U.S. Highways 80 and 31 at or near Montgomery, Ala., and junction U.S. Highways 90 and 31 east of Mobile, Ala., in connection with carrier's regular route operations, serving no intermediate points, and serving said junctions for purpose of joinder only: From junction U.S. Highways 80 and 31 over U.S. Highway 31 to junction U.S. Highway 90, and return over the same route; (22) between junction U.S. Highway 80 and Interstate Highway 65 at or near Montgomery, Ala., and junction Interstate Highway 65 and U.S. Highway 90 at or near Mobile, Ala., in connection with carrier's regular route operations, serving no intermediate points, and serving said junctions for purpose of joinder only: From junction U.S. Highway 80 and Interstate Highway 65 over Interstate Highway 65 to junction U.S. Highway 90, and return over the same route;

(23) Between junction U.S. Highway 31 and Alabama Highway 41 at or near Brewton, Ala., and junction Florida Highway 87 and U.S. Highway 90 at or near Milton, Fla., in connection with carrier's regular route operations, serving no intermediate points, and serving said junctions for purpose of joinder only: From junction U.S. Highway 31 and Alabama Highway 41 over Alabama Highway 41 to the Alabama-Florida State line, and thence over Florida Highway 87 to junction U.S. Highway 90, and return over the same route, and (24) serving Pensacola, Fla., and points within 15 miles thereof, in connection with applicant's existing regular routes: Between New Orleans, La., and Jacksonville, Fla., over U.S. Highway 90. NOTE: The purpose of this application is to remove restrictions that presently exist on the routes set forth above. Applicant is presently authorized to serve all routes named. However, operations are restricted in such a manner as to prohibit the most efficient and economical method of service. Specifically, service at points authorized on routes 1 through 4 is restricted to traffic moving to, from, or

through Monroe, New Orleans, and Baton Rouge, La., and Memphis, Tenn., and against the transportation of traffic moving between Little Rock, Ark., and Memphis, Tenn., and their respective commercial zones as defined by the Commission, on the one hand, and, on the other, Atlanta, Ga., and its commercial zone, as defined by the Commission. Service at points authorized on routes 5 through 23 is restricted to traffic moving to, from, or through Memphis, Tenn., or Monroe, New Orleans, or Baton Rouge, La. As to route 24, applicant may presently serve Pensacola and points within 15 miles thereof in connection with its route between New Orleans, La., and Jacksonville, Fla., but traffic handled to and from Pensacola and points within 15 miles thereof must move through New Orleans, La. If a hearing is deemed necessary, applicant requests the initial hearing be held at Atlanta, Ga., and subsequent hearing at a point suitable to the examiner.

No. MC 33970 (Sub-No. 13) filed July 3, 1972. Applicant: GEORGE HILDERBRANDT, INC., R.F.D. No. 2, Hudson, N.Y. 12534. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from the city of Kingston, Ulster County, N.Y., to points in Connecticut, Massachusetts, New Jersey, Pennsylvania, and New York City, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 35396 (Sub-No. 38) filed July 3, 1972. Applicant: ARNOLD LIGON TRUCK LINE, INC., 3047 Lonyo Road, Detroit, MI 48209. Applicant's representative: Robert H. Kinker, Box 464, 711 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Henderson, Ky., and Glasgow, Ky., serving no intermediate points except as otherwise authorized, from Henderson over U.S. Highway 60 to Owensboro, Ky., thence over U.S. Highway 231 to Bowling Green, Ky., thence over U.S. Highway 68 to Glasgow and return over the same route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Bowling Green or Louisville, Ky., or Nashville, Tenn.

No. MC 40025 (Sub-No. 7), filed June 29, 1972. Applicant: DUST MOTOR SERVICE OF INDIANA, INC., Riley and Dickey Road, East Chicago, Ind. 46312. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from East Chicago, Ind., to points in Boone, McHenry, and Winnebago Counties, Ill., and return shipments, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 41136 (Sub-No. 23), filed July 10, 1972. Applicant: FLEET CARRIER CORPORATION, 586 South Boulevard, East, Pontiac, MI 48053. Applicant's representative: Walter N. Bieneman, Suite 1700—1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, truck-tractors, buses, motorhomes, chassis, and other automotive vehicles* (except passenger automobiles, and parts and accessories for, and moving in the same shipment with the vehicles to be transported), in subsequent or secondary movements in driveaway and truckaway service, between all points in the United States (except Alaska and Hawaii). Restriction: Service shall be restricted to vehicles originally manufactured at and shipped from the sites of the plants of General Motors Corp. in Pontiac, Mich. NOTE: Applicant presently holds secondary driveaway authority on commercial automotive vehicles, trucks, buses, trailers, and chassis between all points in the United States (except those in Maine, Oregon, Washington, Alaska, and Hawaii). It also holds secondary driveaway authority on automobiles, trucks, trailers, chassis, and other automotive vehicles between points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. The purpose of this application is to obtain corresponding secondary authority in truckaway service with driveaway authority and to eliminate any question concerning the transportation of motorhomes manufactured by General Motors Corp. Any duplicating authority shall create only one operating right. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 41432 (Sub-No. 127), filed July 10, 1972. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207. Applicant's representative: W. P. Furrh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from points in Morris County, Tex., to points in Alabama, Arizona, Arkansas, California, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Utah, Washington, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 41706 (Sub-No. 16), filed July 14, 1972. Applicant: TOSE, INC., 64 West Fourth Street, Bridgeport, PA 19405. Applicant's representative: Anthony C. Vance, 1111 E Street NW., Suite 501, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Brewster, N.Y., and Hartford, Conn., from Brewster over Interstate Highway 84, via Danbury and Waterbury, Conn., to Hartford, serving all intermediate points. NOTE: The purpose of this application is to procure regular route, general commodity authority over the requested route because it will result in a needed service and produce operating economies and efficiencies. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 56409 (Sub-No. 7), filed June 26, 1972. Applicant: MAJOR TRANSPORT, INC., Box 203, Highway 135 and Airport Road, Palmyra, WI 53156. Applicant's representative: David V. Purcell, 1902 Marine Plaza, 111 East Wisconsin Avenue, Milwaukee, WI 53202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Food processing equipment and machinery, and accessories, parts, materials and supplies therefor*, from Whitewater, Wis., to points in the United States (except Alaska and Hawaii); and (2) *feed, feed ingredients, and feed supplements*, in bulk, from points in that part of Illinois south of U.S. Highway 30 to points in Jefferson and Waukesha Counties, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 57315 (Sub-No. 21), filed July 10, 1972. Applicant: TRI-STATE TRANSPORT, INC., 91 Heard Street, Chelsea, MA 02150. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and dairy products* (except liquid commodities in bulk) as described in sections A and B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Boston, Mass.,

to points in Connecticut. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 61825 (Sub-No. 51), filed July 17, 1972. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Applicant's representative: George S. Hales, Post Office Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 76266 (Sub-No. 122), filed July 5, 1972. Applicant: ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul, MN 55114. Applicant's representative: Robert R. Redmon, 2001 Massachusetts Avenue, Washington, DC 20036. 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 Manchester, Mo., as an off-route point in connection with applicant's regular route operations to and from St. Louis, Mo. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 82063 (Sub-No. 38), filed July 6, 1972. Applicant: KLIPSCH HAULING CO., a Corporation, 119 East Loughborough, St. Louis, MO 63111. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur Hexafluoride*, in bulk, in shipper-owned trailers, from Metropolis, Ill., to points in Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 82841 (Sub-No. 94), filed May 5, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connectors, and accessories* (except iron and steel pipe), from Springfield, Ill., to points in Missouri, Oregon, Washington, Nebraska, South Dakota, Kansas, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at (1) Cincinnati, Ohio, (2) Indianapolis, Ind., (3) Chicago, Ill.

No. MC 85835 (Sub-No. 94), filed July 5, 1972. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, TX 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, pipe fittings, and pipe accessories*, in straight or mixed truckloads, from Lone Star, Tex., and points within 5 miles thereof, to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 87720 (Sub-No. 131), filed July 10, 1972. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household and industrial cleaning products and water purifying products*, from plantsite and other facilities of Purex Corp., Ltd., St. Louis, Mo., to points in North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, Indiana, Illinois, Missouri, Iowa, Nebraska, Kansas, Colorado (except the counties of Mesa, Delta, and Montrose), Wyoming (except the counties of Yellowstone National Park, Big Horn, Sheridan, Johnson, Campbell, Crook, Lincoln, Uinta, and Sweetwater), Kentucky (except the counties of Lewis, Fleming, Greenup, Boyd, Bath, Rowan, Carter, Elliott, Lawrence, Menifee, Wolfe, Morgan, Johnson, Martin, Magoffin, Floyd, Pike, Breathitt, Knott, Perry, Leslie, Harlan and Letcher), Tennessee (counties of Lake, Obion, Weakley, Henry, Benton, Carroll, Gibson, Dyer, Lauderdale, Tipton, Crockett, Haywood, Madison, Henderson, Decatur, Hardin, Chester, McNairy, Hardeman, Fayette and Shelby), Mississippi (counties of Tunica, De Soto, Tate, Marshall, Benton, Tippah, Alcorn, Prentiss, Tishomingo, Coahoma, Quitman, Panola, Lafayette, Union, Pontotoc, Lee, Itawamba, Monroe, Clay, Lowndes, Oktibbeha, Choctaw, Webster, Chickasaw, Calhoun, Yalobusha, Grenada, Montgomery, Carroll, Leflore, Tallahatchie, Sunflower, Bolivar and Washington), Arkansas (counties of Boone, Marion, Baxter, Fulton, Izard, Stone, Independence, Sharp, Lawrence, Randolph, Clay, Greene, Craighead, Mississippi, Poinsett, Cross, Crittenden, St. Francis, Lee, Phillips, Monroe, Woodruff, White, Jackson and Cleburne), and (2) *Materials and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, from the above destination territory to St. Louis, Mo., under contract with Purex Corp., Ltd. NOTE: Applicant has a pending common carrier application under MC 135684. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 127), filed July 10, 1972. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Val M. Huggins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing slabs, tile and panels and related materials, parts, supplies, and accessories*, from Cornell, Wis., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that tacking is possible with its Sub-9, but tacking is not intended. Such tacking would allow service from points in Minnesota to destination States herein. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 102616 (Sub-No. 872), filed June 29, 1972. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, OH 44319. Applicant's representative: Carl E. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Midland, Bay City, and Ludington, Mich., to points in Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Wisconsin, New Mexico, North Dakota, South Dakota, Wyoming, and points in Colorado on and east of U.S. Highway 85. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 103498 (Sub-No. 25), filed July 3, 1972. Applicant: W. D. SMITH TRUCK LINES, INC., Post Office Drawer C, DeQueen, AR 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, valves, fittings,*

compound joint sealer, bonding cement and accessories and tools used in the installation of such products, from Columbia, Miss., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or Jackson, Miss.

No. MC 106398 (Sub-No. 614), filed July 3, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Knox County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Knoxville, or Nashville, Tenn.

No. MC 106398 (Sub-No. 615) filed July 5, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Plymouth County, Mass., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Providence, R.I.

No. MC 106398 (Sub-No. 616) filed July 5, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in White County, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 106398 (Sub-No. 617), filed July 5, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from Madison Parish, La., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 106679 (Sub-No. 11), filed July 10, 1972. Applicant: WHEELER FREIGHTWAYS, 3375 South Polaris Avenue, Las Vegas, NV 89102. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum plaster, gypsum wallboard, gypsum lath*, from points in Clark County, Nev., to points in Santa Barbara, Ventura, Mono, Inyo, San Diego, Imperial, Kern, and Fresno Counties, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Las Vegas, Nev.

No. MC 106775 (Sub-No. 32), filed July 5, 1972. Applicant: ATLAS TRUCK LINE, INC., Post Office Box 9848, Houston, TX 77015. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and the distribution of natural gas and petroleum, and their products and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except in connection with main pipelines, between points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, on the one hand, and, on the other, points in Lea and Eddy Counties, N. Mex. NOTE: Applicant states that applicant can tack at points in Oklahoma to serve points in Kansas and portions of North and South Dakota; and at points in Texas to serve points in Colorado, Wyoming, Utah, and Montana. Applicant further states that it presently holds authority to provide the requested service by tacking two separate grants of authority at points in Texas within 250 miles of Fort Worth, including Fort Worth. The purpose of this application is to eliminate this gateway. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 107012 (Sub-No. 153) filed July 7, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Terry G. Fewell, Post Office Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stoves, ranges and ovens*, crated or cartoned, from the plantsite and warehouse facilities of Roper Corp., Range Division, at or near Lafayette, Ga., to points in the United States (except Alaska, Hawaii and Georgia). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Chicago, Ill.

No. MC 107012 (Sub-No. 154) filed July 7, 1972. Applicant NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum windows and doors*, assembled and knocked down and straight length extrusions, from Kentland, Ind. to points in the United States including Alaska but excluding Hawaii. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind. or Washington, D.C.

No. MC 107064 (Sub-No. 88), filed July 5, 1972. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, 2808 Fairmount Street, Dallas, TX 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain products and grain*, when moving at the same time and in the same vehicle with grain products, from points in Texas on and west of U.S. Highway 83 to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107295 (Sub-No. 622), filed July 3, 1972. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Mack Stephenson, Post Office Box 146, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel tanks*, knocked down, and *steel sheets, plates, angles, and structures*, from Parsons, Kans., to points in the United States (except Alaska and Hawaii), and (2) *iron and steel and fiberglass articles*, from the plantsite and facilities of McElroy Metal Mill, Inc., located at or near Shreveport-Bossier City, La., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests

it be held at Dallas, Tex., or New Orleans, La.

No. MC 107295 (Sub-No. 623), filed July 3, 1972. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 855), filed June 29, 1972. Applicant: RUAN TRANSPORT CORPORATION, Third at Keosauqua Way, Post Office Box 855, Des Moines, IA 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid oxygen, liquid nitrogen, liquid argon, and compressed gases*, from Kansas City and Neosha, Mo.; East Alton, Granite City and Chicago, Ill.; Ashland, Ky.; Middleton and Warren, Ohio; and Mount Vernon, Ind., to points in the continental United States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 108053 (Sub-No. 117), filed July 11, 1972. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., Post Office Box 129, Fremont, NE 68025. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the plantsites of Farmland Foods, Inc., at Carroll, Denison, and Iowa Falls, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108341 (Sub-No. 31), filed July 7, 1972. Applicant: MOSS TRUCKING COMPANY, INC., Post Office Box 8409, Charlotte, NC 23208. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108676 (Sub-No. 48), filed June 30, 1972. Applicant: A. J. METLER HAULING AND RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. Applicant's representative: Carl U. Hurst, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite of Guardian Industries Corp., at Monroe County, Mich., to points in Minnesota, Iowa, Missouri, Oklahoma, Texas, and all States east thereof. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 109397 (Sub-No. 277), filed June 29, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, Post Office Box 113 (Business Route I-44 East), Joplin, MO 64801. Applicant's representative: Robert J. Mildfelt, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rapid transit vehicles* and (2) *Rapid transit vehicles' parts, machinery, materials, and supplies* used in the manufacture, operation, and maintenance thereof, between (1) points in California, Alabama, Georgia, Tennessee, Ohio, and Texas and (2) points in California, Alabama, Georgia, Tennessee, Ohio, and Texas on the one hand, and all points in the United States on the other (except Alaska and Hawaii). Restricted in (1) and (2) to traffic moving to or from the facilities of Rohr Industries. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at San Diego, Calif., Phoenix, Ariz., or Dallas, Tex.

No. MC 109397 (Sub-No. 278), filed July 13, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, Post Office Box 113 (Business Route I-44 East), Joplin, MO 64801. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproducts materials, radioactive materials, related reactor equipment, component parts, and associated materials*, between Barnwell County, S.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charleston, S.C., St. Louis, Mo., or Washington, D.C.

No. MC 110420 (Sub-No. 662) filed July 10, 1972. Applicant: QUALITY CARRIERS INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk, in tank vehicles, from Elg Grove Village, Ill., to points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, Tennessee, West Virginia, and Wisconsin. NOTE: Common control may be involved. Applicant states that it does not intend to tack the requested authority with its existing authority. Applicant requests that concurrently with the granting of the authority sought, that the Commission restrictively amend the authority of Beaver Transport Co. MC 119767, against the transportation of corn products and blends, in bulk, in tank vehicles, from Elk Grove Village, Ill., to points in Wisconsin. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No MC 110878 (Sub-No. 33) filed July 7, 1972. Applicant: ARGO TRUCKING COMPANY, a corporation, Lower Heard Street, Elberton, Ga. 30635. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Abrasives*, from Eustis, Fla., to points in Elbert and Pickens County, Ga. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it

be held at Atlanta, Ga., or Washington, D.C.

No. MC 111397 (Sub-No. 100), filed July 19, 1972. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, KY 42001. Applicant's representative: H. S. Melton, Jr., Box 1407, Paducah, KY 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Metropolis, Ill., to the U.S. Corps of Engineers, Smithland Locks Project on the Ohio River at Dog Island, Ky. Restrictions: The movement is restricted to the transportation of shipments having a prior rail or barge movement. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 111424 (Sub-No. 4), filed July 5, 1972. Applicant: SHIPPERS TRUCK SERVICE, INC., 1 Scout Avenue, South Kearny, NJ 07032. Applicant's representative: Frank B. Hand, Jr., 740 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, sold in, used by, or distributed from wholesale or retail business houses, including shipments moving to or from such business houses or places including shipments moving to or from such business houses or places of manufacture, distribution or processing thereof, between New York, N.Y., and points in Sussex, Bergen, Morris, Somerset, Essex, Hudson, Passaic, Middlesex, Monmouth, Mercer, Hunterdon, and Union Counties, N.J., on the one hand, and, on the other, points in the United States on and east of a line extending from Lake Superior along the western boundary of Wisconsin to the Mississippi River and thence along the east bank of the Mississippi to the Gulf of Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 111545 (Sub-No. 172), filed July 11, 1972. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Marietta, GA 30062. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic and metal working machinery and equipment;* (2) *parts, attachments, and accessories for plastic and metal working machinery and equipment;* and (3) *material, equipment and supplies for manufacturing and assembly of commodities described in (1) and (2) above,* between Richmond, Ind., on the one hand, and, on the other, points in the United States located in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., Chicago, Ill., or Washington, D.C.

No. MC 111729 (Sub-No. 353) filed July 6, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds, and advertising materials* moving therewith, (a) between West Bridgewater (Plymouth County), Mass., on the one hand, and, on the other, Ellsworth, Maine; Ithaca, Kingston and Utica, N.Y., and Bennington, Vt.; (b) between Reading, Pa., on the one hand, and, on the other, Parsippany, N.J., and New York, N.Y.; (c) between Pottsville, Pa., and Perth Amboy, N.J.; (d) between Elk Grove Village, Ill., on the one hand, and, on the other, points in Indiana, Iowa and Wisconsin; (e) between Milwaukee, Wis., on the one hand, and, on the other, Appleton, Beaver Dam, Beloit, Burlington, Eau Claire, Fond du Lac, Green Bay, Janesville, La Crosse, Madison, Manitowac, Marinette, Marshfield, Oshkosh, Sheboygan, Watertown, and Wausau, Wis., restricted to traffic having an immediately prior or subsequent movement by air, and (f) between Houston and Beaumont, Tex., on the one hand, and, on the other, points in Louisiana; and (2) *computer parts, business machine parts, assemblies and supplies pertaining thereto,* restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any 1 day, from Washington, D.C., to Baltimore, Cumberland, and Hagerstown, Md., and Hampton, Norfolk, and Richmond, Va. NOTE: Applicant states that a portion of the requested authority could be tacked with certain existing authorities. However, applicant does not, at present, have any intentions to tack. Applicant holds contract carrier authority under MC 112750 and Subs thereunder, therefore, dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 112304 (Sub-No. 57), filed July 5, 1972. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, and *contractor's machinery, equipment, materials and supplies* (except commodities in bulk), between Indiana Oaks, Ill., and points in Indiana, Michigan, Ohio, Wisconsin, Kentucky, and Illinois. NOTE: Applicant states that tacking possibilities exist with applicant's Sub Nos. 1, 25, and 27 authorities, however, tacking is not intended at this time. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 112989 (Sub-No. 25), filed July 3, 1972. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 668, Coos Bay, OR 97420. Applicant's representative: Jerry R. Woods, 100 Southwest Market Street, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are manufactured or distributed by manufacturers or converters of paper and paper products and (2) *Materials and supplies*, used in the manufacture and distribution of the commodities described in (1) above, between plantsites and storage facilities of Mensha Corp. at Tacoma, Wash., points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 113362 (Sub-No. 242), filed July 6, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Description of Motor Carrier Certificate*, 61 M.C.C. 209 and 766, from the plantsites of Farmland Foods, Inc., at Carroll, Denison, and Iowa Falls, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restrictions: Restricted to traffic originating at the above-named origin points and destined to the above-named destination States. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113459 (Sub-No. 73), filed July 5, 1972. Applicant: H. J. JEFFRIES TRUCK LINE, INC., Post Office Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Pipe, tubing, pipe fittings, and pipe accessories,* in straight or mixed loads, from Lone Star, Tex., and points within 5 miles thereof, to points in Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Montant, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Ohio, South Dakota, Utah, Texas, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 113678 (Sub-No. 464), filed June 22, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Post Office Box 16004, Stockyard Station, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pet foods, pet supplies, pet accessories and tonics, animal feed and supplements,* from the plant sites and storage facilities utilized by Hartz Mountain Pet Foods, Inc., at or near Bloomfield, Harrison, or Jersey City, N.J., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the named locations. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., New York, N.Y., or Denver, Colo.

No. MC 113908 (Sub-No. 228), filed July 3, 1972. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Post Office Box 3180, Glenstone Station, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Vinegar, vinegar stock, and apple concentrate,* in bulk, in tank vehicles, from North Rose, N.Y., to St. Paul, Minn., Marionville and Kansas City, Mo., Memphis, Tenn., Paris, Tex., Rogers, Ark., Hutchinson, Kans., and Fremont, Mich. (Restricted against the transportation of vinegars and vinegar stock to Marionville and Kansas City, Mo., Rogers, Ark., and Hutchinson, Kans.) NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113908 (Sub-No. 229), filed July 3, 1972. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Post Office Box 3180, Glenstone Station, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes transporting: *Liquid admixtures,* in bulk, in tank vehicles, from Springfield, Mo., to points in New Mexico and Wyoming. *Refused and rejected shipments* on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 114045 (Sub-No. 368), filed July 7, 1972. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, TX 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Drugs and medicines;* and (2) *rubber or plastic articles and advertising material* when moving in mixed shipment with commodities in (1) above, from Malvern, Pa., to points in Texas. Restriction: Commodities named in (1) and (2) above are restricted to transportation in vehicles equipped with mechanical refrigeration, and commodities in bulk and in tank vehicles. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held as Philadelphia, Pa., or Chicago, Ill.

No. MC 114457 (Sub-No. 132), filed July 6, 1972. Applicant: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery and food business houses, from storage facilities of United Facilities, Inc., at or near Galesburg, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115311 (Sub-No. 137), filed July 3, 1972. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniel, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and materials* used in the distribution, installation, and application of such commodities, from Brunswick, Ga., and Marietta, Ga., to points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 114457 (Sub-No. 131), filed July 5, 1972. Applicant: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs and inedible commodities* produced by meat and food processing houses (except commodities in bulk and hides), from the plant and warehouse sites of (1) Tony Downs Foods Co., at St. James and Madelia, Minn.; (2) Butterfield Foods Co. at Butterfield, Minn.; and (3) Wadco Foods, Inc., at Estherville, Iowa, to points in Connecticut, Delaware, District of Columbus, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, West Virginia, Virginia, Wisconsin, Iowa, Kansas, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant does not seek duplicating authority and is willing to restrict against it. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn. or Chicago, Ill.

No. MC 115379 (Sub-No. 41), filed July 10, 1972. Applicant: JOHN D. BOHR, INC., Post Office Box 217, Annville, PA 17003. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Feed ingredients,* in bulk, from points in Illinois, Indiana, Ohio, Virginia, and North Carolina to points in Pennsylvania, Delaware, Maryland, New Jersey, and New York. NOTE: Applicant states that: (1) Tacking is possible on lime and limestone products (except liquid lime and building stone) originating at Illinois, Indiana, and Ohio at points in Dauphin and Lebanon Counties, Pa., to points in Virginia and the District of Columbia in accordance with authority at MC 115379, Sheet 1; (2) tacking is possible on fish oil, fish solubles, fish scrap and fish meal, in bulk, if such originates at Ohio, Indiana, Illinois, Virginia, and North Carolina with Applicant's authority at Sheet 4 over Lewes, Del., to Romney, W. Va., and Cartersville, Ga., except on traffic originating at Virginia and North Carolina points, in which case circuity would be too great; (3) tacking would be possible at Sheet 5 on dry meat scrap and other dry feed ingredients, with certain exceptions, on traffic originating in Illinois, Ohio, and Indiana over Tuckerton and Fort Monmouth, N.J., to Accomack and

Northampton Counties, Va.; and also on dry meat scrap at any point in New Jersey to Accomack and Northampton Counties, Va. (see Sheet 5); and by tacking with the authority at Sheet 6 at Adams, Berks, Carbon, Chester, Cumberland, Dauphin, Delaware, Lancaster, Lebanon, Lehigh (except Allentown, Pa.), Luzerne, Monroe, Montgomery, Northampton (except Nazereth), Philadelphia, Schuylkill, and York Counties, Pa., to Accomack and Northampton Counties, Va. Similarly, on dry soybean meal and dry soybean hulls, by tacking with the authority at Sheet 6 at either Sussex County, Del., or Wicomico County, Md., so as to serve Accomack and Northampton Counties, Va.

(4) Tacking would also be possible with existing authority at Sheet 7 on animal and poultry feed ingredients over Bucks County, Pa., to Accomack and Northampton Counties, Va.; (5) tacking would be possible on limestone originating at Ohio, Indiana, and Illinois over the plantsite of National Gypsum Co. in West Manchester Township, York County to Accomack and Northampton Counties, Va., under applicant's authority at Sub 30; (6) tacking would be possible in connection with Applicant's authority at Sub 33 on poultry meal originating at Virginia and North Carolina points over Fredericksburg, Bird-in-Hand, and Elizabethville, Pa., to Battle Creek, Mich.; (7) in connection with applicant's authority at Sub 35, Sheet 2, tacking would be possible on poultry meal originating at Virginia and North Carolina points over Lancaster, Dauphin, and Lebanon Counties, Pa., to Marion, Ohio, and (8) tacking would be possible with Applicant's Sub 37 authority on poultry byproduct meal originating in Virginia and North Carolina over Delaware or the Del-Mar-Va Peninsula to Battle Creek, Mich. The balance of the tacking possibilities are eliminated since direct authority is sought and tacking would not have to be relied upon. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 115931 (Sub-No. 25), filed July 2, 1972. Applicant: BEE LINE TRANSPORTATION, INC., Berwald Road, Box 925, Baker, MT 59313. Applicant's representative: Robert S. Loveless, Box 925, Baker, MT. 59313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements*, from Richardton, N. Dak., to points in Iowa, Arkansas, Mississippi, Louisiana, Oklahoma, Texas, New Mexico, Arizona, Minnesota, Nebraska, Wisconsin, Illinois, Missouri, South Dakota, Kansas, Montana, Wyoming, Colorado, Idaho, Utah, Washington, Oregon, Nevada, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 116282 (Sub-No. 24), filed July 3, 1972. Applicant: NEIL'S BAKERY PRODUCTS TRANSPORTATION CO., a corporation, 246 Broad Street, Auburn, ME 04210. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from the port of entry on the international boundary line between the United States and Canada located at or near Houlton, Maine to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, under contract with McDonald Sales, Inc., and Karnes Kitchens. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 116544 (Sub-No. 130) (Amendment) filed May 15, 1972, published in the FEDERAL REGISTER issue of June 15, 1972, and republished in part, as amended, this issue. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Robert Wilson (same address as applicant). NOTE: The purpose of this partial republication is to include points in South Carolina and Virginia as destination States. The rest of the application remains as previously published.

No. MC 116645 (Sub-No. 15) filed July 5, 1972. Applicant: DAVIS TRANSPORT, INC., Gilcrest, Colo. 80623. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed supplements*, in bulk, in tank vehicles, from points in Weld County, Colo. (except Lucerne, Colo.), to points in Kansas, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 116710 (Sub-No. 16), filed June 29, 1972. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., Post Office Box 1634, Hattiesburg, MS 39401. Applicant's representative: Leland D. Smith, Navasota, Tex. 77868. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sulphur dioxide*, in bulk, in tank vehicles, from Baton Rouge, La., to Canton, N.C., for the account of Stauffer Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or New Orleans, La.

No. MC 117848 (Sub-No. 5), filed July 10, 1972. Applicant: FRED CARPENTIER, 1415 Luzerne Street, Scranton, PA 18504. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to points in New York, New Jersey, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 119384 (Sub-No. 19), filed July 10, 1972. Applicant: MORTON TRUCK LINES, INC., Post Office Box 96, 101 West Willis Avenue, Perry, IA 50220. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsites of and/or storage facilities utilized by Tony Downs Food Co., at or near St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Iowa, South Dakota, North Dakota, Minnesota, Wisconsin, Nebraska, Kansas, Missouri, Indiana, Illinois, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 119399 (Sub-No. 36), filed July 5, 1972. Applicant: CONTRACT FREIGHTERS, INC., Post Office Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers, and closures therefor, paper containers*, when moving in mixed shipments with the above-described commodities, from Ada, Muskogee, Sand Springs, and Sapulpa, Okla., to points in North Dakota and South Dakota; (2) *plastic containers and closures therefor*, when moving in mixed shipments with glass containers, from Muskogee, Sand Springs, and Sapulpa, Okla., to points in Arkansas, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin; and (3) *insulating and sound control materials and articles* used in the installation thereof when shipped therewith, from Houston, Tex., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Dallas or Houston, Tex.

No. MC 119774 (Sub-No. 50), filed July 7, 1972. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX), and JAMES E. MANKINS, Sr., a Partnership, doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270

Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products, composition boards, insulating materials, roofing and roofing materials, urethane and urethane products, and related materials, supplies, and accessories incidental thereto*, from the plantsite of the Celotex Corp. located in Marrero, La., to points in Arkansas, Kansas, Missouri, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or New Orleans or Shreveport, La.

No. MC 119774 (Sub-No. 51), filed July 5, 1972. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX), and JAMES E. MANKINS, SR., a Partnership, doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, tubing, conduit, valves and fittings, compounds, joint sealer, bonding, cement, primer, coating, thinner, and hand tools* used in the installation of such products (except commodities in bulk, in tank vehicles), from Burns Flat, Okla., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that applicant could tack with its Sub 16; possibility exists whereby applicant could tack Mercer and Earth Drilling subs; if authorized move by tacking occurs, applicant intends to tack. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Tulsa, Okla., or Dallas, Tex.

No. MC 119774 (Sub-No. 52), filed July 5, 1972. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX), and JAMES E. MANKINS, SR., a partnership, doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Snowflake, Cutter, and Williams, Ariz., to points in Arkansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla., or Phoenix, Ariz.

No. MC 119774 (Sub-No. 53), filed July 5, 1972. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX), and JAMES E. MANKINS, SR., doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Panguitch, Utah, Fredonia, Ariz., and Payson, Ariz., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, Wisconsin, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla., or Phoenix, Ariz.

No. MC 119864 (Sub-No. 50), filed July 3, 1972. Applicant: HOFER MOTOR TRANSPORTATION CO., a Corporation, 26740 Eckel Road, Perrysburg, OH 43551. Applicant's representative: Dale K. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen or commodities in bulk) *and matches*, from the plantsite and storage facilities of Hunt-Wesson Foods, Inc., at Indianapolis, Ind., to points in Indiana, Ohio, Kentucky, Missouri, and points in Illinois on and south of U.S. Highway 24. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 120800 (Sub-No. 47), filed July 7, 1972. Applicant: CAPITOL TRUCK LINES, INC., 2500 North Alameda Street, Compton, CA 90222. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon monoxide*, in bulk, from the plantsite of Air Products and Chemicals, Inc., at La Porte, Tex., to Albuquerque, N. Mex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 123048 (Sub-No. 221), filed July 3, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ventilating and heat transfer equipment* and (2) *Materials, equipment and supplies* used or useful in the manufacture, sale and/or distribution of ventilating and heat transfer equipment, between points in Appanoose County, Iowa, Racine County, Wis., and Coles County, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123048 (Sub-No. 222), filed July 3, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, fiberboard, pulpboard, adhesive, cement, plastic plate, fiberglass plate, fiberglass sheets, nails, eave filler, strips, wood mouldings, aluminum flashings, mantels, shelves, brackets, beams (wood), trim, and hardware* for above, from Farmingdale and Deer Park, N.Y., and Lodi, N.J., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123048 (Sub-No. 223), filed July 7, 1972. Applicant: DIAMOND TRANSPORTATION, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*; (2) *equipment* designed for use in conjunction with tractors; (3) *attachments* for the above-described commodities; (4) *parts* of the above-described commodities; and (5) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture, sale, and distribution of the commodities described in (1) through (4) above, between Fargo, N. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates tacking is not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., Chicago, Ill., or Washington, D.C.

No. MC 124069 (Sub-No. 13), filed July 10, 1972. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Applicant's representative: William J. Hirsch, Suite 444, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, between those ports of entry located on the Niagara River between the

United States and Canada at Niagara Falls, and Lewiston, N.Y., on the one hand, and, on the other, points in New York, and those in Cameron, Crawford, Elk, Erie, Forest, McKean, Mercer, Potter, Tioga, Venango, and Warren Counties, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 124078 (Sub-No. 526), filed July 10, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. 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: *Corn and corn products* (except liquid corn products) in bulk, in tank vehicles, from the plant and warehouse facilities of Illinois Cereal Mills, Inc., at Paris, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124211 (Sub-No. 219), filed July 5, 1972. Applicant: HILT TRUCK LINE, INC., Post Office Box 988 D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) Irregular routes: *Nonfrozen foodstuffs and materials, equipment, and supplies* used in the manufacture and distribution of nonfrozen foodstuffs, between Harrisburg, Pa., and Jackson, Minn., and, between Jackson, Minn., and points in California and (B) Regular routes: *Paint, paint materials, groceries, and grocery store supplies*, serving Beaver Crossing and Douglas, Nebr., and Axtell, Beattie, Kimeo, and Sabetha, Kans., as off-route points in connection with the carrier's presently authorized regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 124328 (Sub-No. 51), filed July 14, 1972. Applicant: BRINK'S INCORPORATED, 234 East 24th Street, Chicago, IL 60616. Applicant's representative: F. D. Partlan, 5725 East River Road, Suite 650, Chicago, IL 60631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bars, silver billets, silver bullion, silver ingots, and silver granules*, between Herculaneum, Mo., Chicago, Ill., and Perth Amboy, N.J., under contract with St. Joe Minerals Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124554 (Sub-No. 11), filed July 14, 1972. Applicant: HILARD F. LAND AND MEDARD SCHMITZ (VIOLA LING, JOHN F. LANG, AND FRANK LANG, TRUSTEES), a partnership, doing business as LANG CARTAGE, 338 South 17th Street, Milwaukee, WI 53233. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale drug business houses, from the plantsite and warehouse facilities of McKesson & Robbins Drug Co. at West Allis, Wis., to points in Boone, De Kalb, Du Page, Kane, Lake, McHenry, Ogle, Stephenson, and Winnebago Counties, Ill., under contract with McKesson & Robbins Drug Co., a division of Foremost-McKesson, Inc. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 124964 (Sub-No. 14), filed July 10, 1972. Applicant: JOSEPH M. BOOTH, doing business as J. M. BOOTH TRUCKING, Post Office Box 907, Eustis, FL 32726. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Juices, drinks, concentrates*, not frozen (except in bulk), and (2) *fruit salads* in mixed loads with the commodities in (1) above, from the facilities of Doric Foods Corp. at Mount Dora, Fla., to points in Nebraska, North Dakota, and South Dakota, under contract with Doric Foods Corp., Mount Dora, Fla. NOTE: Applicant has a pending common carrier application under MC 117943. If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Orlando, Fla.

No. MC 125952 (Sub-No. 16), filed July 5, 1972. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 8311 Durango SW., Tacoma, WA 98499. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lubricants* in cans, packages, or barrels (excluding commodities in bulk), from Richmond, Calif., to points in Oregon and Washington, under contract with Lubricants, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 126038 (Sub-No. 9) filed July 3, 1972. Applicant: PENINSULA PRODUCTS, INC., 47 Northeast Middlefield Road, Portland, OR 97211. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden shakes and shingles*, from points in Washington and Oregon, to points in Oregon and California, except between points in Oregon, under a continuing contract with Long-Bell Division, International Paper Co. NOTE: No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 126196 (Sub-No. 8) filed July 3, 1972. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 206 West 11th Street, Redwood Falls, MN 56283. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, dry, from Minneapolis, St. Paul, Maple Wood, Red Rock, Savage, and Pine Bend, Minn., to points in Iowa and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 126313 (Sub-No. 6) filed July 13, 1972. Applicant: CHO-BO, INC., Post Office Box 38, Route Kennedy, St. George's, Beauce County, Quebec, Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos*, from ports of entry on the United States-Canada boundary line located in Maine, New Hampshire, Vermont, and Rouses Point, N.Y., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, and New Jersey. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Augusta, Maine or Boston, Mass.

No. MC 127042 (Sub-No. 96), filed July 5, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98—Leeds Station, Sioux City, IA 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk): (1) From the plantsites of Farmland Foods, Inc., located at or near Carroll, Denison, and Iowa Falls, Iowa, to points in Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin and (2) from the plantsites of Farmland Foods, Inc., located at or near Iowa Falls and Carroll, Iowa, to points in Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. Restriction: Restricted to traffic originating at above-named origins and destined to named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha,

Nebr., Kansas City, Mo., or Minneapolis, Minn.

No. MC 127834 (Sub-No. 76), filed June 29, 1972. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Robert M. Pearce, Post Office Box "E", Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum scrap*, between Madison and Murphysboro, Ill.; Carrollton, Ky.; Covington, Ga.; Florence, Ala.; Columbia, Tenn.; Jackson, Mich.; Shelbina, Mo.; Benton, Ky.; Newbern, Tenn.; North Adams, Mass.; Shelbyville, Ky.; Matteson, Ill.; Jackson and New Johnsonville, Tenn.; Iuka, Miss.; and Lake Charles, La., restricted to traffic moving between the plantsites, storage facilities and warehouse facilities of Consolidated Aluminum Corp. or their subcontractors. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 127834 (Sub-No. 77), filed July 2, 1972. Applicant: CHEROKEE HAULING & RIGGING, INC., 540 Merritt Avenue, Nashville, TN 37203. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and tubing and plastic fittings, parts and accessories*, from the plantsite of Tex-Tube Division of Detroit Steel Corp. at Houston, Tex., to points in Louisiana, Arkansas, Missouri, Illinois, Wisconsin, and all States east thereof, including Washington, D.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127834 (Sub-No. 78), filed July 2, 1972. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit or pipe, plastic; fittings, plastic or iron; couplings, plastic or iron; connections, plastic or other than plastic; valves, other than plastic; hydrants, other than plastic; and materials and supplies* necessary for the installation thereof, from the plantsite and warehouse facilities of the Clow Corp., located at or near Buckhannon, W. Va., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas and (2) *materials, equipment, and supplies* used in the manufacture and processing of articles described in (1) above, from points in the destination States shown above to the plantsite and warehouse facilities of the Clow Corp., located at or near Buckhannon, W. Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 127834 (Sub-No. 79), filed July 5, 1972. Applicant: CHEROKEE HAULING & RIGGING, INC., 540 Merritt Avenue, Nashville, TN 37203. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric controllers, machinery, and instruments*, requiring special equipment or special handling by reason of size or weight, and *parts and attachments therefor*, when moving in connection therewith, from Roanoke and Salem, Va., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Roanoke or Richmond, Va.

No. MC 128273 (Sub-No. 129), filed July 3, 1972. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Harry Ross, 716 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose materials and products, paper and paper products*, and (2) *materials, equipment, and supplies*, used in the production and distribution of the commodities described in (1) above (except such commodities in bulk and commodities which because of size or weight require the use of special equipment), between Cynthiana, Ky., and Patterson, N.C., on the one hand, and, on the other, points in Texas, Louisiana, Mississippi, Oklahoma, Arkansas, Tennessee, Kansas, Missouri, Kentucky, Nebraska, Iowa, Illinois, Indiana, South Dakota, North Dakota, Minnesota, Wisconsin, Michigan, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its exising authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128383 (Sub-No. 17), filed June 29, 1972. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: James W. Patterson, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), having a prior or subsequent movement by air, between John F. Kennedy International Airport and La Guardia Airport, New York, N.Y., and Newark, N.J., on the one hand, and, on the other, points in Adams, Allegheny, Berks, Carbon, Cumberland, Dauphin, Erie, Franklin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Washington, Wyoming, and York Counties, Pa. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Philadelphia, Pa., or Washington, D.C.

No. MC 129510 (Sub-No. 5), filed July 5, 1972. Applicant: CHESTER W. ENGLUND, doing business as: C. W. ENGLUND CO., 740 Old State Road, Salinas, CA 93901. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos cement wallboard and asbestos lumber*, from Nashua, N.H., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (2) *asbestos cement wallboard*, from Billerica, Mass., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (3) *steel sheet, in coils*, from Alliance, Ohio, to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (4) *caulking compounds*, from Cleveland, Ohio, to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (5) *Stone slabs, cast or natural*, from Dayton, Ohio, to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (6) *glass, sheet or plate*, from Detroit, Mich., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (7) *cement asbestos shingles or sheets*, from Waukegan, Ill., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (8) *plastic sheets or plate*, from Joliet, Ill., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif., and (9) *compound, fireproofing or retardant, plain, in drums*, from St. Louis, Mo., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif. The above-proposed authority is restricted to service for the account of Industrial Building Materials, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 129863 (Sub-No. 7), filed July 5, 1972. Applicant: FREDERICK L. BULTMAN, INC., 11144 West Silver Spring Drive, Milwaukee, WI 53225. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 52303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric light bulbs, fluorescent*

tubes and display racks, from the plantsite of General Electric Co., Lamp Division, at Milwaukee, Wis., to Rockford and Freeport, Ill., and returned shipments of commodities named above, on return, under contract with General Electric Co., Lamp Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 133095 (Sub-No. 34), filed June 29, 1972. Applicant: TEXAS CONTINENTAL EXPRESS, INC., Post Office Box 434, Euless, TX 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic articles, kitchenware, laundryware, brushes, combs, mirrors, dresser and/or vanity sets, and toys and display and advertising materials* moving in connection therewith from points in Worcester County, Mass., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract authority under MC 136032, therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133794 (Sub-No. 4) filed July 2, 1972. Applicant: CONVERTERS TRANSPORTATION, INC., Box 351, Garnerville Holding Terminal, Garnerville, NY 10923. Applicant's representative: William P. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Materials and supplies,* used in the dyeing and finishing of piece goods, from points in Morris and Somerset Counties, N.J., Nassau, Orange, Dutchess, and Suffolk Counties, N.Y., New Haven, Conn., and points in Lehigh County, Pa., to the plant of Hull Dye & Print Works, Inc., at Derby, Conn., under contract with Hull Dye & Print Works, Inc., Derby, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 133877 (Sub-No. 1) filed July 3, 1972. Applicant: FRACON TRUCKING CO., INC., 1052 Park Lane, North Franklin Square, L.I., NY 11010. Applicant's representative: John L. Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by a wholesale drug company, from shipper's warehouses at Jamaica and Lindenhurst, N.Y., to points in Connecticut, New Jersey, New York, and points in Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Northampton, Philadelphia, Pike, Schuylkill, Susquehanna, Wayne, and Wyoming Counties, Pa., and (2) *return shipments* of the above-described commodities, from points in Connecticut, New Jersey, New York, and points in Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Northampton, Philadelphia, Pike, Schuylkill, Susquehanna, Wayne, and Wyoming Counties, Pa., to the shipper's warehouses at Jamaica and Lindenhurst, N.Y., under contract with Rogers Wholesalers, Inc. NOTE: Any duplicating authority to be cancelled. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134145 (Sub-No. 28) filed July 10, 1972. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Snow blowers,* two-wheeled, self-propelled, from Omaha, Nebr., to points in the United States (except Alaska and Hawaii), and (2) *parts, materials, supplies and equipment* used in the manufacture of snow blowers, from points in the United States (except Alaska and Hawaii) to Omaha, Nebr., under contract with General Leisure Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 134323 (Sub-No. 24) filed July 13, 1972. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, TX 79105. Applicant's representative: Richard Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Friona, Tex., to points in Illinois, Indiana, and Michigan, under contract with Missouri Beef Packers, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Amarillo, Tex., or Washington, D.C.

No. MC 134477 (Sub-No. 24) filed July 12, 1972. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Paul Schanno (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), restricted to traffic moving on bills of lading issued by Midland Forwarding Corp., Inc., from the terminal and other facilities of Midland Forwarding Corp., Inc., located in East Hartford and Stratford, Conn.; Chicago, Ill.; Baltimore, Md.; Boston, Mass.; St. Louis, Mo.; Elizabeth, N.J.; New York, N.Y., and Philadelphia, Pa., to Dallas, Houston, and San Antonio, Tex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or St. Paul, Minn.

No. MC 134574 (Sub-No. 10), filed July 12, 1972. Applicant: FIGOL DISTRIBUTORS LIMITED, 11041—105th Avenue, Edmonton, AB, Canada. Applicant's representative: Eldon M. Johnson, 105 Montgomery Street, Suite 1100, San Francisco, CA 94104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen prepared foods,* from points in California, to points along the United States-Canadian border in Washington, Idaho, and Montana, restricted to shipments having a destination in the Realm of Canada. NOTE: Applicant holds contract carrier authority under MC 124972 Sub 2, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at (1) San Francisco, Calif., or (2) Billings, Mont.

No. MC 134574 (Sub-No. 11), filed July 12, 1972. Applicant: FIGOL DISTRIBUTORS LIMITED, a Corporation, 11041 105th Avenue, Edmonton, AB Canada. Applicant's representative: Eldon M. Johnson, 105 Montgomery Street, Suite 1100, San Francisco, CA 94104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic articles,* expanded or other than expanded, weighing less than 5 pounds per cubic foot, from points along the United States-Canadian border in Idaho, Washington and Montana, to points in California, Oregon, Idaho, Washington, and Montana, restricted to shipments having an origin in the Realm of Canada. NOTE: Applicant holds contract carrier authority under MC 124972 Sub 2, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Billings, Mont.

No. MC 134574 (Sub-No. 12), filed July 13, 1972. Applicant: FIGOL DISTRIBUTORS LIMITED, a Corporation, 11041 105th Avenue, Edmonton, AB, Canada. Applicant's representative: Eldon M. Johnson, 105 Montgomery Street, Suite 1100, San Francisco, CA 94104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Seattle, Wash., to points along the United States-Canadian border in Washington, Idaho, and Montana, restricted to shipments having a destination in the Provinces of Alberta and Saskatchewan, Realm of Canada. NOTE: Applicant holds contract carrier authority under MC 124972 Sub 2, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing

is deemed necessary, applicant requests it be held at San Francisco, Calif., or Billings, Mont.

No. MC 134599 (Sub-No. 48), filed July 3, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, plastics, chemicals, and equipment, materials, and supplies* used in the manufacturing and production thereof (except in bulk, in tank vehicles), (1) from Detroit, Mich., to Birmingham, Ala.; Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Santa Ana, Calif.; Philadelphia, Pa.; Port Newark, N.J.; Holyoke, Springfield, and Easthampton, Mass.; and Beacon Falls, Conn.; (2) from Flint, Mich., to Opelika and Birmingham, Ala.; Atlanta and Doraville, Ga.; Chattanooga, Tenn.; Los Angeles and Santa Ana, Calif.; Chicopee Falls, Holyoke, Springfield, and Easthampton, Mass.; Philadelphia, Pa.; Port Newark, N.J., and Beacon Falls, Conn.; (3) from Opelika, Ala., to Flint, Mich.; Santa Ana, Calif.; Minneapolis, Minn.; Philadelphia, Pa.; Port Newark, N.J.; Holyoke, Springfield, and Easthampton, Mass.; and Beacon Falls, Conn.; (4) from Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Birmingham, Ala.; Detroit and Flint, Mich.; Los Angeles and Santa Ana, Calif.; Eau Claire, Wis.; Minneapolis, Minn.; Chicopee Falls, Holyoke, Springfield, and Easthampton, Mass.; Philadelphia, Pa.; Port Newark, N.J.; and Beacon Falls, Conn.; (5) from Los Angeles, Calif., to Flint, Mich.; Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Birmingham, Ala.; Minneapolis, Minn.; Philadelphia, Pa.; Port Newark, N.J.; Holyoke, Springfield, and Easthampton, Mass.; and Beacon Falls, Conn.;

(6) From Santa Ana, Calif., to Detroit and Flint, Mich.; Opelika and Birmingham, Ala.; Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Eau Claire, Wis.; Minneapolis, Minn.; Chicopee Falls, Holyoke, Springfield, and Easthampton, Mass.; Philadelphia, Pa.; Port Newark, N.J.; and Beacon Falls, Conn.; (7) from Eau Claire, Wis., to Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Birmingham, Ala.; Santa Ana, Calif.; Philadelphia, Pa.; Port Newark, N.J.; Holyoke, Springfield, and Easthampton, Mass.; and Beacon Falls, Conn.; (8) from Minneapolis, Minn., to Opelika and Birmingham, Ala.; Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Los Angeles and Santa Ana, Calif.; Chicopee Falls, Holyoke, Springfield, and Easthampton, Mass.; Philadelphia, Pa.; Port Newark, N.J.; and Beacon Falls, Conn.; (9) from Chicopee Falls, Mass., to Flint, Mich.; Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Birmingham, Ala.; Santa Ana, Calif.; and Minneapolis, Minn.; and (10) from Philadelphia, Pa.; Port Newark, N.J.; Holyoke, Springfield, and Easthampton, Mass.; and Beacon Falls, Conn.; to Detroit and Flint, Mich.; Opelika and Birmingham, Ala.; Doraville and Atlanta, Ga.; Chattanooga, Tenn.; Los Angeles and Santa Ana, Calif.; Eau Claire, Wis.; and Minneapolis, Minn.; under a continuing contract with Uniroyal, Inc., restricted to traffic originating at and destined to the plantsites and warehouses of Uniroyal, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134875 (Sub-No. 2), filed July 10, 1972. Applicant: JOHN W. SMOOT, Box 124, Mount Jackson, VA. Applicant's representative: M. Bruce Morgan, 201 Azar Building, Glen Burnie, Md. 21061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, yarn, and clothing*, and *materials, supplies, and machinery*, used in the manufacture of textiles, between Edinburg, Winchester, and Woodstock, Va., Belmont, Albemarle, High Point, and Valdese, N.C., and Spartanburg, S.C., on the one hand, and, on the other, Abilene, Tex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135341 (Sub-No. 3), filed July 7, 1972. Applicant: MAGOG EXPRESS, INC., Route 2, Post Office Box 265, Magog, Stanstead County, PQ, Canada. Applicant's representative: Frank J. Weiner and Malcolm H. Flash, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, in bags, from Canaan, Conn., and Florence, Vt., to ports of entry on the international boundary line between the United States and Canada at or near Norton, Derby Line, Richford, and Highgate Springs, Vt. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Armstrong Cork Canada Ltd. of Montreal, Quebec, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Boston, Mass.

No. MC 135809 (Sub-No. 3), filed June 28, 1972. Applicant: B–H TRANSFER CO., Post Office Box 151, Sandersville, GA 31082. Applicant's representative: J. Raymond Clark, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in Washington County, Ga., on the one hand, and, on the other, points in Georgia, restricted to traffic having an immediately prior or subsequent movement in rail T.O.F.C. Service. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Sandersville, Atlanta, or Savannah, Ga.

No. MC 136161 (Sub-No. 2), filed July 11, 1972. Applicant: ORBIT TRANSPORT, INC., Post Office Box 163, Spring Valley, IL 61362. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial handling equipment and parts and accessories therefore*, from Toluca and Streator, Ill., to points in Indiana, Ohio, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Kentucky, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136212 (Sub-No. 2), filed July 3, 1972. Applicant: JENSEN TRUCKING COMPANY, INC., 213 South Washington Street, Post Office Box 37, Papillion, NE 68406. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from Monte Alto, Edinberg, San Antonio, Dallas, and Corpus Christi, Tex., and their respective commercial zones to points in Louisiana, Mississippi, Tennessee, Arkansas, North Carolina, South Carolina, Georgia, Florida, Alabama, Virginia, West Virginia, Maryland, New Jersey, Pennsylvania, New York, Indiana, Massachusetts, Connecticut, Kentucky, Ohio, Michigan, Illinois, Delaware, and Washington, D.C., restricted to traffic originating at the named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Omaha, Nebr.

No. MC 136212 (Sub-No. 3), filed July 3, 1972. Applicant: JENSEN TRUCKING COMPANY, INC., 213 South Washington Street, Post Office Box 37, Papillion, NE 68046. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from Monte Alto, Edinberg, San Antonio, Dallas, and Corpus Christi, Tex., and their respective commercial zones to points in Arizona, New Mexico, Colorado, Utah, Nebraska, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Kansas, Oklahoma, Missouri, and California, restricted to traffic originating at the named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Omaha, Nebr.

No. MC 136283 (Sub-No. 1), filed July 10, 1972. Applicant: EGON MASCHER, doing business as EGON MASCHER TRUCKING, 5105 Southeast Brookside Drive, Milwaukee, OR 97206. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering*, from points in Delaware County, Pa., to points in Oregon and Idaho. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 136447 (Sub-No. 3), filed July 3, 1972. Applicant: STECO, INC., Mays Boulevard at Bowery Lane, Post Office Box 488, Folkston, GA 31537. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and goods* used in the manufacture of apparel, from points in Pennsylvania to Folkston, Wrightsville, and Dublin, Ga. and Lake Butler and Lake City, Fla., and (2) *apparel*, from Folkston, Wrightsville, and Dublin, Ga., Lake Butler and Lake City, Fla., to points in Pennsylvania, under contract with Stephenson Enterprises, Inc., Lake Butler Apparel Co., Inc., Buckeye Industries, Inc., and Biljo, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 136516 (Sub-No. 1), filed July 11, 1972. Applicant: BEKINS VAN & STORAGE COMPANY, a corporation, 420 Bluff Street, Post Office Box 777, Sioux City, IA 51101. Applicant's representative: Lowry Smith (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Groundwood paper* (except in bulk), *newsprint, and printing paper*, from Sioux City, Iowa, to points in Iowa, Minnesota, Nebraska, and South Dakota, restricted to traffic having a prior out-of-State movement by water, rail, or motor carrier, under contract with Bowaters Southern Paper Corp. NOTE: Applicant holds common carrier authority under MC 84692, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa.

No. MC 136565 (Sub-No. 1), filed July 5, 1972. Applicant: TRANS AMERICAN EXCHANGE, INC., Post Office Box 1949, Brownsville, TX 78520. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and frozen fish and shrimp*, when moving in the same vehicle with frozen foods, from Brownsville, Tex., to Savannah, St. Simons Island, and Brunswick, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 136569 (Sub-No. 1) filed July 14, 1972. Applicant: H. CARROLL VAN HOVE, Buffalo Center, Iowa 50424. Applicant's representative: Clayton L. Wornson, 824 Brick & Tile Building, Mason City, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rensin, gun roving, catalyst and gelcote*, from Minneapolis, Minn., to Buffalo Center, Iowa and *empty drums* on return, from Buffalo Center, Iowa to Minneapolis, Minn., under contract with Shafar Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Mason City, or Des Moines, Iowa.

No. MC 136595 (Sub-No. 1) filed June 14, 1972. Applicant: FRANK J. WILLIAMS, doing business as EASTSIDE MOBILE HOME TRANSPORTING, 1440 South A Street, Springfield, OR 97477. Applicant's representative: Richard Grubb, Northwest 29th Street and St. Helens' Road, Portland, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Factory built sectionalized buildings*, from points in the commercial zone and terminal areas of Eugene, Oreg., to points in Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Eugene or Portland, Oreg.

No. MC 136637 (Sub-No. 2), filed July 7, 1972. Applicant: J & J TRUCKING, INC., Route 7, Box 55–F, Morgantown, WV 26505. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, WV 26003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from King Knob Coal Co., Strip Mine located at or near Taylortown, Pa., to Arkright Tipple, located at or near Grantville, W. Va., under contract with Consolidation Coal Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa. or Washington, D.C.

No. MC 136750 (Sub-No. 1), filed June 15, 1972. Applicant: NEW ENGLAND FINISHING & FURNITURE HAULERS, INC., 740 Windsor Street, Hartford, CT 06120. Applicant's representative: Hugh M. Joseloff, 410 Asylum Street, Hartford, CT 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated and uncrated, as more particularly set forth in *Descriptions in Motor Carrier Certificates*, Appendix II 61 M.C.C. 273–4, between Hartford, Conn., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or Boston, Mass.

No. MC 136766 filed May 30, 1972. Applicant: CARL DITTFIELD, 33 Drake Street, Pittston, PA 18640. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter*, from West Pittston, Pa., to New York, N.Y.; Springfield, Holyoke, and Boston, Mass.; Hartford, and Bridgeport, Conn.; Baltimore, Md.; the District of Columbia and points in New Jersey; and (2) *materials and supplies* used in the manufacture and shipping of printed matter from New York, N.Y.; Rutherford, N.J. and Greenwich, Conn. to West Pittsburgh, Pa., under contract with Suburban Publishers. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 136827 (Correction) filed June 13, 1972, published in the FEDERAL REGISTER issue of July 13, 1972, and republished in part, as corrected this issue. Applicant: ANGELO SIMONI, JR., doing business as SIMONI TRANSPORTATION, 991 Morello Avenue, Martinez, CA 94553. Applicant's representative: Eldon M. Johnson, 105 Montgomery Street, Suite 1100, San Francisco, CA 94104. The purpose of this partial republication is to show that applicant is under contract with *American Flotation, Inc.*, in lieu of American Floration, Inc., as was erroneously published. The rest of the application remains as previously published.

No. MC 136837 (Sub-No. 1), filed July 14, 1972. Applicant: FLORIDA CONTINENTAL EXPRESS, INC., 220 South Third Street, Haines City, FL 33844. Applicant's representative: Lawrence D. Fay, 21 West Church Street, Post Office Box 1086, Jacksonville, FL 32201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet, items, materials and supplies* used or useful in the manufacturing, installation and/or distribution of carpet; *clay tile, items, materials and supplies* used or useful in the manufacturing, installation, and/or distribution of clay tile, restricted against commodities in bulk, between Lawrenceburg, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Sikes Corp., Lakeland, Fla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Tampa, Fla.

No. MC 136860 filed June 19, 1972. Applicant: M/C PARCEL DELIVERY, INC., 3627 South G Street, Tacoma, WA. Applicant's representative: Glenn W. Toomey, 803 Hoge Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies* sold, used, or distributed by a manufacturer of cosmetics, between Tacoma, Wash., and points in Pierce,

and King Counties, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 136880 filed July 7, 1972. Applicant: CHEMICAL OMNI TRANSPORT COMPANY, a corporation, Box 350, Webb City, MO 64870. Applicant's representative: Dean Williamson, 280 National Foundation Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Zinc sulphate solution,* in bulk, in tank vehicles, from Galena, and Coffeyville, Kans., to points in Arkansas, Colorado, Illinois, Indiana, Kentucky, Missouri, Nebraska, Oklahoma, Tennessee, and Texas; and (2) *copper sulphate solution,* in bulk, in tank vehicles, from Cardin, Okla., to points in Missouri south of U.S. Highway 40 (except St. Louis, Mo., and points in the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Tulsa, Okla.

No. MC 136881 filed July 7, 1972. Applicant: GARRITY TRUCKING, INC., 314 Mill Street, Fortville, IN 46040. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cellular expanded or foamed plastic insulation articles,* between Elliott Co.'s manufacturing plant located at or near Zionsville, Ind., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Colorado, and New Jersey, under contract with Elliott Co. of Indianapolis, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind. or Louisville, Ky.

No. MC 136889, filed July 17, 1972. Applicant: WILLIAM PAUL MANN and CHARLES B. SUMBERLIN, a partnership, doing business as: M & S TRANSPORT, Post Office Box 15862, Dallas, TX 75215. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Roofing and building materials,* and *machinery, equipment, materials, and supplies,* used in connection with the manufacture, production, and shipping of the aforementioned commodities, between Dallas, Tex., on the one hand, and, on the other, points in Arkansas, Colorado, Alabama, Kansas, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma, under contract with GAF Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 181), filed July 15, 1972. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: S. B. Ringwood, 371 Market Street, San Francisco, CA 94105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in special operators, in round-trip, sightseeing, or pleasure tours, beginning and ending at points in Multnomah, Clackamas, Wasco, Sherman, Benton, Linn, Lane, Klamath, Baker, Malheur, Washington, and Marion Counties, Oreg.; Clark County, Wash.; Canyon, Ada, Elmore, Gooding, Twin Falls, Cassia, Jerome, and Oneida Counties, Idaho, and Box Elder, Weber, Salt Lake, and Davis Counties, Utah, and extending to points in the United States (including Alaska but excluding Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Salt Lake City, Utah.

No. MC 111346 (Sub-No. 3), filed July 11, 1972. Applicant: WADE BUS LINES, INC., 716 West Second Street, Ogallala, NE 69153. Applicant's representative: J. Max Harding, Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage,* in the same vehicle with passengers, in charter or special party operations, from points in Nebraska, Iowa, and South Dakota, to points in Arizona and return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Phoenix, Ariz.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 117322 (Sub-No. 7), filed July 10, 1972. Applicant: LESTER NOVOTNY, doing business as CHATFIELD TRUCKING, Chatfield, Minn. 55923. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Butter,* from the plantsites and storage facilities of Land O' Lakes at Faribault, Minn., to Deerfield, Ill.; restricted to traffic originating at the named plantsites and storage facilities. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-12949 Filed 8-2-72;8:45 am]

[Notice 44]

ASSIGNMENT OF HEARINGS

JULY 31, 1972.

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 123294 Sub 24, Warsaw Trucking Co., Inc., now assigned July 31, 1972, MC 119777 Sub 232, Legion Specialized Hauler, Inc., now assigned August 1, 1972, MC 111812 Sub 457, Midwest Coast Transport, Inc., now assigned August 3, 1972, MC 51146 Sub 242, Schneider Transport & Storage, Inc., and MC 123255 Sub 16, B & L Motor Freight, Inc., now assigned August 4, 1972, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 29850 Sub 7, Trenton-Philadelphia Coach Co., now being assigned hearing September 20, 1972 (3 days), at Trenton, N.J., in a hearing room later to be designated.

MC 109294 Sub 18, Commercial Truck Co., Ltd., now assigned August 8, 1972, at Olympia, Wash., hearing will be held in the House Office Building, Program Planning Hearing Room, 2d Floor, Olympia, Wash.

MC 135803 Sub 1, Wallace Transport, now being assigned hearing September 25, 1972, at San Francisco, Calif., in a hearing room to be later designated.

MC 110373 Sub 15, Northeast Coach Lines, now being assigned hearing September 25, 1972 (1 week), at Newark, N.J. in a hearing room later to be designated.

W-12 Sub 6, Moran Towing & Transportation Co., Inc., W-16 Sub 8 and Sub 9, S. C. Loveland Co., Inc., W-78 Sub 10 and Sub 11, The Valley Line Co., W-104 Sub 24 and Sub 25, Union Barge Line Corp., W-381 Sub 15 and Sub 16, Federal Barge Lines, Inc., W-403 Sub 10, James Hughes, Inc., W-552 Sub 14, American Commercial Barge Line Co., W-586 Sub 4 and Sub 5, Puget Sound Tug & Barge Co., W-587 Sub 29, Foss L & T Co., W-630 Sub 37 and Sub 38, A. L. Mechling Barge Lines, Inc., W-700 Sub 23, Coyle Lines Inc., now being assigned October 31, 1972, and November 8, 1972, to be held in the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136585, Niel C. Young, doing business as Young's Delivery & Pickup Service, now assigned August 21, 1972, will be held in Room 304 U.S. Post Office & Federal Building, 55 Pleasant Street, Concord, N.H.

MC-F-11474, H. W. Taynton Co., Inc.—Purchase—Industrial Truck Lines, Inc. (Internal Revenue Service Successor in Interest), and MC 109821 Sub 32, H. W. Taynton Co., Inc., now being assigned hearing September 11, 1972 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 113325 Sub 8, Slay Transportation Co., Inc., now being assigned continued hearing September 11, 1972, at Washington, D.C., in the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-12145 Filed 8-2-72;8:52 am]

[Rev. S.O. 994, ICC Order 71, Amdt. 3]

RAILROADS OPERATING IN CERTAIN STATES

Rerouting Traffic or Diversion of Traffic

Upon further consideration of ICC Order No. 71 (Railroads operating in the States of Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 71 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., August 31, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., July 31, 1972, and that 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 27, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.72-12143 Filed 8-2-72;8:52 am]

[No. 35645]

SOUTH CAROLINA INTRASTATE RAIL FREIGHT RATES AND CHARGES—1972

Order. At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 26th day of July, 1972.

It appearing, that on June 2, 1972, the Carolina, Clinchfield and Ohio Railway, the Seaboard Coast Line Railroad Co., the Southern Railway Co., and their short-line connections, filed a joint petition seeking the institution of an investigation under section 13 of the Interstate Commerce Act into the South Carolina intrastate rates, made or imposed by the State of South Carolina, on pulpwood, wood chips, sawdust, and wood shavings, alleging that the said rates create unjust discrimination against, and an undue burden on, interstate commerce to the extent that they do not include increases authorized on the corresponding interstate rates in Ex Parte No. 267, Increased Freight Rates, 1971, 339 ICC 125;

It further appearing, that The Public Service Commission of South Carolina, by order dated April 18, 1972, permitted the petitioners to increase their intrastate rates and charges effective May 1, 1972, to the extent authorized in Ex Parte No. 267, except that no such increases were permitted on the commodities specified next above; and that petitioners' subsequent petition for reconsideration thereof was denied by the State Commission on May 16, 1972; therefore,

It is ordered, That, in accordance with the provisions of section 13(4) of the act, an investigation be, and it is hereby, instituted into the South Carolina intrastate rates and charges on pulpwood, wood chips, sawdust, and wood shavings, as set forth in the petition.

It is further ordered, That all carriers by railroad operating within the State of South Carolina be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding and to file and to receive copies of pleadings, shall make known that fact by notifying the Commission and Office of Proceedings in writing within 30 days of the date of publication hereof in the FEDERAL REGISTER. Individual participation is not precluded; however, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible. The Commission desires the participation only of those who intend to take an active part in the proceeding.

It is further ordered, That, as soon as practicable after the date for indicating a desire to participate in the proceeding has passed, the Commission's Office of Proceedings will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon the petitioners; that the State of South Carolina be notified of the proceeding by sending copies of this order by certified mail to the Governor of South Carolina, Columbia, S.C., and the Public Service Commission of South Carolina, Columbia, S.C., and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

And it is further ordered, That this proceeding be assigned for hearing as may hereafter be designated.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-12142 Filed 8-2-72;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 31, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42486—*Corn and Soybeans to Chicago, Ill.* Filed by Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (No. 5001), for interested rail carriers. Rates on corn and soybeans, in covered hopper cars, as described in the application, from points in Illinois, Iowa, and Wisconsin, to Chicago, Ill.

Grounds for relief—Carrier and market competition.

Tariff—Chicago, Milwaukee, St. Paul and Pacific Railroad Co., tariff ICC B-8305. Rates are published to become effective on August 28, 1972.

FSA No. 42487—*Lumber and Related Articles from Points in Southwestern Territory.* Filed by Southwestern Freight Bureau, agent (No. B-340), for interested rail carriers. Rates on lumber and related articles, in carloads, as described in the application, from points in southwestern territory, to points in Minnesota and Wisconsin on the DMIR, MILW and SOO.

Grounds for relief—Market competition.

Tariff—Supplement 136 to Southwestern Freight Bureau, agent, tariff ICC 4883. Rates are published to become effective on August 28, 1972.

FSA No. 42488—*Iron or Steel Pipe or Tubing from Freeport, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-331), for interested rail carriers. Rates on pipe or tubing, iron or steel, in carloads, as described in the application, from Freeport, Tex., to points in southwestern territory.

Grounds for relief—Port equalization.

Tariff—Supplement 235 to Southwestern Freight Bureau, agent, tariff ICC 4620. Rates are published to become effective on September 5, 1972.

FSA No. 42489—*Fertilizer and Fertilizer Materials from Wellsville, Colo.* Filed by Western Trunk Line Committee, agent (No. A-2671), for interested rail carriers. Rates on fertilizer and fertilizer materials, in carloads, as described in the application, from Wellsville, Colo., to points in western trunk-line (including Illinois) territory.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 64 to Western Trunk Line Committee, agent, tariff ICC A–4749. Rates are published to become effective on September 10, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–12144 Filed 8–2–72;8:52 am]

[Notice 99]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

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 within 20 days from the date of publication of this notice. 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–73564. By order of July 17, 1972, the Motor Carrier Board on reconsideration approved the transfer to Frank W. Hake, Inc., Philadelphia, Pa., of the operating rights in Certificate No. MC–6863 issued March 3, 1955, to Glenn F. Hake and James D. Hake, a partnership, doing business as Frank W. Hake, Philadelphia Pa., authorizing the transportation of machinery and articles requiring specialized handling or rigging, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, and Maryland. Henry W. Maxmin, 18th Floor, 2 Girard Plaza, Philadelphia, Pa. 19102, attorney for applicants.

No. MC–FC–73601. By order of July 19, 1972, the Motor Carrier Board approved the transfer to Larry Kiefer & Donald Vieke, a partnership, doing business as Kayve Transfer & Storage, Washington, Ind., of the operating rights in Certificate No. MC–107624 issued July 21, 1947, to Ray Leiby, Washington, Ind., authorizing the transportation of household goods between a specified area of Indiana, on the one hand, and, on the other, points in Illinois, Missouri, Michigan, Ohio, and Kentucky. Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204, attorney for applicants.

No. MC–FC–73708. By order of July 10, 1972, the Motor Carrier Board approved the transfer to O'Keefe Transportation Co., Inc., Warwick, R.I., of Certificate No. MC 111857 issued October 14, 1957, to Walter B. Austin, doing business as Austin Trucking Co., Woonsocket, R.I., authorizing the transportation of: Such merchandise as is dealt in by chain, retail, and department stores, in parcel delivery service, between Woonsocket, R.I., and points in Massachusetts within 15 miles thereof. Russell B. Curnett, practitioner, 36 Circuit Drive, Providence, RI 02905.

No. MC–FC–73739. By order of July 19, 1972, the Motor Carrier Board approved the transfer to Container Distribution Services, Inc., River Edge, N.J., of the operating rights in Certificate No. MC–77487 issued September 8, 1943, to Victory Motor Lines, Inc., Hoboken, N.J., authorizing the transportation of general commodities, with the usual exceptions, between points in the New York, N.Y., commercial zone as defined by the Commission, on the one hand, and, on the other, points within 50 miles of the City Hall, New York, N.Y. Harris J. Klein, 280 Broadway, New York, NY 10007 and Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048, attorneys for applicants.

No. MC–FC–73780. By order of July 13, 1972, the Motor Carrier Board approved the transfer to Lincoln Express and Freight Lines, Inc., Chicago, Ill., of Certificate of Registration No. MC–120674 (Sub-No. 1), issued May 18, 1971, to Elizabeth Enzmann, Chicago, Ill., evidencing a right to engage in transportation in interstate commerce as described in Certificate No. 8566 MC, dated June 16, 1964, transferred and reissued March 4, 1970 by the Illinois Commerce Commission. Edward G. Finnegan, 134 North La Salle, Chicago, IL 60602, attorney for applicants.

No. MC–FC–73839. By order entered July 17, 1972, the Motor Carrier Board approved the transfer to Dean Brennan Transport, Inc., Manitowoc, Wis., of the operating rights set forth in Permits Nos. MC–111844, MC–111844 (Sub-No. 5), and MC–111844 (Sub-No. 6), issued June 25, 1959, June 13, 1967, and October 3, 1968, respectively, to Dean Brennan, doing business as Dean Brennan Transport, Manitowoc, Wis., authorizing the transportation of: Vinegar, alcohol, malt beverages, and empty containers, from or to points and places in Wisconsin, Iowa, Ohio, Kentucky, Illinois, Indiana, Michigan, Minnesota, Missouri, Maryland, and Nebraska. William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53202, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–12146 Filed 8–2–72;8:52 am]

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THURSDAY, AUGUST 3, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 150

PART II

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

■

Highway Safety Program Standards

Notice of Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[23 CFR Ch. II]

[Docket No. 72-9]

HIGHWAY SAFETY PROGRAM STANDARDS

Notice of Proposed Rule Making

The purpose of this notice is to request public comment on a proposed revision of the highway safety program standards administered by the National Highway Traffic Safety Administration. The current standards (23 CFR Part 204) deal with periodic motor vehicle inspection, motor vehicle registration, motorcycle safety, driver education, driver licensing, codes and laws, traffic courts, alcohol in relation to highway safety, traffic records, emergency medical services, pedestrian safety education, police traffic services, debris hazard control and clean-up, pupil transportation, and accident investigation.

The standards revision proposed herein reflects the comments and suggestions of State officials, persons, and organizations, in the private sector, and the National Highway Safety Advisory Committee.

The revision process was designed to accomplish the following purposes: (1) Upgrade the highway safety program standards issued since 1967 by incorporating countermeasure concepts which have been developed or refined during the intervening period; (2) refine, and in some cases, establish, program evaluation requirements by which the States can determine program progress and quality and the NHTSA assess status of overall State progress toward implementation; (3) employ performance-oriented language to a greater extent to clarify national goals, aid in State implementation, and permit more valid assessments of State programs and progress; and (4) "repackage" the standards to make relationships more readily apparent and to aid States in developing and implementing coordinated, comprehensive highway safety programs.

The revised standards structure is designed to be responsive to a wide range of highway safety program efforts. The structure accommodates the application of measures of effectiveness to programs and elements of programs, and should aid in the identification of priority areas to form the basis for a comprehensive State highway safety program. It is intended to facilitate comprehensive planning, and permit States to adopt program management concepts for planning, administration, and evaluation.

The proposed structure organizes related requirements together to facilitate management by State program and staff agencies. For example, all educational and instructional requirements have been grouped together in a Traffic Safety Education Standard rather than being dispersed through a number of separate standards as is currently the case. Not only does this realinement strengthen the management function within the State, it further provides the reader with a comprehensive program outline in each of the eight standard areas.

Allocating the requirements now found in the current standards to the proper segment of the revised structure does not weaken those relocated program elements, nor should such a realinement be construed as a deemphasis of those elements. For example, alcohol countermeasures continues to be a top-priority program of the National Highway Traffic Safety Administration and will continue to receive focused attention. All requirements within the alcohol area have been placed in the revised standards in a manner in which administration and implementation can be accomplished most effectively. For example, educational aspects of the program are in the traffic safety education standard, driver improvement requirements in the licensing standard, and legislative and regulatory requirements in the Laws and Regulations Standard.

The standards structure proposed is expected to improve the type and quality of support provided by the many constituencies now working on behalf of improved highway traffic safety. Such support should be focused more clearly due to the realignment of individual program elements into a cohesive program outline.

Substantive revision of the standards is directed primarily to greater utilization of performance objectives and performance-oriented language. The requirements are more specific, and more thorough provisions for evaluation are included. Further analysis of specific substantive revisions is included in the preambles to the individual standards.

The proposed revised standards are organized to conform to the accepted format for publication in the Code of Federal Regulations. Current Standards No. 1 through 8, 10, 11, 15, through 18, and paragraphs I, III, IV, and VI of Standard No. 14 would be deleted from 23 CFR 204.4. The revised standards are proposed to be issued, along with definitions provisions, as separate parts of Subchapter B of 23 CFR Ch. 2, beginning with Part 240.

Amendment or reissuance of highway safety program standards does not require public notice and comment pursuant to statute. This request for comments is issued, however, to afford the public an opportunity to participate in the action and to obtain the widest possible range of views on this subject.

Interested persons are invited to submit written data, views, and arguments in response to this request. States, political subdivisions, Federal departments and agencies, and public and private safety organizations, with which the Department is required by law to consult, are also requested to submit their comments in response to this docket. General comments on the revision, its structure, and the definitions should refer to Docket No. 72-9. Other comments should refer to the appropriate docket number, and preferably to specific sections or subsections of the proposal. All comments should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 6 copies be submitted.

All comments received before the close of business on November 3, 1972, will be considered, and will be available at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, action may be taken at any time after that date, and comments filed after the above date and too late for consideration in regard to the action will be treated as suggestions for future action. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In consideration of the foregoing, it is proposed that Highway Safety Program Standards No. 1 through 8, 10, 11, 15, 16, 17, and 18, and paragraphs I, III, IV, and VI of Standard No. 14 be deleted from 23 CFR 204.4, and that highway safety program definitions, and Standards No. N-1 through N-8 be added to 23 CFR Ch. 2, Subchapter B, as set forth below. This request for comments is issued under the authority of section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on: July 18, 1972.

JAMES E. WILSON,
Associate Administrator,
Traffic Safety Programs.

PART 240—HIGHWAY SAFETY PROGRAM STANDARD DEFINITIONS

§ 240.1 Scope.

This part sets out definitions to be used in highway safety program standards included in Parts 241 through 248 of this chapter.

§ 240.2 Definitions.

Except as otherwise provided below, the definitions in Chapter 1 of the Uniform Vehicle Code shall apply to words and phrases used in highway safety program standards covered by this part.

"Adjudication agency" means a tribunal, other than a court, authorized to make judgments and apply appropriate sanctions and rehabilitative measures in traffic offense cases.

"Chief State school officer" means the appointed or elected State official with specific responsibility for administration of the State public education program.

"Classroom instruction" means the portion of a beginning-driver education

program that is characterized by an instructor meeting with a group of students for lecture, study, and discussion usually based on a textbook and other written and visual materials.

"Crash" means any event resulting in injury or death to one or more persons or damage to property, in which the movement of motor vehicle traffic or the malfunction of a motor vehicle is a major contributing factor.

"Gross vehicle weight rating" means the weight rating supplied by a manufacturer pursuant to 49 CFR Part 567, Certification.

"Hazardous traffic law violation" means a traffic offense that—

(a) Contributes to a crash; or

(b) Is punishable as a felony; or

(c) Contains at least one of the following factual elements:

(1) Operation of a motor vehicle while under the influence of alcohol or another drug; or

(2) Reckless driving; or

(3) Leaving the scene of a crash; or

(4) Driving while driver's license is suspended or revoked.

"Laboratory instruction" means that portion of a beginning-driver education program characterized by the use of special equipment and facilities such as driving simulators, off-street multiple-car areas, and on-street dual-control vehicles in which students gain practical experience in motor vehicle operations.

"Professional driving school" means a private organization offering motor vehicle driving instruction to the general public, for a fee, through classroom and/or laboratory situations.

"Revocation" means termination by formal action of the responsible State licensing authority, with reinstatement permitted only upon application after the expiration of a period of time prescribed by the State.

"State" means any one of the 50 States, the District of Columbia or Puerto Rico.

"Suspension" means temporary withdrawal for a specific period by formal action of the responsible State licensing authority.

"Traffic court" means a judicial tribunal with the authority to adjudicate traffic cases.

"Type I school vehicle" means any motor vehicle, except a trailer, used to carry 17 or more pupils to and from school. This definition includes vehicles that are at any time used to carry school children and school personnel exclusively, and does not include vehicles that carry school children along with other passengers as part of the operations of a common carrier.

"Type II school vehicle" means any motor vehicle used to carry 16 or fewer pupils to and from school. This does not include private vehicles used to carry members of the owner's own household.

[Docket No. 72-10]

PROGRAM ADMINISTRATION AND EVALUATION

Proposed Standard No. N-1 is a new standard that covers planning, administration, and evaluation activities related to all the highway safety program standards. This standard will be jointly administered by the National Highway Traffic Safety Administration and the Federal Highway Administration to the extent that the requirements herein affect appropriate elements within the States' highway safety programs. Many of the requirements, except those covering legislation and public information, presently exist in current standards, the Highway Safety Program Manual, or NHTSA and FHWA directives. The proposed standard also includes revised provisions that are currently included in Standard No. 10, Traffic Records. The purpose of proposed Standard N-1 is to insure that State highway safety programs are fully coordinated with all relevant Governmental entities, and are utilizing efficient techniques for planning, evaluation, and allocation of resources. It also requires the establishment of a traffic records system that should provide for the efficient use of available highway safety related data.

The proposed standard is designed to bring about cohesiveness and uniformity in program planning and administration, to bring under one umbrella those management aspects common to several standards, such as traffic records, manpower development, public information, and program evaluation, and facilitate the coordination of all State and local highway safety activities including those originated and supported solely by the State and those that are federally mandated and supported. As recognized by Congress in the Highway Safety Act of 1970, achievement of these ends is largely dependent on the ability of the States to establish authority and responsibility for the program in a single State agency.

Many of the provisions of the proposed standard were included in NHTSA Order 900-4 (FHWA Order 7-5), which was issued in August 1971 to carry out the mandate of the 1970 Act that the State program be carried out by the Governor, acting through an agency suitably equipped and organized to conduct the program. That order established guidelines relative to the responsibilities, authority, and organizational structure of the State agency responsible for managing the State highway safety program.

The proposed standard would strengthen and expand some of the requirements established in Order 900-4, emphasizing the need for a coordinated effort to insure a comprehensive and well-planned program. For example, the proposal includes a provision requiring the State agency to assist other State agencies and local units of government in their planning, administration, and evaluation efforts, indicating the types of support materials to be used in the planning. This provision is intended to open new avenues of communication and cooperation among all State and local agencies having some responsibility for highway safety. It recognizes that highway safety involves almost every agency of the government and that bringing the efforts and resources of these agencies to bear on the highway crash problem could have a profound effect on reduction of traffic crashes.

Another proposed provision that would encourage maximum use of available planning resources is the requirement for utilization of an advisory committee. This requirement is also part of Order 900-4, which requires that the committee be broadly representative of State and local agencies, the legislature, the judiciary, and private organizations and citizens' groups.

The traffic records requirements of the proposed standard represent an expansion and redirection of the provisions of the current standard, to place emphasis on specific requirements to satisfy the varied data needs of highway safety managers at all levels of government. A great deal of information is relevant to traffic records. The elements of a traffic records system vary widely, depending on whether the subsystems are concerned generally with the driver, vehicle, crash, or highway. Within each basic type of subsystem there may exist from one to 10 different types of files, many of them subsets of another file.

The nonaccessibility of traffic records is a separate problem. In implementing the current standard, many States have still not established integrated traffic records systems capable of satisfying users' demands. The proposed revisions are designed to assist States in developing systems capable of managing large quantities of information and making it available on a timely basis to legitimate users. For example, the proposal would require the identification of a State agency having responsibility for the coordination of traffic records management, and would require the employment and training of a professional staff, as well as training for State and local employees in classification, analysis, interpretation, and use of traffic records data. It would also require the use of common identification and descriptive elements for files; of uniform source documents; and of standard data elements, definitions, classifications and codes.

The proposed standard also includes new requirements to insure that the State agency has at its disposal records of statutes, Governor's recommendations, bills, legislative actions and courts decisions and regulatory actions that affect highway safety. This information is considered to be necessary in the overall management of the program. In addition, new public information provisions require establishment of a formal public information program that would provide coordination and planning of highway safety related public information in the State. The program is designed to keep special groups as well as the general public informed of the highway safety programs, in order to develop understanding and support of the highway safety effort.

The evaluation provisions of the proposed standard are intended to insure continuous evaluation of both management and program performance. Requirements for evaluation of the total

highway safety program effort are therefore included as well as provisions for evaluating specific requirements of the standard itself. Specific criteria for both types of evaluation are included, though there are additional and more specific guidelines provided for program evaluation in the Highway Safety Program Manual, Volume O, Planning and Administration. The key evaluation requirements included in the proposed standard are that the State agency for highway safety coordinate the evaluations of the other standards, that these evaluations and analyses form the basis for planning efforts related to both the comprehensive plan and the annual work program, and that the evaluation include a quantitative analysis of program performance in terms of criteria such as reduction of crashes, injuries, and fatalities.

PART 241—HIGHWAY SAFETY PROGRAM NO. N–1—PROGRAM ADMINISTRATION AND EVALUATION

Sec.
241.1 Scope.
241.2 Purpose.
241.3 Requirements.
241.4 State agency.
241.5 Advisory committees.
241.6 Planning.
241.7 Traffic records systems.
241.8 Manpower development.
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241.10 Public information.
241.11 Evaluation.

AUTHORITY: The provisions of this Part 241 issued under sec. 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 241.1 Scope.

This standard establishes performance requirements for the administration and evaluation of State highway safety programs, and of traffic records systems to support such programs.

§ 241.2 Purpose.

The purpose of this standard is to insure that States develop and implement highway safety programs designed to reduce traffic crashes, injuries, and deaths, and planned on a systematic and comprehensive basis to include all aspects of highway safety with emphasis on the most vital. The standard is also designed to insure that the highway safety program is based upon a thorough analysis of the State's highway traffic crash problems as documented in a traffic records system, coordinated to include the State's political subdivisions and appropriate elements of State government, and designed to make the most efficient use of human, financial, and technological resources.

§ 241.3 Requirements.

Each State, in cooperation with its political subdivisions, shall establish program administration and evaluation systems for achieving an effective statewide highway safety program, in accordance with the requirements established in §§ 241.4 to 241.10. The Governor shall be the official responsible for the conduct of the State's highway traffic safety program.

§ 241.4 State agency.

(a) Each State shall designate a State agency that shall have adequate powers and be suitably staffed and organized to carry out the State's highway traffic safety program. The designated State agency must:

(1) Be a clearly delineated agency in the executive branch of State government charged with and empowered to carry out the responsibilities established in the Highway Safety Act; and

(2) Have a person who has full-time responsibility and authority for reviewing, approving, and maintaining general oversight of the State program and its implementation.

(b) The designated State agency shall be responsible for performing the following functions:

(1) Coordinating the establishment of priority programs for statewide implementation, either by one or more State agencies or by local units of government, and coordinating and evaluating their implementation. The following factors, as a minimum, shall be considered in the establishment of priorities:

(i) Results of research and analytic studies of crash-causing or crash-contributory factors that are undertaken by the State, national agencies, universities, or private organizations.

(ii) Analyses of State crash data that are relevant to definition of the highway safety problem within the State.

(iii) Countermeasure effectiveness studies and demonstrations performed by the State, national agencies, universities, or private organizations.

(2) Assisting State agencies and local units of government in their highway safety planning, administration and evaluation efforts, using or insuring the use, as a minimum, of the following:

(i) Data and information derived from the traffic records system and other sources.

(ii) The annual evaluations prepared pursuant to each highway safety standard.

(iii) Sampling procedures and techniques, where appropriate, in lieu of total population data, for determining the effectiveness of the specific programs.

(3) Conducting or coordinating the State's evaluation of each highway safe program standard and of the total State highway safety program, and preparing and submitting an annual summary report to the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA). The evaluation shall be conducted in accordance with criteria established in § 241.11(b).

(4) Administering the State's ditribution and use of Federal funds made available under 23 U.S.C. 402, including:

(i) Establishment of administrative procedures for managing and monitoring tasks supported in whole or in part with Federal funds made available under 23 U.S.C. 402.

(ii) Entering into agreements with the Federal Government for the obligation of Federal funds made available under U.S.C. 402.

(iii) Insuring that at least 40 percent of all Federal funds apportioned under 23 U.S.C. 402 for any fiscal year are used by local government or combinations of units of local governments. Appropriate portions of such funds shall be used by local governments for planning and administration of coordinated highway traffic safety programs in local government jurisdictions.

(iv) Auditing expenditures of Federal highway traffic safety funds by State and local agencies.

(c) The employees, excluding the head of the agency at the option of the State, shall be covered by the State merit system.

§ 241.5 Advisory committees.

(a) Each State shall utilize a Highway Traffic Safety Advisory Committee or similar body to assist the Governor and the designated State agency in the formulation of statewide objectives and policies. The committee shall be broadly representative of State and local agencies, the legislature, the judiciary, and private organizations and citizens groups.

(b) Locally organized advisory committees, or similar organizations, shall similarly be established in political subdivisions or groups thereof.

§ 241.6 Planning.

(a) Each State, in cooperation with its political subdivisions, shall develop and periodically update a multiyear comprehensive plan for highway safety. This plan, as described in chapter 2, volume 102, of the Highway Safety Program Manual, shall identify and analyze the State's highway crash problems, insure reasonable progress toward implementation of the highway safety program standards, discuss alternative problem solutions, establish implementation priorities, and document program element plans.

(b) Each State, in cooperation with its political subdivisions, shall prepare an annual work program which details the work to be done for a given year to implement its comprehensive plan. The annual work program, as described in chapter 3, volume 102, of the Highway Safety Program Manual, shall be based on the 1-year program element objectives described in the comprehensive plan. Subelement plans shall display tasks necessary for implementation together with volume, coverage and effectiveness measures and State, local, and Federal funding.

(c) Development and submission of the comprehensive plan and annual work program shall be performed by the designated State agency in accordance with requirements established in volume 102 of the Highway Safety Program Manual and shall be submitted to the Secretary of Transportation for his approval.

§ 241.7 Traffic records systems.

Each State, in cooperation with its political subdivisions, shall establish and maintain a traffic records system that is responsive to the information needs of highway safety program managers, can provide statistical data to show magnitude, changes, and trends, of the traffic crash problem, and has the capability of identifying areas of needed evaluation, research, and study. The system shall be developed in conformance with the following criteria:

(a) Each State shall identify the agency having primary responsibility for the functions, effective management, and coordination of the traffic records system, which shall be responsible for insuring that:

(1) Procedures are established to insure coordination, cooperation, and exchange of information among State and local agencies that are information users or that have management information responsibilities.

(2) Full-time traffic records personnel are employed.

(3) Statewide uniform procedures for the definition, classification, analysis, interpretation, and use of traffic records data are established and followed.

(4) Training requirements and procedures for State and local agency personnel engaged in traffic records activities are implemented.

(5) Policies are developed and implemented to insure timely transmission and entry into the State records system of:

(i) Driver license and vehicle registration data.

(ii) Police crash investigations.

(iii) Driver or owner vehicle crash reports.

(iv) Conviction data.

(6) Management information is provided to all users of the traffic records system.

(7) Rules governing security protection and public availability of traffic records are followed.

(b) The statewide traffic records system, which may consist of compatible subsystems, shall include statewide procedures for the collection and entry of data into the system, including:

(1) Use of uniform source documents.

(2) Use of standard data elements, definitions, classifications, and codes.

(3) Use of standard identification and common descriptive elements to insure the integration of all subsystems and files.

(c) The records system shall be used to provide individual case records required by State operational highway safety programs and shall also constitute the basis from which analytical studies, both clinical and statistical, may be made. Specific provisions shall be made for the research use of the data under prescribed conditions of access and confidentiality. The system shall be capable of identifying significant problems in the highway transportation system, such as:

(1) Identification of problem drivers with special emphasis on those with an alcohol or other drug problem.

(2) Identification of hazardous and potentially hazardous roadway crash locations.

(3) Identification of common hazardous motor vehicle defects.

(d) Data sampling procedures shall be used to measure the populations of drivers, vehicles, roadway features and crashes, detect their hazardous attributes, and evaluate the effectiveness of applied countermeasures.

(e) The system shall be capable of receiving and processing inquiries 24 hours a day and providing rapid responses to requests by enforcement and judicial and adjudication officials for driver and vehicle status information.

(f) Provisions shall be made for the interchange of information and data with other States as needed and with the Federal Government for the purposes of policy and program development and evaluation. The traffic records system shall be designed and implemented so as to provide information regarding the scope and magnitude of deaths, injuries, and property damage, and include:

(1) Summary data on drivers, vehicles, roadways and crashes.

(2) Nonidentifying case data on each fatal crash including blood-alcohol concentrations on each fatality.

§ 241.8 Manpower development.

(a) Each State, in cooperation with its political subdivisions, shall have a comprehensive manpower development and training program to insure that sufficient numbers of qualified personnel are available to implement the State highway safety program.

(b) The program shall provide for the establishment and maintenance of a system for assessing highway safety manpower development and training requirements at State and local levels.

(c) An inventory of training institutions and organizations within the State that are capable of serving as training resources, for improving the quality and quantity of highway traffic safety manpower, shall be developed and maintained on a current basis.

§ 241.9 Legislation.

(a) Procedures shall be established for consultation with key legislative leaders prior to and during the legislative sessions for the purpose of acquainting the legislators with details of proposed highway safety legislation.

(b) An operating system for the reproduction and analysis of State statutes affecting highway traffic safety shall be established. The system shall insure that a record is kept of the current status of such statutes. Records of interpretive court decisions and administrative or regulatory agency rulings shall also be included.

(c) A data system recording the Governor's recommendations on bills introduced, action taken on pending bills, and final disposition of such bills shall be maintained.

§ 241.10 Public information.

Each State, in cooperation with its political subdivisions, shall establish a system for maintaining a high level of public awareness of the need for continuing highway traffic safety improvement. This system should be designed to communicate ideas and information, and to gain the interest and support of all highway users in all highway safety program areas. Special efforts should be directed toward national emphasis programs.

§ 241.11 Evaluation.

The State agency for highway safety shall have the responsibility for evaluating the program administration and evaluation standard, except that responsibility for the traffic records portions of the standard may be delegated to the agency that is designated as having the primary responsibility for the traffic records systems. The State agency for highway safety shall also have the responsibility for conducting and coordinating the evaluation of the total State highway safety program.

(a) Evaluation of the program administration and evaluation standard shall include an examination of the following:

(1) How the authority structure operates.

(2) Cost effectiveness.

(3) Interrelationships of program elements and subelements.

(4) Extent to which the program is consistent with funding intent.

(5) Questions relating to:

(i) Refunding of similar or changed programs or tasks.

(ii) The impact of experience on future programing decisions.

(iii) The impact of political and legislative events on program activity.

(6) The traffic records system, including identification of the following:

(i) System capability, content and number of subsystems.

(ii) Quantitative analysis of the use made of the various files for planning, evaluating and furthering highway safety goals.

(iii) Delays in entering and retrieving information.

(iv) Services to highway safety agencies.

(v) Interchange of information with other States.

(vi) Services to local communities.

(b) Evaluation of the State highway safety program shall be conducted in accordance with the following criteria:

(1) The evaluation shall describe the reactions and consequences of program impact upon citizens and agencies. This information should be related to changes in the highway safety program and its elements.

(2) The evaluation shall identify:

(i) Resources which were affected, mobilized or changed by introduction of the programs.

(ii) Aspects of the program that are required by highway safety program standards that are either met or exceeded.

(iii) Citizen, agency, and statewide benefits achieved by the program.

(3) Experimental and demonstration efforts shall be evaluated to determine

the effectiveness of innovative crash countermeasures. The evaluation shall include:

(i) Identification of new methods and countermeasures.

(ii) Details defining new organizational concepts.

(iii) New systems developments.

(iv) Review of implementation of countermeasures according to location and condition.

(v) Performance improvement related to planned objectives of crash and fatality reduction.

(4) The evaluation shall identify necessary details related to implementation and levels of progress within an approved State highway safety program, and form the basis for developing the annual work program and the mechanism for updating the comprehensive plan.

(5) Levels of participation by political subdivisions shall be examined, and their involvement in the initiation, development, and implementation of program elements, subelements and tasks shall be reviewed.

(6) The evaluation shall be accomplished annually. Analyses shall be prepared for evaluation purposes, making maximum use of the traffic records system, and summaries of the analyses and evaluation shall be submitted to the National Highway Traffic Safety Administration and the Federal Highway Administration.

(7) The evaluation shall include quantitative analyses of performance improvement, vis-a-vis planned objectives of crash, fatality, and injury reduction.

[Docket No. 72-11]

TRAFFIC LAWS AND REGULATIONS

Proposed Standard No. N-2 (23 CFR Part 242), covering traffic laws and regulations aspects of a State highway safety program, replaces current Highway Safety Program Standard No. 6, Codes and Laws. This current standard includes a requirement that there be a plan for achieving uniformity of rules of the road in all jurisdictions within the State, and that the State make comparative studies of its traffic regulations and the rules of the road established in chapter 11 of the Uniform Vehicle Code. The proposal also combines portions of several other existing standards, including provisions relating to motorcycle safety, alcohol in relation to highway safety, crash reporting, and pupil transportation safety. These provisions, along with statutory provisions included in other proposed standards, represent the basic legislative framework that NHTSA believes would establish an environment within which an effective highway safety program can function.

The requirement that States adopt a uniform traffic law is designed to guide the States in achieving and maintaining a reasonably high level of uniformity among traffic laws and regulations that are generally deemed essential for the safe, efficient, and equitable use of the highway transportation system. Many States, in accordance with the original standard, have performed comparative studies reviewing the status of their traffic laws and regulations, identifying inconsistencies and weaknesses, and in some cases revising their traffic codes to modernize and strengthen them, particularly their rules of the road. The lack of uniformity both within and among States, however, is a continuing problem, and has been the subject of review within the NHTSA as well as by the Congress. (See Hearings before the Subcommittee on Oversight of the Committee on Public Works, House of Representatives, 92d Congress, first sess., May 18-20, 1971, p. 154.) The expansion of the traffic laws and ordinances in the proposed standard would make it clearer that each State is expected to go beyond the conduct of comparative studies to translate the results into corrective legislation. Conformance with chapter 11 of the Uniform Vehicle Code is required in order to maximize the benefits to be gained from the long experience and knowledge of the developers of the code, which has long been the base document in the traffic rules and regulations area. Establishment of the rules of the road as a statewide code would encourage intrastate uniformity and eliminate the many nonuniform laws and ordinances that are a source of inconvenience and hazard to motorist and pedestrian alike. It would also be expected to reduce the administration and enforcement burdens of governmental agencies that raise serious barriers to safety and mobility in interstate commerce. The proposed standard would leave the flexibility for adoption, subject to notice and comment procedures, of provisions developed by the NHTSA which may differ from the Uniform Vehicle Code.

The requirement that the State develop a model traffic ordinance is designed to further encourage uniformity, even though many local jurisdictions will remain independent from State authority. Local ordinances that are inconsistent with State laws would be eliminated by development and maintenance of a State model ordinance that local jurisdictions could adopt by reference. This procedure would improve public accessibility and understanding of basic municipal traffic regulations, and facilitate the adoption of sound, uniform provisions governing the use of motor vehicles on the highway. It would also improve conviction reporting capabilities on both intrastate and interstate levels.

Several items differing from chapter 11 of the Uniform Vehicle Code are set out in the proposed standard. These include the provision for a right-turn-on-red-light statute, which would be desirable for improving the traffic flow at signalized intersections. This provision differs from the code, in that the right turn would be permitted unless there is a sign prohibiting such a turn, while the code requires a sign expressly permitting a right turn. Several States have adopted one or the other of these types of right-turn-on-red provisions, while a few permit such a turn without reference to any signing requirement. The code version has been adopted by the Federal Highway Administration in its "Manual on Uniform Traffic Control Devices for Streets and Highways."

Another traffic provision added by NHTSA would be a requirement that the use of seatbelts be made mandatory. NHTSA has been very active in developing motor vehicle safety standards on both active and passive restraints (see 49 CFR 571.208, 571.209). Evidence indicates that use of the seatbelt system required to be installed in motor vehicles since 1967 is extremely low, and that increased usage could save thousands of lives. A similar provision has been adopted and implemented with some success in certain Australian jurisdictions, and such legislation is currently pending in several States. NHTSA believes that such a provision is important even in view of the development of passive restraint systems, since for many years a large percentage of the vehicle population will continue to be equipped with only the seatbelt system. The legislation contemplated by the proposed standard would require mandatory usage of whatever system (either lap belt only or lap and shoulder belt) is required by Federal motor vehicle safety standards to be installed in the vehicle as manufactured; and use of any system that is required to be installed in the vehicle on the road (for example in a commercial vehicle) by State or Federal law.

The proposed new standard would also establish requirements for the imposition of severe sanctions on persons who are convicted of violating the provisions of a limited license or driving in violation of a suspension or revocation. Studies indicate that a large percentage of persons whose license is suspended or revoked continue to drive. For some individuals this type of sanction will not change driving habits; other alternatives such as imprisonment, vehicle forfeiture, or rehabilitation are being developed and employed. Nevertheless, it is believed that an effectively policed system of license restriction, suspension, or revocation could still be an effective tool for regulating driving behavior. This would be especially so if the enforcement authorities can make it clear to drivers that if they are apprehended driving while their license is suspended, revoked, or otherwise restricted, the penalty will be extremely severe.

Provisions relating to motorcycle safety, pupil transportation safety, and crash investigation are drawn from current Standards No. 3, 17, and 18, and the substantive requirements are unchanged. The major remaining change in the proposed new standard is the substantial expansion and revision of the alcohol provisions currently found in Standard No. 8, Alcohol in Relation to Highway Safety. The alcohol countermeasures program is one of the highest priority programs of the National Highway Traffic Safety Administration, and has been from the outset of the program. The National

Highway Safety Act of 1966 (23 U.S.C. 401 et seq.) provided for a study of the problem of alcohol in relation to highway safety, and the report submitted in compliance with that requirement (1968 Alcohol and Highway Safety Report, 90th Congress, second sess., Committee Print 90–34, August 1968) reviewed in detail the seriousness of the problem of the drinking driver.

The countermeasures program that has been developed in response to the report is broad. It includes requirements in the highway safety program standards for implied consent statutes, chemical test provisions, and special driver licensing and education programs directed at the drinking driver problem. Under NHTSA research authority, alcohol safety action projects were developed to search for new and innovative methods of using existing resources and knowledge for dealing with the problem drinking driver. Research continues in all aspects of alcohol in relation to highway safety, including technological, physiological, sociopolitical, and legal aspects.

The purpose of the proposed standard revisions is to assist the States in making the maximum possible use of the knowledge that has been developed since the adoption of the original standard. This includes advances in technology, in law enforcement capabilities, and in the social, medical, and political aspects of traffic law enforcement in this area. The provisions relating to alcohol violations have been expanded, for example, to include provision for a "per se" law that would make it illegal for a person to drive or be in actual physical control of a motor vehicle when he has 0.10 percent or more by weight of alcohol in his blood, and to provide for a violation resulting from the combined influence of alcohol and other drugs.

Extensive scientific studies have established that all persons are sufficiently impaired in their driving attitudes and abilities at a BAC of 0.10 percent or higher to make them a serious danger to the general public. Consequently, five States have adopted legislation which would make it unlawful for anyone to operate a motor vehicle on the highway by a person who has a specified minimum percentage of alcohol in his blood. Those States and their specified levels for unlawful driving include Nebraska, Delaware, and Minnesota at 0.10 percent; Oregon at 0.15 percent and New York at 0.12 percent.

In the campaign to remove intoxicated drivers from the road, the enforcement tool most needed is an objective roadside test for intoxication. Such a test can best be done if it is backed by laws that require drivers to submit to the test, under suitable safeguards. Chemical test provisions in the current standard thus include the breath screening test concept. The proposed requirement would require every person who operates or is in actual physical control of a vehicle to submit to a preliminary breath test upon request of an officer who has reason to believe that the person has alcohol in his body. It would make it a violation for a driver to refuse to submit to such a breath test at the request of a law enforcement officer, on penalty of his driver license being suspended or revoked. If the breath test indicated the presence of blood alcohol, the driver would be required to submit to a further test to confirm the result and determine the blood alcohol level more precisely. A separate provision would require a driver arrested for an alcohol-related driving offense to submit to tests of his bodily substances (e.g., blood, breath, or urine) for blood alcohol content. Current provisions relating to regulation of testing personnel and procedures would be continued.

Significant additions to the requirements include the provision that there be a law permitting officers to arrest without a warrant for violation of the alcohol-related offenses. The purpose of this requirement is to expedite the possibility of an alcohol-related driving arrest when the misdemeanor was not committed in the presence of the law enforcement officer. At the present time, the common law in most States requires that in order for a law enforcement officer to arrest a person for a misdemeanor without a warrant, the offense must have been committed in the presence of the arresting officer. This creates severe enforcement problems in the arrest of drunk drivers in crash situations where the police officer did not witness the crash. A number of States have enacted such legislation (in some cases allowing an arrest for a misdemeanor on the same grounds as a felony, namely, reasonable grounds to believe that the person had committed a crime) to eliminate this procedural problem.

The major remaining addition to the alcohol provisions of the standard relates to the adjudicatory and penalty setting process of those convicted of alcohol-related violations. For example, a thorough presentence investigation would be required to identify the problem drinker-driver and distinguish him from the normal social drinker, who has gone beyond the bounds of reasonable consumption and been apprehended and charged with a drinking related offense. It is believed that the social drinkers can be effectively deterred from repeating the offense by a fine, license suspension, or revocation, or other normal court penalties. For those who are identified as problem drinkers, alternative sanctions, including rehabilitation, may be necessary if a pattern of drinking-driving offenses is ever to be broken. For this reason, the proposed standard would require the establishment of rehabilitation programs for identified drinking drivers; the authorization of courts, adjudication agencies, and licensing authorities to stay otherwise mandatory penalties to permit participation by the violator in a rehabilitation program; and the establishment within a court of competent jurisdiction of civil commitment authority based on a medical diagnosis of alcoholism. An additional activity to be correlated with a rehabilitation program would be the issuance by the licensing authority of a limited or restricted driver's license to a person whose license has been suspended or revoked, on condition that he participate in a rehabilitation program. In most situations where such a license is currently issued, it is based upon a hardship or occupational situation. The proposed standard requirement would be that the limited license be more directly tied to the rehabilitative needs of the convicted driver, rather than his financial needs. In addition, an identified problem drinker who might otherwise refuse rehabilitation might be induced to actively participate in a program if granted the opportunity to retain part of his driving privileges.

PART 242—HIGHWAY SAFETY PROGRAM N–2—TRAFFIC LAWS AND REGULATIONS

Sec.

242.1 Scope.
242.2 Purpose.
242.3 Definitions.
242.4 Requirements.
242.5 Traffic laws and ordinances.
242.6 Alcohol and other drug-related provisions.
242.7 Motorcycle safety.
242.8 Pupil transportation safety.
242.9 Evaluation.

AUTHORITY: The provisions of this Part 242 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 242.1 Scope.

This standard establishes performance requirements for the adoption of uniform traffic laws and regulations to govern motor vehicle, bicycle, and pedestrian traffic on highways as part of a State highway safety program.

§ 242.2 Purpose.

This standard is designed to achieve uniformity among those traffic laws and regulations that are deemed essential for the safe and efficient use of the highways.

§ 242.3 Definitions.

(a) "Crash" means any event resulting in injury, or death, to one or more persons, or damage to property, in which the movement of motor vehicle traffic or the malfunction of a motor vehicle is a major contributing factor.

(b) "Revocation" means termination by formal action of the responsible State licensing authority, with reinstatement permitted only upon application after the expiration of a period of time prescribed by the State.

(c) "Suspension" means temporary withdrawal for a specific period by formal action of the responsible State licensing authority.

(d) "Type I school vehicle" means any motor vehicle used to carry 17 or more pupils to and from school. This definition includes vehicles that are at any time used to carry school children and school personnel exclusively, and

does not include vehicles that carry school children along with other passengers as part of the operations of a common carrier.

(e) "Type II school vehicle" means any motor vehicle used to carry 16 or fewer pupils to and from school. This does not include private vehicles used to carry members of the owner's own household.

§ 242.4 Requirements.

Each State, in cooperation with its political subdivisions, shall have a program that provides for the development and adoption of statutory and administrative provisions regulating vehicular and pedestrian traffic in accordance with §§ 242.5 through 242.8.

§ 242.5 Traffic laws and ordinances.

(a) There shall be one comprehensive and uniform traffic law for statewide application, which shall be in conformance with:

(1) Chapter 11 of the Uniform Vehicle Code, "Rules of the Road," and provisions of the highway safety program standards and appendixes thereto issued by the National Highway Traffic Safety Administration, with the highway safety program standards taking precedence in the event of conflict; and

(2) The manual on Uniform Traffic Control Devices issued by the Federal Highway Administrator.

(b) A Model Traffic Ordinance shall be developed and adopted by the State. Legislation shall be enacted to permit local authorities to adopt the model ordinance by reference and to prohibit the adoption of any local ordinance which conflicts with the State uniform traffic law.

(c) Each State shall enact a statutory provision providing for mandatory wearing of seatbelts, including both lap and shoulder belts, in any vehicle required by Federal or State law or regulation to be equipped with such seatbelts either at the time of its manufacture or while the vehicle is in use.

(d) Each State shall enact a statutory provision that allows vehicular traffic facing a steady red signal to make a right turn, unless such movement is prohibited by a sign, after stopping and yielding the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(e) Each State shall enact a statutory provision imposing sanctions upon a person convicted of unlawfully operating a vehicle while his license is limited for rehabilitative purposes or suspended or revoked for a conviction of a hazardous traffic law violation. These sanctions may include further revocation of the operator's driving privileges; suspension of the registration of any motor vehicle(s) owned by the operator; or forfeiture to the State of the vehicle being so operated.

(f) Each State shall establish requirements for reporting of crashes to a designated State agency within a reasonable time after occurrence, including provisions for submission of owner and driver reports as follows:

(1) In crashes involving only property damage, where the vehicle can be driven away from the scene, the drivers or owners of vehicles involved shall be required to submit a written report consistent with State reporting requirements to the designated State agency. A vehicle shall be considered capable of being normally and safely driven if it does not require towing and can be operated under its own power, in its customary manner, without further damage or hazard to itself, other traffic elements, or the roadway.

(2) In all other crashes, the drivers or owners of motor vehicles involved shall be required to notify immediately the police of the jurisdiction in which the crash occurred.

§ 242.6 Alcohol and other drug-related provisions.

(a) It shall be made unlawful for any person to drive or be in actual physical control of any vehicle within the State while such person is under the influence of alcohol or other drug, or has 0.10 percent or more by weight of alcohol in his blood, or is under the combined influence of alcohol and another drug to a degree which renders him incapable of driving safely.

(b) Authority shall be established permitting a law enforcement officer to arrest a person, without a warrant, for a traffic law violation committed out of his presence when he has probable cause to believe that the person committed the violation.

(c) Every person who operates or is in actual physical control of any vehicle within the State shall be required to:

(1) Submit to a test of his breath to determine his blood-alcohol content, upon request of a law enforcement officer who has reason to believe that the person has alcohol in his body.

(2) Submit, when a breath test administered in accordance with subparagraph (1) of this paragraph indicates that a person is impaired by alcohol, to a further test of his blood, breath, or other bodily substance to determine his blood-alcohol content, upon request of a law enforcement officer.

(3) Submit, after having been arrested for an offense arising out of acts alleged to have been committed while driving under the influence of alcohol, to a test or tests of his blood, breath, or other bodily substance for the purpose of determining his blood-alcohol content.

(d) The law enforcement agency by which the officer is employed shall designate which test shall be administered, whenever there is a test required pursuant to paragraph (c) of this section. Provision shall be made to insure protection for those defendants who object to a particular test on valid religious or medical grounds. It shall be provided that if a person refuses to submit to a test required pursuant to paragraph (c) of this section the licensing agency, subject to appropriate review procedures, shall revoke his driver's license for a period of not less than 6 months.

(e) The State shall have a program for insuring the validity of test results obtained pursuant to paragraph (c) of this section, including:

(1) Establishment of qualifications and training requirements for personnel who administer tests used to determine alcohol concentrations in blood, breath, or other bodily substance.

(2) Specification of the methods and related details of specimen collection, handling, and analysis.

(3) Specification of methods used by the State to insure the efficacy and accuracy of the instruments employed to measure blood-alcohol concentrations.

(4) Establishing procedures for the reporting and tabulation of the results of such tests.

(f) There shall be a requirement established for performing quantitative tests for alcohol in the bodies of all drivers and pedestrians 16 years of age or older who die as a result of a crash.

(g) There shall be a provision requiring the court or adjudication agency to order or conduct a presentence investigation of each person convicted of violations established pursuant to paragraph (a) of this section to determine the existence and the extent of the drinking or other drug problem of such convicted person.

(h) The State shall develop and implement a driver improvement program for identified problem drinker drivers, including provision for referral to alcohol rehabilitation facilities established and maintained by the State or its political subdivisions.

(i) There shall be a requirement establishing the following sanctions or any combination thereof for conviction of violations established under paragraph (a) of this section.

(1) Upon a first conviction: Revocation or restriction of the violator's driver's license, confinement or limitations of the person, or fine.

(2) Upon a second or subsequent conviction within 10 years: Revocation of the violator's driver's license, suspension of the registration of the vehicle(s) owned by the violator, imprisonment, or fine.

(j) The sanctions established pursuant to paragraph (i) of this section shall be mandatory except for the following circumstances:

(1) Courts of competent jurisdiction shall have the authority to commit a medically diagnosed alcoholic or drug addict convicted for violations established under paragraph (a) of this section to a hospital or institution where an alcohol or drug treatment program is in effect, in lieu of committing such person to imprisonment.

(2) Courts and licensing authorities shall have the authority to stay all or part of a mandatory sanction, on condition that the convicted person satisfactorily participates in a driver rehabilitation program.

(3) The head of the driver licensing authority shall have the authority to

grant a limited driver's license for a specific restricted use.

(4) When a vehicle registration is suspended, the State may permit issuance of a special registration coded to identify driver restrictions for enforcement purposes.

§ 242.7 Motorcycle safety.

(a) Each person who operates a motorcycle on the highways shall be required to wear eye protection, and a safety helmet that complies with the requirements of Federal Motor Vehicle Safety Standard No. ____.

(b) Each motorcycle passenger shall be required to wear a motorcycle helmet that complies with Federal Motor Vehicle Safety Standard No.____.

(c) It shall be required that each motorcycle carrying a passenger in addition to the operator be equipped with a seat and a footrest for the passenger.

§ 242.8 Pupil transportation safety.

Each State, in cooperation with its school districts and its political subdivisions, shall have a comprehensive pupil transportation safety program that is supported by the following legislative or regulatory provisions.

(a) Primary administrative responsibility for pupil transportation shall be assigned to a single State agency that employs at least one full-time professional to carry out its responsibilities for pupil transportation.

(b) Drivers of motor vehicles shall be required to stop when meeting or overtaking a school vehicle stopped to take on or discharge pupils when the school vehicle is displaying approved red-flashing warning signals as authorized and operating on the same roadway. Drivers shall be prohibited from proceeding until the red-flashing warning signals are deactivated, or the school vehicle resumes motion.

(c) Operation of any vehicle displaying the words "School Bus" shall be prohibited unless the vehicle meets the equipment and identification requirements of this or any other highway safety program standard.

(d) Type I school vehicles being operated on a highway and transporting primarily passengers other than school pupils shall have the words "School Bus" covered, removed, or otherwise concealed, and stop arms and signal equipment shall not be operable by the usual controls.

(e) (1) Type II school vehicles shall either:

(i) Comply with all the requirements for Type I school vehicles; or

(ii) Be of a color other than National School Bus Glossy Yellow, have none of the equipment specified by Standard No. N-3 (Part 243 of this chapter) and not have the words "School Bus" in any location on the exterior of the vehicle or in any interior location visible to a motorist.

(2) The State shall establish conditions under which one or the other of the above two specifications shall apply.

(f) Use of flashing-red warning signals for any other purpose or at any time other than when the school vehicle is stopped to load or discharge passengers shall be prohibited.

(g) Determination as to whether school vehicles will be equipped with stop arms shall be made by the State, but operation of stop arms, where available, shall be permitted only in conjunction with the flashing-red warning signals.

(h) The State agency having primary responsibility for pupil transportation safety shall establish at which stops and under what circumstances flashing warning signals shall be used.

(i) School vehicle seating arrangements shall insure that each occupant aboard the vehicle can sit in a seat location intended by the manufacturer to provide seating accommodation for a person at least as large as a 5th percentile female, as defined in 49 CFR 571.3. No auxiliary seating shall be permitted.

(j) School vehicle routing and seating plans shall be coordinated to eliminate standees when a school vehicle is in motion.

(k) In addition to licensing requirements established pursuant to Standard No. N-5 (Part 245 of this chapter), the State agency having primary responsibility for pupil transportation shall establish employment requirements which must be met by every person who drives a Type I or Type II school vehicle occupied by school pupils.

(l) Each State shall develop a system for minimizing highway hazards to school vehicle occupants, other highway users, pedestrians, and property, including, but not limited to:

(i) Careful planning and annual review of routes for safety hazards.

(ii) Establishment of school vehicle loading and unloading areas off the main traveled part of highways, where it is practicable to do so, with restricted zones at or near schools.

(iii) Requiring the use of seatbelts, including both lap and shoulder belts, by drivers and passengers of school vehicles equipped with belts.

The State agency for highway safety shall insure that this standard is evaluated, and use the evaluation for developing the Annual Work Program and updating the Comprehensive Plan pursuant to Standard N-1 (Part 241 of this chapter). The evaluation shall include:

(a) Identification of the current status of traffic laws, rules, and regulations, and the extent of their conformity with the requirements of this standard.

(b) Development of a system for determining progress in implementation of the constituent parts of this standard, including the adoption of new traffic laws or amendments which remedy defects and strengthen existing laws.

[Docket 72-12]

VEHICLE REQUIREMENTS

Proposed Standard N-3 (23 CFR Part 243) is a revision and amalgamation of several existing standards: Standard No. 1, Periodic Motor Vehicle Inspection; Standard No. 2, Motor Vehicle Registration, and features of Standards No. 3 and 17. The proposed new standard would bring together into one standard those highway safety program aspects that relate primarily to the motor vehicle.

The purpose of the vehicle registration portion of the standard is to expand the scope and maximize the highway safety potential of the State vehicle registration program. New portions of the standard would require the application and use of vehicle registration as a mechanism for vehicle and owner identification, information and control.

One of the major new features of the standard would require establishment of a system for documenting vehicle ownership, including the issuance of a certificate of title. The certificate or a certified copy thereof would be required to be presented at the time of initial registration of the vehicle in the State. This new provision is based on recommendations of an NHTSA contractor who studied this issue. Although 50 of the 52 jurisdictions covered by the Highway Safety Act now have title laws, there continues to be a lack of uniformity in administration. Establishment of a certificate of title requirement would encourage greater uniformity among States, and would be a step in the direction of upgrading the titling systems within particular States. In addition, the improvement of the ownership documentation system should enhance State control over junked vehicles.

Another addition to the vehicle registration requirements is the inclusion of additional data descriptors of the vehicle and owner, including line, name of previous owner, current title number, and previous title number, as well as a capability in the data processing system for rapid updating of registration renewals.

The purpose of the change in data descriptors is to strengthen and emphasize rapid identification, and maintenance, and availability of important identifying data. A new descriptor, "Line" has been added. The basis for this item is SAE Technical Report J218, which defines "Line" as "a name denoting a family of vehicles within a make which has a degree of commonality in construction, such as body, chassis, etc." New data elements for the owner include name of previous owner, and current, and previous title number. These data are related to the requirement for certificate of title and are designed to strengthen ownership establishment within and between States.

In expanding requirements for data processing, NHTSA is aware that the speed and accuracy required can probably be achieved only with the use of electronic data processing equipment. Forty-six States are processing vehicle data with electronic equipment at varying levels of sophistication. Other States are studying feasibility of upgrading their vehicle data systems. It is hopeful that these efforts will continue and be expanded so that maximum highway safety benefits can be obtained from vehicle registration data.

Another data requirement is the development and maintenance of a vehicle history file. The file would include at least data on crashes and inspections, and would hopefully be expanded to include information on defects announced by the manufacturers and on thefts. Most States already collect this information (with the exception of defect information) but few States link the data to a comprehensive vehicle data file. Development of such a comprehensive file would enable coordination of relevant data before registering vehicles and also may be linked to driver licensing requirements.

Another addition to the standard is a requirement that the registration be used as part of the sanction scheme required by Standard N-2 (23 CFR Part 242). Several States have already established administrative discretion to suspend a vehicle's registration in the registration agency. The authority, however, is exercised primarily in cases of financial responsibility or failure to pay taxes, or parking ticket fees. It is rarely used as a control mechanism for potentially unsafe drivers. NHTSA believes that use of the registration system to control unsafe drivers should be expanded, particularly in the area of alcohol-related sanctions. Provision for suspension of vehicle registration has thus been encouraged in the NHTSA guidelines for its Alcohol Safety Action Projects.

The equipment requirements to be established in the proposed standard include provisions that are currently included in Standards No. 3, Motorcycle Safety, and No. 17, Pupil Transportation Safety, as well as two additional provisions relating to removal and alteration of safety equipment.

The provision that motorcycles used to carry passengers be equipped with a passenger seat and footrest is included in current Standard No. 3, and is continued without change, as are the equipment requirements applied to school vehicles in Standard No. 17. The equipment requirements for school vehicles relate to identification of the vehicle as a school vehicle, and to equipment necessary for control of traffic by the school vehicle. Further provisions require a mirror system to insure visibility by the driver along the sides and front of the vehicle, and pretrip maintenance checks by the driver. The maintenance provision has been expanded from the current standard to prohibit use of the vehicle to carry school children unless the repairs are made. NHTSA believes that the equipment required is integrally related to the operational requirements established for school vehicles in Standard N-2 (23 CFR Part 242). Availability of school vehicles equipped in accordance with the proposed standard is necessary if States are to plan and implement comprehensive programs to improve the safety and efficiency of pupil transportation.

Statewide equipment regulation would be required, although determination of the extent and method of equipment regulation would be left primarily to the States. Equipment requirements relating to aspects of performance covered by Federal Motor Vehicle Safety Standards would be required to be identical with the Federal standard, reflecting the requirements of section 103(d) of the Motor Vehicle and Traffic Safety Act of 1966 (15 U.S.C. 1392(d)).

The proposed Standard N-3 would also require States to establish provisions regulating the removal or alteration of safety equipment, particularly equipment or components that are required by Federal Motor Vehicle Safety Standards to be installed at the time of manufacture of the vehicle. The purpose of this requirement is to insure that the maximum safety benefits will be gained from the standards developed pursuant to the National Traffic and Motor Vehicle Safety Act.

The motor vehicle inspection provisions of the proposed new standard would continue the requirements established in the current Standard No. 1, Periodic Motor Vehicle Inspection, with very little substantive change. Some systematic basis is required for evaluating the safety maintenance of vehicles as well as the integrity of safety equipment and components required to be installed at the time of manufacture by Federal law or regulation. The efficacy of random inspection programs, conducted by some States, has been questioned in some recent studies. Other research in this area is continuing, but it is believed that until some more definitive solutions are developed the periodic inspection requirement should be retained.

Other requirements of Standard No. 1 have been amended to specify that the inspection cover tire condition, and braking, suspension, and steering systems. NHTSA believes that these are the systems known to have a substantial relation to safety, and that inspection of them should therefore be spelled out as a specific requirement.

The other change in the current inspection standard is the reference to inspection procedures. NHTSA has under the current standard manual endorsed the inspection procedures established in the American National Stanards Institute (ANSI) D7 Code—"American Inspection Requirements for Motor Vehicles, Trailers and Semitrailers Operated on Public Highways." NHTSA expects in the near future to develop inspection procedures that will be issued as guidelines. The requirement for adherence to endorsed criteria has therefore been deleted.

PART 243—HIGHWAY SAFETY PROGRAM STANDARD NO. N-3—VEHICLE REQUIREMENTS

Sec.
243.1 Scope.
243.2 Purpose.
243.3 Motor vehicle registration.
243.4 Equipment.
243.5 Inspection.
243.6 Evaluation.

AUTHORITY: The provisions of this Part 243 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 243.1 Scope.

This standard establishes performance requirements for the vehicle registration, equipment and inspection aspects of the State highway safety program.

§ 243.2 Purpose.

(a) This standard is designed to (1) increase the potential of the State's registration system as an information, identification, and control mechanism, capable of identifying and describing each vehicle and its owner and providing support to the other highway safety program areas, (2) insure that safety equipment installed on new vehicles is not removed, or altered so as to render it less effective, and (3) insure the safe operating condition of all registered vehicles.

§ 243.3 Motor vehicle registration.

Each State shall have a motor vehicle registration program that establishes a system for documenting vehicle ownership, for insuring rapid identification of a vehicle and its owner, and for controlling vehicle use by problem drivers. The program shall meet the following requirements:

(a) Every motor vehicle operating on the public highways shall be registered.

(b) Ownership of every motor vehicle registered in the State shall be documented by a certificate of title, issued prior to registration, and held by the legal owner or lienholder. The certificate of title or certified copy thereof shall be produced at the time of initial registration in the State and shall be transferred to the new owner if the vehicle is sold.

(c) Procedures shall be established to control and eliminate abandoned vehicles on public and private property, including:

(1) Requirement that persons identified as owners of abandoned vehicles provide evidence of disposal of the vehicle.

(2) Suspension of the registration of any other motor vehicle(s) owned by any person who has not provided evidence of disposal of a motor vehicle.

(3) Control of ownership documentation and identification plates when abandoned vehicles are junked.

(d) The registration records system shall be capable of rapid identification of each registered vehicle and its owner, including:

(1) Collection of descriptive data for identification of registered vehicles, including:

(i) Make.
(ii) Model year.
(iii) Line.
(iv) Vehicle identification number.
(v) Type of body.
(vi) Gross vehicle weight rating, as provided by manufacturers pursuant to 49 CFR Part 567, Certification.

(2) Collection of descriptive data for identification of owners of registered vehicles, including:

(i) Name of current owner.
(ii) Address of current owner.
(iii) Current title number.

(iv) Registration plate number.
(v) Name of previous owner.
(vi) Previous title number.
(3) Development of a data processing system that is capable of:
(i) Rapid and accurate entry of new registration data.
(ii) Rapid and accurate updating of registration data including recording of renewals and changes in registration.
(iii) Rapid and accurate retrieval of data on the vehicle and owner for identification and control.
(iv) Receiving and processing inquiries 24 hours a day.
(v) Providing data for statistical compilation and accident research and analysis.
(4) Maintenance of a current vehicle data system that includes the safety history of registered vehicles in relation to accident experience and inspection.
(e) The vehicle registration system shall be used to control the operation of vehicles by problem drivers by suspending the vehicle registration in accordance with provisions established under Standard No. N-2 (Part 242 of this chapter).

§ 243.4 Equipment.

Each State shall specify equipment requirements for all motor vehicles registered within the State.
(a) The equipment requirements relating to aspects of performance covered by Federal Motor Vehicle Safety Standards shall be identical to the Federal standard. Equipment requirements relating to aspects of performance that are regulated by other Federal law or regulation shall be consistent with the Federal provisions.
(b) Removal from the vehicle, or alteration in such a manner as to render it less effective, of safety equipment regulated by the Federal Motor Vehicle Safety Standards or other Federal law or regulation, or of other safety-related equipment, shall be prohibited.
(c) Vehicles required to be identified by the words "SCHOOL BUS" shall be required to:
(1) Have the words "SCHOOL BUS" painted in letters not less than 8 inches in height, on the front and rear of the bus. The words shall be placed between the warning signal lamps as high as possible without impairing visibility of the lettering from either the front or rear. No other lettering shall be permitted on the front or rear of the vehicle.
(2) Be painted National School Bus Glossy Yellow, in accordance with the colorimetric specification of Federal Standard No. 595a, Color 13432, except that the hood shall be either that color or lusterless black, matching Federal Standard No. 595a, Color 37038.
(3) Have bumpers of glossy black, matching Federal Standard No. 595a, Color 17038; unless, for increased night visibility, they are covered with a retroflective material.
(4) Be equipped with a system of signal lamps that conforms to the school bus requirements of Federal Motor Vehicle Safety Standard 108, 49 CFR 571.108.
(5) Have a system of mirrors that will give the seated driver a view of the roadway to each side and to the rear of the bus, and of the area immediately in front of the front bumper.
(6) Be given daily pretrip inspections by their drivers, who shall report promptly and in writing any defects or deficiencies that may affect the safety of the vehicle's operation or result in its mechanical breakdown. The vehicle shall not be used to transport pupils until restored to a safe operating condition. Pretrip inspection and condition reports for school vehicles subject to the Motor Carrier Safety Regulations of the Federal Highway Administration shall be performed in accordance with those regulations. (49 CFR 392.7, 392.8, and 396.7.)
(d) Any school vehicle meeting the identification and equipment requirements of this standard that is permanently converted for use wholly for purposes other than transporting pupils to and from school shall be painted a color other than National School Bus Glossy Yellow, and have the stop arms and warning signal lamps removed.
(e) Motorcycles used to transport passengers shall be equipped with a seat and footrests for the passenger, in addition to equipment specified in paragraphs (a) and (b) of this section.

§ 243.5 Inspection.

Except as specified in paragraph (g) of this section, each State shall have a program for periodic inspection of all registered motor vehicles.
(a) Every vehicle registered in the State shall be required to be inspected at the time of initial registration and at least annually thereafter.
(b) The State shall insure that the inspection is performed by competent personnel certified by the State and specifically trained to perform their duties.
(c) The inspection shall cover at least the braking, suspension, and steering systems, and tire conditions.
(d) Each inspection station shall be required to maintain records in a form specified by the State, which includes at least the following information:
(1) Class of vehicle.
(2) Date of inspection.
(3) Make.
(4) Line.
(5) Model year.
(6) Vehicle identification number.
(7) Defects by category.
(8) Identification of inspector.
(9) Mileage or odometer reading.
(e) The State shall publish summaries of the records of all inspection stations at least annually, including tabulations by make and line of vehicle.
(f) Owners of vehicles shall be required to correct any system or component covered by the inspection that is found to be defective.
(g) In lieu of a periodic inspection program, the State may adopt an experimental, pilot, or demonstration inspection program approved by the Administrator, in which case the inspection shall be conducted at such times as are designated in the experimental, pilot, or demonstration program.

§ 243.6 Evaluation.

The State agency for highway safety shall ensure that the vehicle requirements program is evaluated, and use the evaluation for developing the annual work program and updating the comprehensive plan pursuant to Standard No. N-1 (Part 241 of this chapter). As a minimum, the evaluation shall include:
(a) Measures for evaluating the registration aspects of the program:
(1) Number of requests for vehicle and owner identification.
(2) Number of suspensions.
(3) Elapsed time from initial registration application to updating data file.
(4) Elapsed time from initial information request to retrieval of data.
(b) Measures for evaluating the equipment aspects of the program:
(1) Extent of enforcement of laws relating to the presence and maintenance of Federal Motor Vehicle Safety Standard equipment, in terms of numbers of inspections and the results thereof.
(2) Numbers of vehicles (in comparison with the total number inspected) for which equipment required by the Federal Motor Vehicle Safety Standards (49 CFR Part 571) has been maintained.
(3) Extent of removal or modification of safety equipment on motor vehicles.
(c) Measures for evaluating the inspection aspects of the program:
(1) Measurement and comparisons by various factors such as make, line, body style, year, and defects.
(2) Cost of repairs.
(3) Inspection times and costs.
(4) Reductions in defects as program improvements are implemented.
(5) Measures or comparisons with programs conducted by other States.
(d) A review of the extent of compliance with the specific program requirements established in §§ 243.3 to 243.5.

[Docket No. 72-13]

TRAFFIC SAFETY EDUCATION

Proposed Standard N-4 (23 CFR Part 244), covering the traffic safety education aspects of a State highway safety program, is basically a revision of existing Standard No. 4, Driver Education. It also includes features of existing Standards No. 3, Motorcycle Safety; No. 14, Pedestrian Safety; and No. 17, Pupil Transportation Safety. The purpose of the proposed standard is to insure development of a comprehensive system of traffic safety education programs that will improve the performance of all highway users.
The principal revisions of the standard, including the change of name, reflect the changing emphasis in the States' driver education programs, from the traditional secondary school approach to an expanded traffic safety approach covering all highway users, including pedestrians, bicyclists, and special classes of drivers. The proposed standard would also encourage increased supervision and management of the comprehensive program, by requiring,

for example, development and implementation of standards for public, private, and professional driving schools' instructional personnel and facilities.

NHTSA believes that the lack of adequate program supervision and administration is defeating efforts to improve traffic safety education. For this reason, the proposed standard includes a new requirement that would require supervision and coordination of the comprehensive program within a designated State agency or agencies. The agency or agencies would be required to be adequately organized and staffed. Currently it is estimated that fewer than 50 percent of the States have a full-time State traffic safety education supervisor, and those that do very often have not provided adequate professional support staff.

Another requirement designed to improve the program administration is the provision that the State agency or agencies have the authority to issue and inforce standards relating to personnel, equipment, and curriculum—to be met by both public and private organizations providing traffic safety education. These standards would be endorsed by the chief State school officer, and would insure that all personnel and facilities meet certification requirements. Establishment of a minimum level of personnel competency and facility capability should provide an additional means of controlling the quality of the program.

The proposed new standard also would require the review and update of curriculum guides and the development of instructional programs, endorsed by the chief State school officer. The instructional programs are to be appropriate to differing age, experience, and vehicle, or other highway use requirements, and include in-school traffic safety education, beginning-driver education, prelicensing instruction, postlicensing instruction, special class instruction and adult beginning-driver education.

This requirement represents a major change in the focus of driver education programs, based on the belief that all highway users, including the very young and drivers of special purpose vehicles, should be educated to understand safe and efficient traffic safety procedures. For example, the fact that very young children are disproportionately represented in pedestrian fatalities indicates the need for an educational effort to teach young children, in a manner appropriate to their age, about highway use hazards. Currently, fewer than 10 States have a statewide traffic safety program encompassing kindergarten through 12th grade.

The need for training programs for drivers of special purpose vehicles is also indicated by crash statistics. For example, 1968 crash statistics (the last year for which figures are available) indicate that nearly 12,000 emergency vehicles were involved in crashes in which 180 persons died. NHTSA data reveal that of approximately 200,000 drivers of special purpose vehicles, less than 1 percent have had a specialized driver training program.

The curriculum requirements also include provisions for educational programs for motorcycle operators and drivers of school vehicles. Data indicate that the number of motorcycles in the United States has risen sharply in the past decade. Compared to a 46-percent increase in all motor vehicle registrations since 1961, motorcycle registrations increased 322 percent. In 1970, deaths of operators and passengers totaled 2,330. While there is limited information available on the cycling experience of motorcyclists involved in crashes, it is reasonable to surmise that many motorcyclists involved in crashes have limited cycling experience. Establishment of the instructional program required by the proposed standard would make an education program available to many drivers for the first time.

Other features of the proposed standard that depart from the traditional concept of driver education are the adult beginning program and the prelicensing and postlicensing instruction programs. The adult beginning program and the prelicensing program are included as requirements to insure that persons who are over 18 years of age and no longer in high school, and seeking their first license in any State, have prelicensing instruction available to them. The prelicensing course need include only classroom instruction. The adult beginning course must include both classroom and laboratory instruction. The standard would require the classroom instruction to be at least equivalent to the prelicensing course; and would permit a State to establish programs in which professional driving schools' laboratory instruction would be supplemented by attendance at a prelicensing course. Under Standard No. N-5 (23 CFR Part 245), successful completion of a prelicensing program would be a prerequisite for an initial license. The postlicensing program is designed for crash or violation involved drivers who are referred by courts or licensing agencies for rehabilitation or re-education. It would support and complement efforts under other standards to develop new sanctions and rehabilitive techniques for convicted traffic law violators, though it should also be available as a refresher course for other drivers.

The evaluation provisions of the proposed standard are expanded, and defined primarily in quantitative terms. The evaluation would be required to include, for example, a review of the status of the standards related to personnel, equipment, and facilities, review of the number and types of instructional programs available, and calculation of the percent of the driving population successfully completing a traffic safety education program.

PART 244—HIGHWAY SAFETY PROGRAM STANDARD NO. N-4—TRAFFIC SAFETY EDUCATION

Sec.
244.1 Scope.
244.2 Purpose.
244.3 Definitions.
244.4 Traffic safety education program.
244.5 Instructional programs.
244.6 Evaluation.

AUTHORITY: The provisions of this Part 244 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 244.1 Scope.

This standard establishes performance requirements for a State traffic safety education program for operators and occupants of motor vehicles, special purpose vehicles, bicycles, and for pedestrians.

§ 244.2 Purpose.

The purpose of this standard is to provide a comprehensive system of traffic safety education programs designed to improve the performance of highway users and reduce highway crashes, injuries, and deaths.

§ 244.3 Definitions.

(a) "Classroom instruction" means the portion of a beginning driver education program that is characterized by an instructor meeting with a group of students for lecture, study, and discussion usually based on a textbook and other written and visual materials.

(b) "Laboratory instruction" means that portion of a beginning driver education program characterized by the use of special equipment and facilities such as driving simulators, off-street multiple-car areas, and on-street dual-control vehicles in which students gain practical experience in motor vehicle operations.

(c) "Professional driving school" means a private organization offering motor vehicle driving instruction to the general public for a fee, through classroom and/or laboratory situations.

(d) "Chief State school officer" means the appointed or elected State official with specific responsibility for administration of the State public education program.

§ 244.4 Traffic safety education program.

Each State shall have a State traffic safety education program consisting of a comprehensive statewide instructional program, including specific subprograms designed to provide highway users with the knowledge, skill development, and understanding necessary for improved performance as a motor vehicle operator or occupant, bicyclist or pedestrian. The program shall be administered in accordance with the following requirements:

(a) Each State shall designate a State agency or agencies to monitor and supervise all elements of the traffic safety education program, including the instructional programs established or ad-

ministered by State agencies or political subdivisions of the State.

(b) The agency or agencies shall be suitably organized and staffed to perform the coordination, supervision, and evaluation necessary to ensure program continuity and maintenance of quality instructional programs, and shall have the power to:

(1) Issue and enforce standards relating to personnel, equipment, and curriculum maintained by any public or private organization providing traffic safety education programs: *Provided, however,* That such standards shall be endorsed by the chief State school officer.

(2) License all professional driving schools that operate or seek to operate traffic safety education programs or facilities within the State.

(c) The agency(ies) shall ensure that current curriculum guides are developed and updated at least every 5 years, and that the instructional programs include the use of the most efficient and effective teaching techniques and procedures available.

(d) The agency(ies) shall coordinate traffic safety instructional programs to ensure that any such programs supported by public funds are endorsed as part of the statewide comprehensive program. Public entities which use a traffic safety instructional program in conjunction with their activities shall be required to use only programs that are part of the statewide comprehensive program.

§ 244.5 Instructional programs.

Each State shall ensure the development of instructional subprograms in traffic safety education, enforced by the chief State school officer, and defined according to differing age, experience, and vehicle or other highway use requirements, as follows:

(a) There shall be an in-school traffic safety education program, consisting of a school-wide instruction program for students from kindergarten level through senior high school, and designed to develop knowledge, skill, and understanding appropriate to the maturity of the child in the following specific areas:

(1) Pedestrian safety:

(i) Recognition and use of safety route to and from school.

(ii) Recognition and use of safe play areas.

(iii) Observance of safe practices when entering into and exiting from motor vehicles.

(iv) Observance of safe practices in crossing streets and highways.

(v) Observance of community and school traffic safety regulations.

(vi) Effects of alcohol and other drugs on pedestrian performance.

(vii) Proper wearing apparel during periods of darkness and limited visibility.

(2) Bicycle safety:

(i) Basic riding skills and practices.

(ii) State, community, and school regulations.

(iii) Effects of alcohol and other drugs on bicyclists' performance.

(3) School vehicle rider safety: This program must be presented once at the beginning of each school semester to each pupil who is transported in a school vehicle and should include:

(i) Safe boarding and unboarding practices.

(ii) Safe riding practices.

(iii) Emergency evacuation drills.

(4) Motorcycle safety:

(i) Operating characteristics.

(ii) Use of safety devices and protective apparel.

(iii) Vehicle systems and subsystems that are critical to safe operation, and preventive maintenance practices to insure effective operation of the vehicle.

(iv) Techniques for handling emergency situations.

(v) Effects of alcohol and other drugs on motorcyclists' performance.

(5) Vehicle passenger safety:

(i) Observance of safe practices when entering into and exiting from motor vehicles.

(ii) Use of safety devices.

(iii) Effects of alcohol and other drugs on driver and passenger performance.

(b) There shall be a beginning driver education program available to all youth of licensing age, consisting of an instructional program, typically conducted by a secondary school as part of an in-school education program or by a licensed professional school, designed to provide classroom and laboratory instruction appropriate to those first learning to operate a motor vehicle at initial licensing age. The program shall include at least the following:

(1) The use of both classroom and laboratory instruction and the use of the most efficient and effective teaching techniques and procedures available, including, for example, driving simulators, multiple-vehicle driving ranges, skid pans, multi-media techniques, and materials and techniques designed to develop proper driving attitudes and behavior.

(2) The following elements of the driving task:

(i) Nature of the driving task, including urban, nighttime, and expressway driving.

(ii) Off-highway tasks, including driver fitness (e.g., alcohol and other drugs, emotions, motivation, and fatigue), vehicle selection and maintenance, legal responsibilities, and trip planning (e.g., route selection and time factors, special equipment, vehicle loading).

(iii) On-highway tasks, including knowledge of basic controls—purpose and use, general driving procedures, interaction with other highway users, detecting and responding to roadway-environmental factors, handling emergency situations, including skid control, and controlling the consequences of a crash.

(c) There shall be a pre-licensing instruction program, for individuals 18 years of age or older who are first learning to operate a motor vehicle, that shall include as a minimum formal classroom instruction designed to improve the individual's understanding of:

(1) Traffic laws, road signs, and signals.

(2) Safe driving techniques and emergency procedures, including skid recovery, and the differing characteristics of urban and rural driving.

(3) Alcohol in relation to highway safety, pedestrian safety, and cyclist safety.

(d) There shall be a postlicensing instruction program, sponsored by a traffic court, driver licensing agency, public adult education school, or professional driving school, consisting of a number of individual courses designed to assist in the rehabilitation or re-education of crash or violation involved drivers, or to provide "refresher" education for adult drivers who are not crash or violation involved. Each course shall be tailored to the class of drivers involved. In re-education or rehabilitation programs administered as part of the State driver improvement program, instruction shall be appropriate to the type of drivers to be instructed based on a diagnosis of factors contributing to their crash or violation involvement.

(e) There shall be a special-class instruction program, consisting of courses of instruction specially designed to improve the performance of specific categories of highway users, including school vehicle drivers, motorcyclists, bicyclists, pedestrians, and drivers of special purpose vehicles such as ambulances, police vehicles, and firetrucks.

(1) Motorcyclist, bicyclist, and pedestrian instructional programs shall include elements described in the appropriate section of the in-school instruction program (paragraph (a) of this section), modified to meet the maturity level of the participants. The motorcycle program must include on-cycle instruction related to basic riding skills and practices.

(2) Instructional programs for drivers of school and emergency vehicles shall include as a minimum the following elements:

(i) Applicable laws and regulations.

(ii) Safe operating practices under normal and emergency conditions.

(iii) Driver and vehicle fitness.

(iv) Inspection and preventive maintenance.

(f) There shall be an adult beginning-driver education program for individuals 18 years of age or older who are not regularly enrolled as students in secondary schools and who are first learning to operate a motor vehicle. The program course must be scheduled over a period of at least 3 consecutive weeks and include classroom instruction at least equivalent to a prelicensing instruction course and laboratory instruction similar in content to that provided in a beginning-driver education course.

§ 244.6 Evaluation.

The traffic safety education program shall be evaluated by the State agency(ies) having responsibility for administering the program. The evaluation shall be submitted to the State highway safety agency for use in developing the annual work program and updating the Comprehensive Plan pursuant to Stand-

ard No. N-1 (Part 241 of this chapter). The evaluation shall include:

(a) Review of the coordination activities of the agency(ies) designated to administer the program, in terms of the specific requirements established in § 244.4, including:

(1) Review of the standards related to personnel, equipment and facilities.

(2) Review of teacher certification programs in terms of efforts and progress related to:

(i) Upgrading the minimum requirements for secondary school driver education teachers.

(ii) Requirements for in-service, supervisory, and specialized training.

(3) Current status of curriculum guides.

(4) Extent of use by other public entities of instructional programs established in the comprehensive program.

(b) Review of the availability of traffic safety education courses for highway users, including:

(1) Numbers and types of courses developed.

(2) Extent of conformance of courses with the curriculum guidelines required in § 244.5.

(3) Numbers of new licensees of any age that have successfully completed a given instructional program.

(c) Review of progress toward employment of performance measures of knowledge and skill relating to a driver's ability to identify and correctly solve problems of interaction with other highway users, the highway environment, and the operation of motor vehicles under all types of conditions.

(d) Review of the results of any experimental programs conducted pursuant to 23 U.S.C. 402(a) and designed specifically to determine the effectiveness of pedestrian and bicycle programs.

[Docket 72-14]

DRIVER LICENSING

Proposed Standard N-5 (23 CFR Part 245) covers performance requirements related to the examination, reexamination, licensing, and improvement of drivers, as well as the development and maintenance of a driver information system. It basically strengthens and upgrades current Standard No. 5. The proposed standard is designed to make motor vehicle travel safer for all highway users by seeking to ensure that only persons physically and mentally qualified are licensed to operate a motor vehicle. The requirements have been developed with the further intent of aiding drivers to maintain their competency, thus minimizing the likelihood that their opportunity to drive will be limited or denied.

The scope of Standard No. 5 is not changed. It deals with performance requirements related to the examination, reexamination, and licensing of drivers; the administration of driver improvement programs; and the establishment and maintenance of a driver information system. Major revisions include the establishment of minimum education and age requirements for a driver's license, emphasis throughout the licensing process on the problem of alcohol and driving, and strengthened requirements for (1) the development of coordination and cooperation between State agencies and disciplines (e.g., traffic courts, enforcement agencies, driver educators), and (2) driver improvement processes.

The proposed standard establishes 18 years of age as a general minimum requirement for initial licensing, but permits initial licensing at age 16 provided the applicant has successfully completed an educational program certified by the State for that purpose.

The proposed standard also makes successful completion of (1) a prelicensing instruction program, (2) a beginning-driver education program, or (3) an adult beginning-driver instruction program, a prerequisite for licensing. The second program, typically provided through the public school system to high school aged youth, includes both classroom and laboratory ("on road" or behind-the-wheel) experiences. The adult program also includes both classroom and laboratory experience but is designed for adults and is typically provided through a professional driving school. A prelicensing instruction program is typically of more limited duration and usually restricted to classroom experience. The Traffic Safety Education Standard (23 CFR Part 244) requires the State to make such programs available and establishes requirements for State approval of programs.

The proposed standard would require a 16- or 17-year-old applicant to have completed a beginning-driver education program, typically consisting of 30 hours of classroom instruction and 6 hours of laboratory experience. Applicants 18 years old or older would need to have successfully completed a prelicensing instruction program consisting of at least classroom training or an adult beginning-driver instruction program consisting of both classroom and laboratory instruction.

The provision in the proposed standard for reexamination of drivers expands the requirement of the current Driver Licensing Standard, which calls for periodic reexamination (interval not to exceed 4 years) for at least visual acuity and knowledge of rules of the road. The proposed standard retains the 4-year reexamination requirement but also requires review of the driver's qualifications, including reexamination, whenever the driver has been convicted of two hazardous traffic law violations, or when a review of the driver's crash experience and/or other information available to the licensing authorities (including information with regard to the excessive use of alcohol or other drugs while driving) indicates cause for reevaluation.

The proposed standard also seeks to upgrade State examining systems, requiring that tests be based on highway situations and be capable of testing the applicant's knowledge and ability relative to both static and dynamic types of conditions likely to be encountered in the driving environment. The proposed standard also seeks to modify most State driver improvement programs to insure that problem drivers have their driving ability reviewed in a more timely meaningful fashion so that rehabilitation or reeducation needs can be identified and instituted before more serious problems develop.

The proposed standard would also require (1) reciprocity between States and, related to that provision, (2) that each driver be allowed to hold only one license. Every State has established procedures for limiting or withdrawing the driving privileges of persons whose records indicate that they are a menace to themselves and others. However, at the present time, a person in many instances may have his driving privileges suspended or revoked in another State without his licensing State being notified.

In 1958 Congress passed the Beamer Resolution which granted consent in advance to interstate compacts in the field of highway safety. Shortly thereafter, the Driver License Compact was developed by the States. Under terms of the Compact, a driver's record would follow him throughout the United States as his State of residence changed. The system would be more fully effective if all States joined in the Compact. The proposed standard requirement would, in effect, mandate membership in the Driver License Compact and encourage the establishment of other reciprocal agreements in the field of driver licensing and license examination.

The one-license concept, coupled with the requirement for the issuance of classified licenses (for type(s) of vehicle(s) to be driven) further is designed to insure that an individual may not surrender one State license to that or any other State and continue to legally operate a motor vehicle with the other license(s) that may have been issued him by the State. The classified license requirement in the proposed standard differs from the previously issued standard only in the specification of four minimum classifications to be included: motorcycles (previously required in the Motorcycle Safety Standard), articulated trucks, buses, and passenger cars.

The proposed requirements for an advisory committee and medical evaluation of driver license applicants where such evaluation appears warranted from visual tests, driver history, or other causes apparent to the licensing authority were similarly required in the existing standard. Both are designed to insure that all licensed drivers are physically, visually, and mentally fit to perform safely as drivers. Forty-two States have established advisory boards to assist in establishing medical and other criteria for licensing. Experience to date shows this concept to be helpful to licensing authorities and to the driving public.

The proposed standard requires the State to implement a system for insuring the maintenance of appropriately equipped facilities and the use of quali-

fied examiners. Provision must be made for the entry and in-service training of licensing personnel. These proposed requirements are aimed at upgrading the general quality of State examination processes and reflect substantial developmental work that has been accomplished during recent years, including manpower development efforts. NHTSA has developed a complete Driver Examiner Training Program (including a Course Guide, Instructors Lesson Plans, and Student Study Guide). Over 70 State driver licensing training personnel representing 40 States have been trained to use this material. NHTSA is developing a similar program for driver improvement personnel.

Better driver screening techniques and devices, automated testing and teaching systems, etc., which have been developed during recent years necessitate improved facilities and equipment as well as qualified operators and evaluators. Provisions of the proposed standard would serve to insure optimal use of current capabilities for examining license applicants.

The driver improvement program and driver record systems required in the current standard have been expanded and upgraded in the proposal. The intent of the requirement remains unchanged. Revisions that have been made again reflect experience gained through program operations and research during recent years. The advancement in data processing equipment and techniques and their application in State licensing programs combine to permit upgraded standard requirements to further enhance State operations. Remediation for all problem drivers entered into the driver improvement program must be designed to counteract their specific deficiencies, under provisions of the proposed standard.

The driver information system required in the proposed standard is designed to meet programing, operational, and research needs. The proposed standards specifically requires its use in (1) driver improvement (review of driver history to identify and classify problem drivers), (2) pre-sentence investigations related to the imposition of judicial or administrative penalties for convictions, and (3) prelicensing and prerenewal review. Data control procedures to protect the confidentiality of driver history and license history files would also be required.

The driver improvement program requires the systematic review of all driver records for the express purpose of identifying problem or potential problem drivers. The proposed standard further requires that the records of drivers shall be subject to more frequent review during their first 4 years following initial licensing. This latter provision recognizes the fact that most initial licensees are young drivers. The 4-year control by more frequent review would cover that period during which this class of drivers experiences an inordinate number of crashes, injuries, and deaths. The process further applies to adult drivers who are first gaining exposure to the highway environment as drivers and are in the process of gaining the requisite driving experience essential to safe vehicle operation.

The provision for additional review provides a mechanism for the State to institute rehabilitative processes at a point before the initial licensee develops serious problem behavior as a highway user or becomes a serious problem driver endangering his own life and the lives of others.

The program evaluation requirements of the current standard have been considerably expanded in the proposal. Major upgrading in driver licensing program evaluation has been made possible by the progress made by the States in recent years in the development of State capabilities in driver information processing. In the past 5 years, 28 States have developed fully automated driver information systems. This capability provides, for the first time, an opportunity for the development of imaginative and effective program evaluation. The revised section on evaluation acknowledges State capability in this regard by requiring an annual evaluation of the State driver licensing program and specifying that a summary annual report be made available to the State highway safety agency for overall program evaluation and forward planning efforts.

PART 245—HIGHWAY SAFETY PROGRAM STANDARD NO. N–5—DRIVER LICENSING

Sec.
245.1 Scope.
245.2 Purpose.
245.3 Requirements.
245.4 Licensing criteria.
245.5 Driver license control system.
245.6 Driver information data system.
245.7 Driver reexamination.
245.8 Evaluation.

AUTHORITY: The provisions of this Part 245 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 245.1 Scope.

This standard establishes performance requirements for those aspects of a State highway safety program related to the examination, reexamination, and maintenance of a driver information system.

§ 245.2 Purpose.

The purpose of this standard is to implement licensing procedures designed to improve driving performance by insuring that only persons physically and mentally qualified will be licensed to operate a motor vehicle, making maximum use of driver improvement techniques and reexamination procedures to control problem drivers.

§ 245.3 Requirements.

Each State shall develop a driver license program that meets the requirements established in §§ 245.4 through 245.7.

§ 245.4 Licensing criteria.

Each State shall establish criteria for issuance of a driver's first license. These shall include:

(a) Individuals must be either 16 years of age and have successfully completed a beginning-driver education program as established pursuant to Standard No. N–4 (Part 244 of this chapter), or be 18 years of age and have successfully completed a prelicensing instruction program, or an adult beginning-driver education program, as established pursuant to Standard N–4 (Part 244 of this chapter).

(b) Proof of identity including three full names, date of birth, and other primary identifiers, shall be required.

(c) Individuals shall be required to meet physical and mental standards and demonstrate visual performance of the level prescribed by the State for obtaining a driver's license for the class(es) of vehicle(s) for which he seeks to be licensed.

(d) Individuals shall be required to demonstrate the following, as measured by tests based on highway situations:

(1) Knowledge of traffic signs, signals, and markings.

(2) Knowledge of safe driving practices, including handling vehicles in emergency situations, entering and exiting controlled access highways, alcohol in relation to highway safety, and traffic laws governing pedestrians, other highway users, and the class of vehicles for which a license is sought.

(3) Ability to perform driving tasks.

§ 245.5 Driver license control system.

There shall be a system for issuing and controlling driver licenses that meets the following requirements:

(a) Driver license examinations shall be conducted in appropriately equipped facilities by qualified examiners, who along with all other licensing personnel have completed entry and retraining programs.

(b) Each individual shall be allowed to hold only one license, that identifies the type(s) of vehicle(s) he is authorized to drive, and is issued for a specific term not to exceed 4 years.

(c) The licensing system shall include procedures for licensing drivers of different classes of vehicles, including at least the following:

(1) Motorcycles.
(2) Articulated trucks.
(3) Buses.
(4) Passenger cars.

(d) The system shall include a procedure for communicating license information to courts or adjudication agencies, prior to imposition of sanctions against convicted traffic law violators.

(e) An individual whose license to drive has been suspended or revoked, because of traffic violations or crashes, shall not be licensed or relicensed to drive any class or type of vehicle during the suspension or revocation period.

(f) The licensing authority may be authorized to issue licenses restricted in

conjunction with a comprehensive remedial program. Restricted licenses may be limited based on any of the following criteria:

(1) Time of day.

(2) Location.

(3) Type of highway.

(4) Special equipment on the vehicle to be driven.

(g) A program shall be developed to insure adequate and sound consideration of the medical issues related to driver licensing, including:

(1) Development of standard licensing criteria that will permit the medical evaluation of persons who the licensing authority has reason to believe have mental or physical conditions (including those resulting from excessive use of alcohol or other drugs) which might impair their driving ability.

(2) Establishment of an advisory board to assist in the development of physical, visual, and mental criteria for safe vehicle operation and to advise the licensing authority on specific licensing or relicensing cases where any of those factors is an issue.

(3) Coordination with local or State organizations involved in alcohol countermeasure programs to insure the early detection and treatment of drivers with alcohol or other drug problems.

(h) Each State shall enter into compacts and reciprocity agreements with other jurisdictions regarding licensing and examination requirements for previously licensed drivers.

(i) A driver improvement program shall be established to systematically identify problem drivers, classify them according to driving deficiencies, and provide appropriate remediation designed to reduce the individual's involvement in traffic crashes. The program must include, as a minimum, provisions for:

(1) Use of driver information system to identify problem drivers.

(2) Use of postlicensing instruction programs, as established pursuant to Standard N-4, Part 244 of this chapter, appropriate to identified deficiencies.

(3) Use of restricted licenses.

(4) Identification and referral of problem drinker drivers to specific rehabilitation programs or facilities.

(5) Provision for conducting a more frequent record review during the first 4 years after an individual has been issued his first license in any State.

§ 245.6 Driver information data system.

Each State shall develop a driver information data system consisting of an orderly set of data collection procedures for establishing and maintaining records describing the State's licensed and identified unlicensed drivers, and extracting useful and timely information to use in driver improvement, retraining and referral of problem drinker drivers for appropriate care and treatment. The data system shall meet the following minimum requirements:

(a) A driver record shall be maintained for each driver including at least the following data:

(1) Convictions of traffic law violations.

(2) Incidents involving driving without a license.

(3) Involvement as a driver in motor vehicle crashes.

(4) Records of all actions taken by the licensing agency against the driver's license, such as warning letters, driver improvement actions, and suspensions.

(5) All driving and nondriving convictions involving alcohol.

(6) All crashes where drivers' use of alcohol is indicated.

(7) All social agency reports indicating alcohol involvement.

(8) Records of all actions taken by any State against the driving privileges of the driver.

(9) Medical reports of hospitals, institutions, or physicians when the examining medical personnel have reason to believe that physical, or mental conditions, including the excessive use of alcohol or other drugs, exist to a degree sufficient to impair the individual's ability to safely operate a motor vehicle.

(b) The information data system shall, as a minimum, be capable of:

(1) Identifying problem drivers through review of crash and conviction experience.

(2) Identifying drivers with mental or physical problems that impair their driving ability, including problems resulting from the use of alcohol or other drugs.

(3) Retrieving driver history records for use in judicial or adjudicatory proceedings.

(4) Retrieving driver history for prelicensing or license renewal purposes.

(c) The State shall establish driver information control procedures that will protect confidential records by specifying to whom and under what circumstances record information may be released, in addition to providing for release of all record information, in understandable, noncoded form, to the driver at his request.

§ 245.7 Driver reexamination.

Each State shall provide for reexamination of drivers, including tests of visual ability and knowledge of safe driving practices, under the following conditions:

(a) After conviction of two hazardous traffic law violations within a 1-year period.

(b) Whenever a State has cause to believe that an individual's driving ability should be reevaluated, including causes identified through a review of the driver's crash experience or crash or violation history in which alcohol or other drugs are identified as having played a role in the individual's driving behavior.

(c) At least once every 4 years for every licensed driver.

§ 245.8 Evaluation.

The State agency for highway safety shall insure that the driver licensing program is evaluated, and use the evaluation for developing the Annual Work Program and updating the Comprehensive Plan pursuant to Standard No. N-1 (Part 241 of this chapter). The evaluation shall include:

(1) Development of measurements of the effectiveness of driver examination and reexamination programs in improving driver performance.

(b) Review of the extent of driver recidivism following licensing action designed to improve driver performance, analyzed in quantitative terms and with reference to the particular type of action taken.

(c) Review of the effectiveness of the driver information data system in providing timely response to requests for driver information, including the number of requests, the time required to make the response, and the extent to which the information provided conforms to the request.

(d) Review of the extent of compliance with the specific program requirement established in §§ 245.4 to 245.7.

[Docket No. 72-15]

POLICE TRAFFIC SERVICES

Proposed Standard No. N-6 (23 CFR Part 246), covering the police traffic services aspects of a State highway safety program, is a revision of current Standard No. 15, Police Traffic Services. It also includes provisions from existing Standards No. 16, Debris Hazard Control and Cleanup, and No. 18, Accident Investigation and Reporting. The proposed standard is designed to insure that the States, together with their political subdivisions, will develop, implement and maintain an effective police traffic services program.

The proposed standard is reorganized to identify the three main police traffic functions—traffic law enforcement, crash investigation, and traffic direction designed to reduce crashes, deaths, and injuries that are responsive to police effort. Another major section covers expanded provisions on police administration.

The NHTSA believes that the highway safety program can be measureably improved in the aspects related to police by making more effective and economical use of the manpower and other resources available for traffic services functions. The proposed standard, therefore, would expand the requirements relating to personnel training, assignment and supervision.

The current standard, while requiring establishment of uniform training procedures and availability of enumerated periodic in-service courses, does not, however, establish training requirements, or require basic statewide training criteria. The new standard would require each law enforcement agency to have a training program in conformance with minimum training requirements established by the State. Law enforcement training experience gained in recent years should provide an ample basis for development of these criteria, and of local training programs. In addition, a model basic training curriculum has been developed by NHTSA and is being field

tested and will be available for use in the near future.

The requirement for a personnel evaluation system is a new standard element. Its purpose is to insure the use of a formal, well-defined system for personnel activity evaluation. The standard lists several quantitative factors that should be considered, including crashes investigated, citations issued, convictions, and time spent in traffic-related tasks.

The proposed standard also calls for the maximum possible use of civilian personnel to perform traffic services work. The intent of the provision is to free uniformed officers to carry out traffic law enforcement tasks. Equipment resources are also covered by the proposal, in a provision that would require regular assessment of equipment needs by law enforcement agencies. It also calls for the establishment of an information system to keep local agencies aware of the latest equipment available to meet their needs.

In the traffic law enforcement area, the proposed standard would establish a new requirement that law enforcement agencies carefully define their enforcement policies and regularly communicate them in writing to their law enforcement personnel. The policies would include guidance in handling traffic violations and other enforcement duties related to key traffic problems. They would also cover procedures for detecting and reporting defective vehicles and roadway problems.

The selective enforcement requirement in the current standard is continued, and it is hoped that in implementation, emphasis on this aspect of traffic law enforcement will increase. A study conducted early in the program indicates that the selective use of manpower in this way is one of the best uses of resources. The philosophy of selective enforcement has proven effective and does impact on crash reduction.

Another aspect of the selective use of manpower is covered by the addition of a new provision relating to traffic direction and control. The provision emphasizes the safety aspects of this function, and the importance, from the standpoint of effectiveness, of using policemen as traffic controllers only when safety or traffic flow problems require special traffic direction.

The crash investigation aspects of the proposed new standard continue virtually intact the provisions of current Standard 18, Accident Investigation and Reporting, which was issued recently. Included are provisions for investigating crashes causing injury or death, and property damage crashes where one or more of the vehicles requires towing from the crash scene. Requirements for development of multidisciplinary crash investigation teams are also continued, as are debris cleanup requirements from current Standard No. 16, Debris Hazard Control and Cleanup.

An expanded evaluation section is included in the proposed standard. Its major emphasis is on review of police traffic services activities in quantitative terms, covering such subjects as numbers of persons trained, number of selective enforcement programs and their results, and number of crashes investigated and data collected.

PART 246—HIGHWAY SAFETY PROGRAM STANDARD NO. N-6—POLICE TRAFFIC SERVICES

Sec.
246.1 Scope.
246.2 Purpose.
246.3 Requirements.
246.4 Police administrations.
246.5 Traffic law enforcement.
246.6 Traffic direction and control.
246.7 Accident investigation.
246.8 Evaluation.

AUTHORITY: The provisions of this Part 246 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 246.1 Scope.

This standard establishes performance requirements for a State highway safety program for police traffic services, covering the primary functions performed by police, or civilian personnel under police supervision, to insure safe and efficient movement of traffic. These include preventive patrol, crash investigation, traffic law enforcement, traffic direction, debris hazard control, and restoration of traffic flow following a crash.

§ 246.2 Purpose.

This standard is designed to provide a program to insure that police traffic services are administered and performed in a manner designed to reduce traffic crashes, deaths, and injuries.

§ 246.3 Requirements.

Each State, in cooperation with its political subdivisions, shall have a police traffic services program that meets the requirements established in §§ 246.4 to 246.7.

§ 246.4 Police administration.

(a) The State shall insure by agreement the active participation of all law enforcement agencies in the State's overall police traffic services program.

(b) Where two or more State or local law enforcement agencies have concurrent jurisdiction over a portion of the State's highway system, the State shall insure, either by agreement or legislation, that:

(1) Primary responsibility for regular patrol and law enforcement is assigned to one of the agencies having jurisdiction.

(2) Cooperative agreements exist to establish responsibilities where representatives of two or more agencies having concurrent jurisdiction respond to a particular traffic incident.

(c) Each law enforcement agency in the State shall be required to have a personnel program including at least the following:

(1) Training and retraining for recruit, supervisory, command, and specialized personnel in conformance with minimum training requirements established by the State.

(2) Regular personnel activity evaluation, considering, as a minimum, the following factors:

(i) Number of crashes investigated.
(ii) Number of crash-related citations issued.
(iii) Number of hazardous traffic law citations issued.
(iv) Percent of hazardous traffic law citations resulting in convictions.
(v) Total number of citations issued.
(vi) Total number of warnings issued.
(vii) Time spent on traffic-related tasks.

(3) Provision for use of civilian personnel to the maximum extent feasible to perform police traffic services required in this standard.

(d) The State shall establish an information system for insuring that law enforcement agencies are kept aware of available law enforcement equipment, such as radar units and breath testing equipment. Law enforcement agencies shall be required to assess regularly their traffic law enforcement activities to determine equipment needs, and to obtain and use necessary equipment in carrying out their traffic law enforcement responsibilities.

§ 246.5 Traffic law enforcement.

(a) Each law enforcement agency shall be required to develop and implement carefully defined and written policies related to enforcement of traffic laws within its jurisdiction. These policies shall be regularly communicated to all law enforcement officers, and shall include:

(1) Guidance on handling traffic violations and performing other enforcement duties relating to traffic crashes, alcohol and other drugs, and apprehension of persons driving under suspended or revoked driver's licenses.

(2) Procedures for insuring that officers promptly notify the appropriate agency of the following:

(i) A detected defect in the operational condition of a motor vehicle.
(ii) Hazardous highway and roadside defects and conditions.
(iii) Defective, missing, or inoperative signs, signals, or markings.
(iv) Construction and maintenance deficiencies.
(v) Condition of drivers.

(b) Law enforcement agencies shall be required to insure that enforcement of traffic laws and regulations is the responsibility of all uniformed members of each law enforcement agency.

(c) Each law enforcement agency shall be required to develop a selective traffic enforcement program providing for the assignment of law enforcement officers to traffic functions by time and location on the basis of demonstrated need, determined by application of the following factors:

(1) Traffic volume.
(2) Crash experience.
(3) Traffic violations.
(4) Alcohol and other drug use.

§ 246.6 Traffic direction and control.

Traffic direction and control shall be performed only at times and locations

and under conditions in which safety or traffic flow is a major consideration.

§ 246.7 Accident investigation.

The State shall insure that law enforcement agencies develop crash investigation programs meeting the following requirements:

(a) Investigations shall be conducted on all injury and fatal crashes and those property damage crashes in which one or more of the vehicles requires towing from the crash scene. Information gathered shall be consistent with the police mission of detecting and apprehending law violators and shall include the following:

(1) Listing of any crash-contributory violations which the investigator has reason to believe were committed. Violations shall be referenced to the section number of the State traffic code.

(2) Information necessary to prove each of the elements of offenses for which a driver was arrested or cited, to the extent available.

(3) Information relating to human, vehicular, and highway factors causing individual crashes, injuries, and deaths, including failure to wear seatbelts.

(b) Crash investigation teams shall be established, representing different interest areas such as traffic, highway and automotive engineering, police and medical, behaviorial and social sciences. Data gathered by each member of the investigation team should be consistent with the mission of the member's agency, and should be for the purpose of determining probable causes of crashes, injuries, and deaths. These teams shall investigate crashes to meet the crash data requirements identified by information users, and shall investigate an appropriate sample of accidents in which there are one or more of the following conditions:

(1) Locations that have a similarity of design, traffic engineering characteristics, or environmental conditions, and that have a significantly large or disproportionate number of accidents.

(2) Motor vehicles or motor vehicle parts that are involved in a significantly large or disproportionate number of accidents or injury-producing accidents.

(3) Drivers, pedestrians, and vehicle occupants of a particular age, sex, or other grouping, who are involved in a significantly large or disproportionate number of motor vehicle traffic accidents or injuries.

(4) Accidents in which causation or the resulting injuries and property damage are not readily explainable in terms of conditions or circumstances that prevailed.

(5) Other factors that concern State and national emphasis programs.

(c) Law enforcement agencies shall cooperate with other agencies who report to crash scenes, to establish procedures for the mobilization, coordination, and supervision of emergency personnel at the crash scene, designed to:

(1) Eliminate or minimize injury and property damage.

(2) Restore the crash site to safe condition as quickly as possible.

(3) Remove debris, restore traffic flow and insure safe handling of spillage or potential spillage of materials that are radioactive, flammable, poisonous, explosive, or otherwise hazardous.

§ 246.8 Evaluation.

The State agency for highway safety shall insure that the police traffic services program is evaluated, and use the evaluation for developing the annual work program and comprehensive plan required by Standard No. N–1 (Part 241 of this chapter). The evaluation shall include the following:

(a) Review of traffic law enforcement training programs in terms of the numbers of recruit, inservice, supervisory, and specialized personnel trained in accordance with State requirements.

(b) Review of selective enforcement programs implemented by law enforcement aegncies pursuant to § 246.5(c), including:

(1) Number of additional personnel assigned and specific criteria on which the assignment is based.

(2) Traffic law enforcement activity generated, in terms of numbers of citations, warnings, or other citizen contacts.

(3) Crash experience data, including number of crashes, numbers of deaths and injuries, and extent of property damage.

(c) Review of the operation of the police reporting procedures established pursuant to § 246.5(a), including:

(1) Number of driver conditions reported.

(2) Number of vehicle defects reported.

(3) Number of highway and control defects reported.

(d) Review of crash investigations conducted, including:

(1) Numbers of crashes investigated, compared with the total number of crashes reported.

(2) Number of fatal, injury, and property damage crashes in terms of a percentage of the total number investigated.

(3) Number of violations identified as a result of investigations.

(4) Compilation and analysis of data gathered pursuant to § 246.7(a)(3) relating to crash causation.

(5) Review of any special investigative and reporting procedures developed and used to determine crash causation.

(e) Review of the extent of use of special law enforcement equipment and the results of such use.

[Docket No. 72–16]

TRAFFIC COURTS AND ADJUDICATION SYSTEMS

The proposed new Standard N–7 covering traffic courts and adjudication systems is a revision of the current standard No. 7, Traffic Courts, issued on November 7, 1969. The current standard has one requirement—that all convictions for moving traffic violations be reported to the State traffic records system—and several recommendations. The proposal would delete the recommendations and expand and strengthen the requirements, to encourage State development of a traffic offense adjudication system that will provide maximum highway safety benefits by contributing to a reduction of traffic offense recidivism rates.

The proposed new standard covers the State judiciary, the State agency for highway safety, and the driver licensing authority, and would require coordination of the adjudication activities of these agencies, as well as the development of statewide uniformity in certain aspects of traffic offense adjudication.

The major new feature of the standard is the requirement for development and implementation of a system applying modern case management techniques to traffic offense adjudication. In this regard the current requirement that moving violations be reported is expanded to require that the driver record and a presentence investigation be available for use in sentencing convicted offenders. In addition, reports of case dispositions are required to be made within 10 days of conviction or forfeiture of bail or other collateral. NHTSA believes that the failure of many States to meet the current reporting requirement is due largely to inadequate case management capability. Only in large metropolitan areas have modern case management techniques, including EDP, been instituted. Modern case management techniques and rapid record reporting are necessary if the courts are to meet their case disposition reporting responsibilities. To develop this capability may require some court reorganization and careful coordination with the statewide traffic records system to be developed pursuant to another standard. Traffic courts and adjudication agencies will particularly have to make maximum use of EDP capability existing in enforcement and licensing agencies.

A further requirement related to case management is that noncriminal procedures be developed for processing minor traffic violations, such as parking or equipment offenses. In many urban areas, courts are overburdened with traffic cases, to the detriment of both the traffic safety program and other judicial functions. The proposed standard would require that States establish adjudication agencies (nonjudicial tribunals) or other noncriminal methods of dealing with traffic violations where caseload considerations justify use of these methods. The details of such systems are not specified in the standard, but are left to the discretion of the States at this time.

Under the proposed standard, the current recommendations relating to court personnel and administration would be changed to a more general requirement that there be qualified and trained personnel, with the additional specific requirement that there be at least one traffic offense adjudicator for each mandatory court appearance caseload of 22,500 per year, or a major fraction of that figure. Current recommendations relating to court independence from a fee system and mandatory court appearance for certain offenders would also be retained as requirements with the addi-

tional requirement that there be a provision permitting surrender by a defendant of his driver license certificate in lieu of bail or other collateral. The purpose of this requirement is to facilitate the fair and humane treatment of accused traffic court violators without imposing bail or requiring confinement in jail, and to encourage personal appearance by defendants.

Careful evaluation is a key to determining program effectiveness and essential for planning future program activities. For this reason, the proposed new standard would add a requirement for evaluation of the traffic courts and adjudication systems program by the unit of State government having the primary responsibility for coordinating adjudication activities. A principal measure of program effectiveness to be required in the evaluation of the program is the number of repeat traffic offense violators to be determined by the recidivism rates. These rates would be developed from statistical analyses of data reported to the State traffic records system.

PART 247—HIGHWAY SAFETY PROGRAM STANDARD NO. N–7—TRAFFIC COURTS AND ADJUDICATION SYSTEMS

Sec.
247.1 Scope.
247.2 Purpose.
247.3 Definitions.
247.4 Requirements.
247.5 Evaluation.

AUTHORITY: The provisions of this Part 247 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 247.1 Scope.

This standard establishes performance requirements for traffic courts and adjudication systems in a State highway safety program. It covers the adjudication activities of the State agency for highway safety, the driver licensing authority, and the State judiciary.

§ 247.2 Purpose.

This standard is designed to develop balanced local and statewide traffic court and adjudication systems which will promote highway safety through fair, efficient, and effective adjudication of traffic law violations; and to reduce recidivism rates through the use of appropriate punishment, training and rehabilitation measures.

§ 247.3 Definitions.

"Adjudication agency" means a tribunal, other than a court, authorized to make judgments and apply appropriate sanctions and rehabilitative measures in traffic offense cases.

"Hazardous traffic law violation" means a traffic offense that—

(a) Contributes to a crash; or

(b) Is punishable as a felony; or

(c) Contains at least one of the following factual elements:

(1) Operation of a motor vehicle while under the influence of alcohol or another drug;

(2) Reckless driving;

(3) Leaving the scene of a crash; or

(4) Driving while driver's license is suspended or revoked.

"Traffic court" means a judicial tribunal with the authority to adjudicate traffic cases.

§ 247.4 Requirements.

Each State, in cooperation with its political subdivisions, shall establish a system for the adjudication of violations of highway traffic laws that meets the following requirements:

(a) The traffic offense adjudication activities of the State agency for highway safety, the driver licensing authority and the State judiciary shall be coordinated, with the primary coordination responsibilities residing in one of these three agencies.

(b) The traffic case management system shall include:

(1) Use of a statewide uniform traffic citation;

(2) Retrieval of driver records from the traffic records system established in Standard No. N–1 in cases involving all traffic law violations.

(3) Preparation of a presentence investigation report in cases involving hazardous traffic law violations, which shall include an inquiry into driving habits, previous driving history, and social, pyschological, medical and economic background to assist an adjudicator in determining the appropriate sanction for a convicted offender.

(4) A record reporting system for entering case disposition reports into the traffic records system within 10 days after conviction or forfeiture of bail in a traffic violation case;

(5) Use of adjudication agencies, or other noncriminal procedures, for processing traffic cases such as parking and equipment violations, where warranted by caseload or rehabilitation and retraining considerations.

(c) Adjudication and administrative personnel, including referees and hearing officers, employed in the traffic court and adjudication systems shall be properly qualified and trained. There shall be a full-time judge or quasi-judicial hearing officer empowered to make dispositions in all traffic courts and adjudication agencies for each mandatory appearance caseload of 22,500 per year or a major fraction thereof.

(d) Uniform rules shall be established for—

(1) The impounding of suspended or revoked driver's licenses; and

(2) Staying the execution of punishment and license suspensions or revocations to permit a convicted offender to participate in a driver rehabilitation program.

(e) Persons charged with hazardous traffic law violations shall be required to appear personally before a traffic court or adjudication agency. The deposit of a driver license certificate shall be permitted in lieu of bail or other security to insure an accused traffic offender's appearance before a traffic court or adjudication agency.

(f) Traffic courts and adjudication agencies shall be financially independent of any system of fees, fines, court costs, or other revenue (such as posting or forfeiture of bail or other collateral) resulting from processing violations of motor vehicle or traffic laws.

§ 247.5 Evaluation.

The traffic courts and adjudication systems program shall be evaluated by the agency having primary responsibility for coordinating the State's adjudication activities. The evaluation shall be submitted to the State agency for highway safety for use in developing the Annual Work Program and updating the Comprehensive Plan pursuant to Standard No. N–1.

(a) Statistical analyses shall be prepared for evaluation purposes, making maximum use of case disposition and caseload information reported to the State traffic record system, and emphasizing particularly the following types of data:

(1) Types and frequency of offenses;

(2) Case disposition, including the percentage of convictions, delays in court appearance, nolle prosequi pleas, reductions in charges and rehabilitation referrals; and

(3) Recidivism rates, especially as they relate to particular case dispositions.

(b) The evaluating agency shall review the program to determine the extent of compliance with the specific program requirements established in § 247.4.

[Docket No. 72–17]

EMERGENCY MEDICAL SERVICES

Proposed Standard No. N–8 (23 CFR Part 248), covering emergency medical services aspects of a State highway safety program, is basically a revision of existing Standard 11, Emergency Medical Services. The purpose of the standard is to insure that the States will create and maintain emergency medical service systems which reduce deaths and injuries by reducing the time from crash to medical treatment, and upgrading the standard of care received en route. The standard has been prepared with full recognition of the fact that the effectiveness of system operation is dependent on local and regional conditions. Effective system operation, however, will only be achieved if State and local jurisdictions develop comprehensive and coordinated administrative planning and evaluative mechanisms.

The proposed standard includes requirements for laws or regulations applying to services and personnel, for statewide administration of program, for use of an advisory committee or equivalent body, for development of a statewide emergency medical services comprehensive plan, and for development of operational requirements for emergency medical services units.

The proposed standard expands upon the current version by requiring that ambulance services be licensed. The basis for this requirement is that licensing is

the only known effective way of insuring a minimal quality of service, in terms of equipment capability, personnel and operating standards. Specific equipment and personnel licensing criteria are left largely for State development. One exception to this is a requirement that licensed ambulance services have and use a two-way communications system. The present standard calls only for the establishment of criteria for use of two-way communications equipment, while the proposal would require the use of this equipment on all emergency medical service vehicles. The use of such equipment should result in a significant reduction in response time by the ambulance service as well as improved treatment at a crash scene and in transit. Adoption of this measure has been recommended as a result of a number of studies including those of the Committee on Emergency Medical Services of the National Academy of Sciences.

A further requirement relating to licensing of ambulance services would be that criteria be established for personnel capabilities of ambulance services. A related requirement would call for establishment of training and certification requirements for ambulance personnel. The present standard has a provision that there be training and licensing requirements established for emergency medical service personnel. In carrying out this standard, many States have adopted a model curriculum developed in this area by the NHTSA. The proposed new standard would reflect the expertise developed in this area by requiring that emergency medical technicians trained in accordance with the DOT course or its equivalent be employed by licensed ambulance services, in addition to other properly certified personnel. The principal benefits to be gained from this combination of training and ambulance service licensing requirements will be reduced time from crash to medical treatment as well as reductions in deaths and injuries resulting from improved care at the crashsite and in transit.

The existing standard has no requirement for centralized statewide administration of the emergency medical services program. Addition of such a requirement in the proposal is designed to improve planning and overall systems review by centralizing the administrative activities in a single State agency, and is supported by NHTSA emergency medical service administrative studies and the experience of States which use this administrative approach. The centralized administration would be expected to improve the capability of States to meet the requirement for development of an emergency medical services comprehensive plan that is included in the current standard and proposed to be continued in the revision. Currently, those States which have developed such a comprehensive plan have a system operation clearly superior to those which do not.

The emergency medical services comprehensive plan requirement is expanded to require that the plan contain specifications for program evaluation including data system operation. NHTSA believes that this development of data and management information systems is essential for assessing emergency medical services progress at State, local and national levels. To date, States and communities have not set up the type of reporting system which is capable of providing the information necessary for sound program evaluation and design. For this reason, the proposed new standard would make mandatory certain data collection and evaluation processes.

Another new aspect of the emergency medical services standard would be the requirement that the systems be designed so that ambulance service is available at all locations on a 24-hour-a-day basis. It is believed that compliance would be attainable through proper organization of State and local programs. The proposed requirement is for the "existence" of a response capability and it is planned that future revisions of the standards will extend this to a "response time" performance requirement.

PART 248—HIGHWAY SAFETY PROGRAM STANDARD NO. N–8—EMERGENCY MEDICAL SERVICES

Sec.
248.1 Scope.
248.2 Purpose.
248.3 Requirements.
248.4 Evaluation.

AUTHORITY: The provisions of this Part 248 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 248.1 Scope.

This standard establishes performance requirements for the emergency medical services aspects of a State highway safety program. It applies to all facilities, public, and private, within the State that are intended to provide life-sustaining and disability-reducing emergency medical care to persons injured in highway crashes, both at the scene and while in transit to facilities where needed medical care can be provided, and to provide such transportation.

§ 248.2 Purpose.

The purpose of this standard is to provide a statewide emergency medical care system that will insure quick identification of and response to highway crashes; sustain life through proper emergency measures, both at the scene and while in transit to an appropriate medical facility; and provide the coordination, transportation, and communications necessary to take the injured to an appropriate medical facility within the shortest practicable time, without creating additional hazards.

§ 248.3 Requirements.

Each State, in cooperation with its political subdivisions, shall have a program to insure that persons involved in highway crashes receive prompt emergency care and transportation to the facility designated pursuant to paragraph (e) of this section for needed medical treatment.

(a) Laws or regulations shall be enacted requiring ambulance services to be licensed and emergency medical personnel to be trained and certified.

(1) Equipment and personnel capabilities required for ambulance service licensing shall be specified.

(2) Ambulance services shall be required to have two-way communications equipment for every emergency medical service vehicle, assuring voice communication to a central dispatcher and hospital emergency facilities.

(3) Requirements shall be established for certification, training, and retraining of emergency medical technicians. These requirements shall include as a minimum the successful completion of the basic training program promulgated by the Department of Transportation for "Emergency Medical Technician—Ambulance," or its equivalent.

(4) Ambulance services shall be required to be staffed with emergency medical technicians in addition to other properly certified personnel.

(b) Responsibility and authority for administration of the statewide emergency medical services program shall be vested in a single State governmental agency that has a full-time emergency medical service program staff.

(c) There shall be an advisory committee for emergency medical services, whose membership includes representatives of such organizations as medical, hospital, first aid and ambulance associations and the Red Cross, representatives of State health agencies, and the State police or highway patrol. The head of the agency responsible for the emergency medical service program shall regularly seek the advice and recommendations of this committee on matters relating to the statewide emergency medical services program.

(d) Each State shall develop a statewide emergency medical services comprehensive plan that includes:

(1) An inventory of current emergency medical services resources and a definition of future needs, including types and numbers of vehicles; types and numbers of personnel, categorized according to capabilities and level of training; types and numbers of organizations providing ambulance services; and total system capabilities.

(2) A plan for coordination of emergency medical services with other emergency organizations, such as police and fire departments, that respond to traffic crashes.

(3) Definition of local areas of emergency medical services responsibility defined according to maximum allowable response times, with provision for communications systems and mutual support procedures within and between areas.

(4) Definition of authority at crash scenes, including procedures for coordination and supervision of the personnel of the various operational units which respond to an emergency.

(5) Specifications for program evaluation in accordance with § 248.4 including support records and data system operation.

(e) Within each local area defined pursuant to paragraph (d)(3) of this section there shall be designated emergency medical service units that are available to provide emergency medical services to highway crash victims on a 24-hour-a-day basis, and licensed in accordance with the requirements of paragraph (a) of this section. Hospitals within the area shall be categorized as to their ability to provide the needed emergency medical care.

§ 248.4 Evaluation.

The emergency medical services program and its comprehensive plan shall be evaluated by the State agency having responsibility for administering the program. The evaluation shall be submitted to the State agency for highway safety for use in developing the Annual Work Program and updating the Comprehensive Plan pursuant to Part 241 of this chapter. The evaluation shall include:

(a) A statistical measurement of emergency service performance based on recorded data concerning:

(1) Time from crash notification to dispatch.

(2) Time from dispatch to arrival at the scene of a crash.

(3) Time from arrival at crash scene to arrival at facility providing needed medical treatment.

(4) Total time from notification of crash to arrival at facility providing needed medical treatment.

(b) An analysis of the current skills and knowledge levels of emergency service personnel, in comparison with the minimum levels and licensing criteria established in § 248.3.

(c) A review of the effectiveness of the emergency medical services program, using measures of effect on injuries, complications and disabilities, and time of patient suffering.

(d) A determination of the extent of compliance with the specific program requirements established in § 248.3.

[FR Doc.72-11753 Filed 8-2-72;8:45 am]

federal register

THURSDAY, AUGUST 3, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 150

PART III

ATOMIC ENERGY COMMISSION

CENTRAL INTELLIGENCE AGENCY

DEFENSE DEPARTMENT

GENERAL SERVICES ADMINISTRATION

JUSTICE DEPARTMENT

STATE DEPARTMENT

■

National Security Information

■

Classification and Declassification

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 9—PUBLIC RECORDS

Appendix A—Requests for Declassification Review

An Appendix A is added to 10 CFR Part 9 to read as follows:

APPENDIX A—REQUESTS FOR DECLASSIFICATION REVIEW

The following guidance is provided for members of the public desiring a classification review of a document of the Atomic Energy Commission (AEC) pursuant to section V.(C) of Executive Order 11652 (37 F.R. 5209, March 10, 1972) and section III.B. of the National Security Council Directive Covering the Classification, Downgrading, Declassification and Safeguarding of National Security Information, 37 F.R. 10053, May 19, 1972.

1. *Request for classification review of documents.* a. Any person desiring a classification review of an AEC document containing information classified as National Security Information by reason of the provisions of Executive Order 11652 (or any predecessor Executive order) and which is more than 10 years old, should address such requests to the Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545.

b. Requests need not be made on any special form but shall, as specified in the Executive order, describe the document with sufficient particularity to enable AEC personnel to identify and obtain the document from AEC records without expending more than a reasonable amount of effort.

c. Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with § 9.9 of the AEC regulations (10 CFR 9.9).

2. *Action on Requests for Classification Review.* a. Every effort will be made to complete action on each request within thirty (30) days of receipt of the request. If action cannot be completed within thirty (30) days, the requester shall be so advised by the Director, Division of Classification, along with the reasons for the need for additional time. If the requester does not receive a decision on his request within sixty (60) days from the date of receipt of his request by AEC, or from the date of the most recent receipt of his response to an AEC request for more particulars, he may apply to the Chairman of the AEC Classification Review Committee for a decision on his request.

b. In the event the Director, Division of Classification, determines that requested information must remain classified by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and whenever possible shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be adivsed that if he desires he may appeal that determination to the AEC Classification Review Committee, by submitting a request for re-review in writing to the Chairman of the Committee, U.S. Atomic Energy Commission, Washington, D.C. 20545. Any such request shall include a brief statement as to why the requester disagrees with the decision which he is appealing.

c. The AEC Classification Review Committee shall normally render a decision thereon within 30 days of its receipt of a request. If a longer period is likely to be required because of the need for additional communications or conferences with the requester, he shall be advised of the time needed to complete review of the matter.

d. In the event the Director, Division of Classification, or the Classification Review Committee in the case of submission to it under a or b above, determine that the information is unclassified but the information appears to be of the type exempt from public disclosure as set forth in § 9.5 of the AEC regulations (10 CFR 9.5), the matter shall be referred to the General Manager or the Director of Regulation, as appropriate, for decision. Thereafter, the matter shall be processed as specified in § 9.10 of the AEC regulations (10 CFR 9.10).

3. *Appeal to Interagency Classification Review Committee.* Whenever the AEC Classification Review Committee confirms a determination of the Director, Division of Classification, it shall so notify the requester who shall, except in the case of information subject to the provisions of the Atomic Energy Act, be entitled to appeal that action to the Interagency Classification Review Committee established under section 7(A) of Executive Order 11652. Such appeals should be addressed to the Interagency Classification Review Committee, The Executive Office Building, Washington, D.C. 20500.

4. *Suggestions and Complaints.* Any person may also direct suggestions or complaints with respect to the administration of the other provisions of Executive Order 11652 and the NSC Directive by the AEC to the AEC Classification Review Committee, U.S. Atomic Energy Commission, Washington, D.C. 20545.

5. *Other Material.* AEC Manual Chapters covering the AEC's Classification and Declassification Policies and Procedures are available for inspection by the public in the AEC's Public Document Room, USAEC, 1717 H Street NW., Washington, DC.

6. *Classification Advice in General.* The procedures specified herein are intended to supplement the longstanding policy and practice of the AEC to provide classification guidance with respect to information generated by those working in the atomic energy field. The AEC will respond as promptly as available resources permit, to questions about the proper classification of information and material less than 10 years old.

Effective date. This regulation shall be effective upon its publication in the FEDERAL REGISTER (8–3–72).

Dated at Washington, D.C., this 27th day of July 1972.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.72–12078 Filed 8–2–72;8:45 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER A—GENERAL

[Dept. Reg. 108.672]

PART 9—SECURITY INFORMATION REGULATIONS

A new Part 9 is added to Title 22 of the Code of Federal Regulations to implement Executive Order 11652 (37 F.R. 5209, Mar. 10, 1972) and the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972) pertaining to classification and declassification of national security information and material. This part establishes procedures for employees of the Foreign Service, the Department of State, the U.S. Information Agency, and the Agency for International Development (or its successor agency or agencies).

These regulations have been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and National Security Council Directive of May 17, 1972.

The regulations, as set forth below, are effective June 1, 1972.

For the Secretary of State.

WILLIAM B. MACOMBER, Jr.,
Deputy Under Secretary for Management.

JULY 28, 1972.

Sec.

9.1 Physical and procedural security.
9.2 General policy.
9.3 Implementation and review responsibilities.
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Appendix A—Definitions.

AUTHORITY: The provisions of this Part 9 are issued under E.O. 11652 (37 F.R. 5209, March 10, 1972) and National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 9.1 Physical and procedural security.

These regulations implement Executive Order 11652 dated March 8, 1972 (37 F.R. 5209, March 10, 1972), entitled "Classification and Declassification of National Security Information and Material."

§ 9.2 General policy.

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act (5 U.S.C. 552) and in the current public information policies of the executive branch.

(a) *Safeguarding national security information.* Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

(b) *Exemption from public disclosure.* This official information or material, hereinafter referred to as classified information or material, is expressly exempted from compulsory public disclosure by section 552(b)(1) of title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

(c) *Scope.* To ensure that such information and material is protected, but only to the extent and for such period as is necessary, these regulations identify the information to be protected, prescribe classification, downgrading, declassification, and safeguarding procedures to be followed, and establish a monitoring system to ensure their effectiveness.

(d) *Limitation.* The requirement to safeguard information and material in the interest of national defense and the conduct of foreign relations in no way implies an indiscriminate license to restrict information from the public. It is important that the citizens of the United States have the fullest possible access, consistent with national security, to information concerning the policies and programs of their Government.

§ 9.3 Implementation and review responsibilities.

Executive Order 11652 and NSC Directives require the establishment of departmental committees to have the authority to act on all suggestions and complaints with respect to each Department's administration of the Executive order and NSC Directives.

(a) Each committee will have responsibility for the following additional functions:

(1) To establish and monitor policies and procedures within its Department to prevent overclassification, to insure the orderly and effective downgrading and declassification of Department documents, and to facilitate the release of information;

(2) To serve as a forum for systematic review of proposed classified disclosures of an exceptional nature bearing upon issues of concern to the Congress and the public;

(3) To establish policies and procedures to assess the risks to intelligence sources and methods whenever any classified intelligence is proposed for declassification or for use in public forums, or other activities in the course of which there is danger that intelligence sources and methods might be revealed;

(4) To determine, as required, the net advantage to the United States of a disclosure of classified information relating to U.S. foreign policy objectives as against attendant risks;

(5) To consider and decide such other questions concerning classification and declassification as may from time to time be referred to the committee;

(6) To protect from unauthorized disclosure properly classified information and intelligence bearing upon important aspects of national defense and foreign policy;

(7) To provide guidance concerning corrective or disciplinary action in unusually important cases involving unauthorized disclosure;

(8) To review all appeals of requests for records under the Freedom of Information Act.

(b) Department of State: Within the State Department, these functions will be performed by the Council on Classification Policy, which is composed of the Director of Intelligence and Research, the Director of Planning and Coordination, the Assistant Secretary for Public Affairs, the Executive Secretary of the Department, the Legal Adviser, and the Deputy Assistant Secretary for Security, with appropriate advisers, and chaired by the Deputy Under Secretary for Management.

(c) Agency for International Development: Within the Agency for International Development these functions will be performed by the AID Security Information Committee (ASIC). It shall be chaired by the Auditor General, shall include the Director, Office of Security, as Secretary, and shall consist of the following members of the AID senior staff or their alternates: Assistant Administrator, Bureau of Program and Management Services; Director, Office of Public Affairs; the Executive Secretary, the General Counsel, the Coordinator of Supporting Assistance, and one additional member of the senior staff to be appointed for 1-year term by the Administrator of AID.

(d) U.S. Information Agency: Within the U.S. Information Agency, these functions will be performed by the Council on Classification Policy, comprised of the senior officials of the Office of Research and Assessment, Office of Assistant Director (Administration), Office of Assistant Director (Public Information), and Office of the General Counsel, with representatives of other elements consulted as needed, and chaired by the Assistant Director U.S.I.A. (Security).

(e) Delegation of responsibilities: The Chairman of each such Department Committee is delegated responsibilities of the senior agency official defined in section 7(b) of Executive Order 11652 for developing programs to insure effective compliance with and implementation of the order.

(f) Reports to the Interagency Classification Review Committee: The departmental committees shall provide quarterly reports to the Interagency Classification Review Committee on Departmental Committee actions on classification review requests, classification abuses and unauthorized disclosure, and progress reports on information accumulated in the data index system established under part VII of the National Security Council Directive of May 17, 1972, and such other reports as the Chairman of the Interagency Classification Review Committee may find necessary for the committee to carry out its responsibilities.

§ 9.4 Responsibility for safeguarding classified information.

(a) *Primary.* The specific responsibility for the maintenance of the security of classified information rests with each person having knowledge or physical custody thereof, no matter how obtained. A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under the Executive order, he shall so inform the originator who shall thereupon reexamine the classification.

(b) *Individual.* Each employee is responsible for becoming familiar with and adhering to all security regulations.

(c) *Supervisory.* The ultimate responsibility for safeguarding classified

information rests upon each supervisor to the same degree that the supervisor is charged with functional responsibility for the organizational unit. While certain employees may be assigned specific security responsibilities, such as Top Secret control officer or unit security officer, it is nevertheless the basic responsibility of supervisors to insure that classified material entrusted to their organizational units is handled in accordance with the procedures prescribed in these regulations. Each supervisor should insure that no one employee is assigned unreasonable security responsibilities in addition to usual administrative or functional duties.

(d) *Organizational.* The Offices of Security in State, U.S.I.A., and AID are responsible for physical and personnel security in their respective agencies. The Office of Communications in the Department of State is responsible for communications security (COMSEC).

§ 9.5 Classification.

(a) *Security classification categories.* Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories; namely, "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(1) *Top Secret.* "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. The classification "Top Secret" shall be used with the utmost restraint.

(2) *Secret.* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(3) *Confidential.* "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

§ 9.6 Authority to classify.

The following persons have authority to originally classify information or material in the categories indicated:

(a) *Top Secret.* Such officials as the President may designate in writing; Secretary of State; Administrator, Agency for International Development. With respect to the Department of State, such of the following officers who are designated in writing by the Secretary of State:

(1) In the United States, officers of Deputy Assistant Secretary or equivalent rank or above.

(2) Outside the United States, the Chief of Mission and, where operational necessity warrants, the Deputy Chief of Mission.

(3) With respect to AID, the Deputy Administrator, Assistant Administrators, the Auditor General, the General Counsel, and the Director, Office of Public Safety.

(b) *Secret.* Officials who have "Top Secret" classification authority; Director, U.S. Information Agency.

(1) In the United States, such subordinate officers of the Department of State and AID of office director or equivalent rank or above as officials with "Top Secret" classification authority may designate in writing, and such senior principal deputies or assistants to the Director of U.S.I.A. as the Director may designate in writing.

(2) Outside the United States, such subordinate officers of section head or equivalent rank or above as officials with "Top Secret" classification authority may designate in writing, and such senior principal deputies or assistants to the Director of U.S.I.A. as the Director may designate in writing.

(c) *Confidential.* Officials who have "Top Secret" or "Secret" classification authority, and such officials of Division Chief or equivalent rank or as may be designated in writing by officials who have "Top Secret" or "Secret" classification authority. Such officials may classify information or material only at the level authorized or below. This authority rests only in the official designated, and may not be delegated. However, classification authority vested in a designated official may be exercised by another assuming the full duties and responsibilities of such official in an acting capacity.

§ 9.7 Responsibility to assign.

(a) Any person who originates a classified document has the responsibility to assign the appropriate classification at the time the document is prepared. The final classification and declassification schedule, however, must be approved by an official with the appropriate level of classifying authority.

(b) It is the intent of Executive Order 11652 that the authority to originally classify information or material be restricted solely to those officers concerned with matters of national security, and shall be limited to the minimum number of individuals absolutely required for efficient administration. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to the person.

(c) *Observance of classification:* Any person who incorporates into a document or material information or material previously classified by an authorized official or makes substantial reference thereto, shall reflect the original classification and the identity of the original classifier on the new document or material. Performance of this duty shall not constitute original classification.

(d) *Listing of those with classifying authority:* The Office of Security in each Department shall maintain separate lists by name of the officials who have been designated in writing to have Top Secret, Secret, and Confidential authority. Office heads shall submit to the appropriate Office of Security, on or before July 1, 1972, a list current as of that date and shall submit on or before the beginning of each subsequent calendar quarter a list current as of the beginning of that quarter. Each list shall identify officials exercising classification authority by name, title, office, and designating officer. These quarterly reports shall, in turn, be forwarded to the Interagency Classification Review Committee.

§ 9.8 Classification procedure.

Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to the person. Both unnecessary classification and overclassification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information:

(a) *Documents in general.* Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule referred to in § 9.11. It shall also show the office of origin, the date of preparation and classification, and, to the extent practicable, be so

marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(b) *Identification of classifying authority.* Material classified shall indicate on its face the identity of the highest authority authorizing the continued classification. Where the individual who signs or otherwise approves a document or item has also authorized the classification, no further annotation as to the individual's identity is required.

(c) *Information or material furnished by a foreign government or international organization.* (1) Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a U.S. classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(2) NATO, CENTO, and SEATO information must be safeguarded in accordance with instructions and procedures promulgated by the U.S. Security Authority (USSA) as contained in USSAN 1–69 dated December 20, 1969; USSAN 1–68 dated June 5, 1968; and USSAS 1–67 dated September 23, 1967, respectively.

(3) Classification responsibilities: A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification hereunder, the holder shall so inform the originator who shall thereupon reexamine the classification.

(4) Limiting number of copies: In the preparation of classified documents, the number of copies must be kept to an absolute minimum. Every copy prepared increases the risk that the information may fall into unauthorized hands.

§ 9.9 Declassification and downgrading.

(a) *Authority to downgrade and declassify.* Classified material should be kept under appropriate review and be downgraded or declassified as conditions warrant. The authority to downgrade or declassify national security information or material shall be exercised as follows:

(1) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity, or by a supervisory official of either.

(2) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes, including downgrading and declassification.

(3) In the case of classified information or material not officially transferred within subparagraph (2) of this paragraph, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter in accordance with § 9.15(b).

(4) All information and material classified after the effective date of the Executive order and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287), to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by each Department for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under section 5 of the Executive order. During each calendar year each Department shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Department responsible, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(5) Each Department shall undertake to establish a data index system for Top Secret, Secret, and Confidential information in selected categories approved by the Interagency Classification Review Committee as having sufficient historical or other value appropriate for preservation. The index system shall contain the following data for each document indexed: (i) Identity of classifier; (ii) Department of origin; (iii) addressees; (iv) date of classification; (v) subject/area; (vi) classification category and whether subject to or exempt from the General Declassification Schedule; (vii) if exempt, which exemption category is applicable; (viii) date or event set for declassification; and (ix) file designation. Information and material shall be indexed into the system at the earliest practicable date during the course of the calendar year in which it is produced and classified, or in any event no later than March 31 of the succeeding year. Each Department shall undertake to establish such a data index system no later than July 1, 1973, which shall index the selected categories of information and material produced and classified after December 31, 1972.

§ 9.10 General declassification requirements.

(a) *Declassification instructions.* Classified information and material shall be declassified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in § 9.5. At the time of origination the classifier shall, whenever possible, clearly mark on the information or material a specific date or event upon which downgrading or declassification shall occur. Such dates or events shall be as early as is permissible without causing damage to the national security. Whenever earlier dates or events cannot be determined, the General Declassification Schedule set forth in § 9.11 shall apply. If the information or material is exempted under § 9.12 from the General Declassification Schedule, the classifier shall clearly mark the material to show that it is exempt and indicate the applicable exemption category. Unless impossible, the exempted information or material shall be assigned and clearly marked by the classifier with a specific date or event upon which declassification shall occur. Downgrading and declassification dates or events established in accordance with the foregoing, whether scheduled or nonscheduled, shall to the extent possible be carried forward and applied whenever the classified information or material is incorporated in other documents or material.

(b) *Changes in classification.* Any recipient of a classified document which bears a classification control which in the judgment of the recipient should be more or less restrictive must be referred to the office of origin or office of primary interest or action. When the action office concurs with the review, a new designation or notation should be substituted by the initiating officer. The date and the approving authority for this change must be identified on the face of the document. The approving officer then must notify the custodian of the record copy and all original addressees of the change. The custodian and all original addressees must also notify all to whom they have made a subsequent distribution.

§ 9.11 General Declassification Schedule.

(a) *Top Secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(b) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(d) *Applicability of the General Declassification Schedule to previously classified material.* Information or material classified before the effective date of Executive Order 11652 (June 1, 1972) and which is assigned to Group 4 under Executive Order No. 10501 of November 5, 1953, as amended by Executive Order No. 10964 of September 20, 1961, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of Executive Order 11652, whether or not assigned to Groups 1, 2, and 3 of the Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of Executive Order 11652.

§ 9.12 Exemptions from General Declassification Schedule.

Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by or under such official's supervision if it falls within one of the categories described below. In each case, the official shall specify in writing on the material the exemption category being claimed, and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(a) *Category 1.* Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(b) *Category 2.* Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) *Category 3.* Classified information or material disclosing a system, plan, installation, project, or specific foreign relations matter the continuing protection of which is essential to the national security.

(d) *Category 4.* Classified information or material the disclosure of which would place a person in immediate jeopardy.

§ 9.13 Mandatory review of exempted material.

All classified information and material originated after the effective date of Executive Order 11652 which is exempted under § 9.12 from the General Declassification Schedule shall be subject to a classification review by the originating department at any time after the expiration of 10 years from the date of origin: *Provided,*

(a) A department or member of the public requests a review;

(b) The request describes the record with sufficient particularity to enable the department to identify it; and

(c) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under § 9.12 shall be declassified. Information or material continuing to qualify under § 9.12 shall be so marked and, unless impossible, a date for automatic declassification shall be set.

§ 9.14 Review of classified material for declassification purposes.

(a) *Review of classified material over 10 years old.* Members of the public or departments may direct requests for mandatory review for declassification to the Chief, Record Services Division, for the State Department, the Director, Office of Public Affairs, for A.I.D., and the Assistant Director, Office of Public Information, for USIA, which shall in turn assign the request to the appropriate office for action. In addition, the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5 of the Independent Offices Appropriations Act, 1952 (65 Stat. 290; 31 U.S.C. 483a), the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the appropriate departmental committee provided in § 9.3 for a determination. Should the office assigned action on a request for review determine that under the criteria set forth herein continued classification is required, the requester shall promptly be notified, and, whenever possible, provided with a brief statement why the requested information or material cannot be declassified. The requester may appeal any such determination to the appropriate departmental committee and the notice of determination shall advise the requester of this right.

(b) *Departmental committee.* The departmental committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. If the department or agency head, acting through the departmental committee, determines that continued classification is required hereunder it shall promptly so notify the requester and advise that the denial may be appealed to the NSC Interagency Classification Review Committee.

(c) *Declassification of classified information or material after 30 years.* All classified information or material which is 30 years old or more, whether originating before or after the effective date of Executive Order 11652, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of Executive Order 11652 shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification, except for such specifically identified information or material which the head of the originating department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the department shall also specify the period of continued classification.

(2) A request by a member of the public or by a Department to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, who shall have the requested documents reviewed for declassification in accordance with the above. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the head of the Department having custody, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the head of the Department concerned makes at the time the personal determination required above. The Archivist shall promptly notify the requester of such determination and that right of the requester to appeal the denial to the NSC Interagency Classification Review Committee.

(d) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraph (a), (b), or (c) of this section, the burden of proof is on the originating Department to show that continued classification is warranted.

(e) *Availability of declassified material.* Upon a determination under paragraph (a), (b), or (c) of this section that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under 5 U.S.C. 552(b) (Freedom of Information Act), or other provisions of law.

(f) *Classification review requests.* A request for classification review must describe the document with sufficient particularity to enable the Department to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit the request to records that are reasonably obtainable. If, nonetheless, the requester does not describe the records sought with sufficient particularity, or the record re-

quested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of the right to appeal such decision.

(g) *Redesignating material.* (1) If an official having original Top Secret classification authority at any time determines that information or material for which they are responsible falls within one of the four exempt categories described in § 9.12, the fact that such information or material was previously placed under the General Declassification Schedule, or marked for earlier downgrading and declassification, shall not prevent it being redesignated as falling within an exempt category.

(2) Likewise, such an official may determine that exempted information and material should be subject to the General Declassification Schedule. In either case, such a determination shall be based on a finding either that the original designation was in error, or that the material or information, due to a significant change in circumstances, is or is not, as the case may be, within one of the four exempt categories. Action to redesignate scheduled information or material as exempt may be taken only when the responsible Top Secret original classification authority is reasonably certain that notice can and will be given to all holders prior to the time when previously scheduled downgrading or declassification is to occur.

§ 9.15 Other declassification requirements.

(a) *Extracts and compilations.* When classified information or material from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded, or declassified in accordance with the provisions hereunder applicable to the information requiring the greatest protection.

(b) *Material not officially transferred.* When a Department holding classified information or material under the circumstances described in § 9.9 notifies another Department of its intention to downgrade or declassify, it shall allow the notified Department 30 days in which to express its objections before taking action.

(c) *Notification of expedited downgrading or declassification.* When classified information or material is downgraded or declassified in a manner other than originally specified, whether scheduled or exempted, the classifier shall, to the extent practicable, promptly notify all addressees to whom the information or material was originally officially transmitted. In turn, the addressees shall any other known recipient of the classified information or material.

§ 9.16 Marking of documents.

(a) *Marking—security classification and declassification status:* At the time of origination, each document or other material containing classified information shall be marked with its assigned security classification and whether it is subject to the General Declassification Schedule, whether it can be declassified earlier, or whether it is exempt from the General Declassification Schedule.

(1) *General Declassification Schedule.* For marking documents which are subject to the General Declassification Schedule, the following stamp shall be used:

(Top Secret, Secret or Confidential) Classified by ---------- subject to General Declassification Schedule of Executive Order 11652 automatically downgraded at two-year intervals and declassified on Dec. 31 *(insert year)*

(2) *Accelerated declassification schedule.* For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule, the following stamp shall be used:

(Top Secret, Secret or Confidential) classified by ---------- automatically declassified on *(effective date or event)*

(3) *Exemptions.* For marking documents which are exempt from the General Declassification Schedules the following stamp shall be used:

(Top Secret, Secret or Confidential) Classified by ---------- Exempt From General Declassification Schedule of Executive Order 11652 Exemption Category (§ 5B (1), (2), (3), or (4)) Automatically Declassified on *(effective date or event, if any)*

(b) Should the classifier inadvertently fail to mark a document with one of the foregoing markings, the recipient shall take appropriate action to mark it properly, either by direct action or by referral to the originator. The person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier. If the classifier is another person, the individual shall be identified on the stamp as indicated.

(c) The "Restricted Data" and "Formerly Restricted Data" stamps (see section 9.18) are, in themselves, evidence of exemption from the General Declassification Schedule.

(d) Overall marking and page marking: The overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page, and on the outside of the back cover (if any). Each interior page of a document which is not permanently bound shall be conspicuously marked or stamped at the top and bottom according to its own content, including the designation "Unclassified" when appropriate.

(e) Physically connected documents: The classification assigned to a file or group of physically connected documents must be at least as high as that of the most highly classified document in it. Documents separated from the file are handled in accordance with their individual classification or control designation. A cover sheet, JF-18, Classified or Controlled File, may be placed on the front of each file or group of physically connected documents, marked to indicate the highest classification it covers, or the front and back of the folder must be stamped or marked according to the highest classification of the combined information contained in it.

(f) Paragraph marking: Whenever a classified document contains either more than one security classification category or unclassified information, each section, part, or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified. When appropriate, the classification of each paragraph (including "Unclassified") may be indicated by closing the paragraph with the appropriate classification symbol for that paragraph, as follows: (TS), (S), (C), (UNCLAS).

(g) Material other than documents: If classified material cannot be marked, written notification of the information otherwise required in markings shall accompany such material.

(1) *Books or pamphlets.* Permanently bound books or pamphlets are to be conspicuously marked with the assigned classification or control designation at the top and bottom on the outside of the front cover, on the title page, on the first page, on the back page, and on the outside of the back cover. Other required markings must be placed on the outside of the front cover.

(2) *Reproducible masters.* Reproducible masters such as airgrams, mimeograph stencils, hectograph masters, photostatic negatives, or multilith plates used in the reproduction of classified or administratively controlled documents are to be marked so that each copy made from them will show the classification or control designation and other required markings. Preprinting of paper with classification control designation, or other pertinent markings, is authorized.

(3) *Photographic negatives, prints, slides, and films.* Whenever possible, photographic negatives and slides are to be marked with the assigned classification or control designation at the top and bottom on the front. Photographic negatives in roll form contain the assigned classification or control designation at the beginning and end of each roll. In all cases, photographic prints are to be marked at the top and bottom of the front and on the back with the classification and control designation. If additional special markings are required, apply them conspicuously.

(4) *Containers.* Each container of photographic prints, negatives, slides, or motion picture film is conspicuously marked on the outside with the appropriate classification or control designation and additional required markings.

(5) *Classified or controlled recordings.* Containers for wire, film, tape recordings, and microfilm are to be marked with the appropriate classification or control designation and other required markings and, whenever possible, the recordings themselves are to be marked also. Microfilm projects undertaken for the purpose of destroying record copies must be approved by the Department or

Agency office responsible for the records management function.

(6) *Charts, maps, and drawings.* On classified or administratively controlled charts, maps, or drawings, the classification or control designation is to be inserted under the legend, title block, or scale in such manner that it can be reproduced on all copies made. The classification or control designation also appears at the top and bottom of the reverse side of each chart, map, or drawing. Apply additional required special marking conspicuously.

(h) Transmittal documents: A transmittal document shall carry on it a prominent notation as to the highest classification of the information which is carried with it, and a legend showing the classification, if any, of the transmittal document standing alone.

(i) Wholly unclassified material: Normally, unclassified material should not be marked or stamped "Unclassified" unless it is essential to convey to its recipient that it has been examined specifically for the need of a security classification or control designation and has been determined not to require such classification or control. However, preprinted forms such as telegrams which make provision for an assigned classification, shall include the term "Unclassified" if the information contained in the text is not classified. Envelopes containing unclassified information to be sent by diplomatic pouch must be marked or stamped "Unclassified" on both sides.

§ 9.17 Downgrading, declassification, and upgrading markings.

Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information or material it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. In addition, all earlier classification markings shall be canceled, if practicable, but in any event on the first page.

(a) *Limited use of posted notice for large quantities of material.* When the volume of information or material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may, upon approval from the Office of Security, attach downgrading, declassification, or upgrading notices to the storage unit in lieu of the remarking otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, the identity of the person taking the action, and the storage units to which it applies. When individual documents or other materials are withdrawn from such storage units they shall be promptly remarked in accordance with the change, or if the documents have been declassified, the old markings shall be canceled.

(b) *Transfer of stored quantities covered by posted notice.* When information or material subject to a posted downgrading, upgrading, or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other materials is transferred from one place to another, the transfer may be made without remarking if the notice is attached to or remains with each shipment.

§ 9.18 Additional warning notices.

In addition to the foregoing marking requirements, warning notices shall be prominently displayed on classified documents or materials as prescribed below. When display of these warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(a) *Restricted data.* For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended:

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

Section 11r of the Atomic Energy Act of 1954 defines Restricted Data as follows:

The term "Restricted Data" means all data concerning:

(a) Design, manufacture, or utilization of atomic weapons;

(b) The production of special nuclear material; or

(c) The use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data Category.

(Before any person may be permitted to have access to Restricted Data, the person must have a "Q" clearance from the Atomic Energy Commission. Nothing in the regulations in this part shall be construed as superseding any requirements of the Atomic Energy Act of 1954, as amended. Restricted Data and Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.)

(c) *Formerly Restricted Data.* For classified information or material containing solely Formerly Restricted Data, as defined in section 142.3, Atomic Energy Act of 1954, as amended:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in Foreign Dissemination. Section 144.b., Atomic Energy Act, 1954.

(Formerly Restricted Data is information removed from Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information. Formerly Restricted Data may not be transmitted or otherwise made available to any regional defense organization or foreign nation while it remains classified defense information except under provision of that Act.)

(c) *Information other than Restricted Data or Formerly Restricted Data.* For classified information or material furnished to persons outside the executive branch of Government other than as described in paragraphs (a) and (b) of this section:

NATIONAL SECURITY INFORMATION

Unauthorized Disclosure Subject to Criminal Sanctions.

(d) *Sensitive intelligence information.* For classified information or material relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in paragraph (a), (b), or (c) of this section, as appropriate:

Warning Notice—Sensitive Intelligence Sources and Methods Involved.

§ 9.19 Marking of classified telegrams.

Information contained in Top Secret, Secret, and Confidential telegrams is subject to automatic downgrading, declassification, and decontrol procedures to the same extent as the substantive contents of nontelegraphic documents. In order to eliminate costly transmissions, standard abbreviations for required notations have been substituted, and will appear as the final unnumbered paragraph of the message text, as follows:

(a) For classified information that has been assigned to the General Declassification Schedule, add the abbreviation: GDS.

(b) For classified information that is to be declassified without reference to the General Declassification Schedule, add: ADS (Accelerated Declassification Schedule) DECLAS (insert date or other event or condition for declassification).

(c) For classified information that has been exempted from the General Declassification Schedule, add: XGDS (insert the category number 1, 2, 3, 4) DECLAS (insert appropriate date) BY AUTH (insert identity of person or source document).

(d) The following abbreviations may be substituted for the warning notices indicated in § 9.18:

RD (Restricted Data)
FRD (Formerly Restricted Data)
NSI (National Security Information)
SIS (Special Intelligence Sources and Methods)

§ 9.20 Access to classified material; general access requirements.

Access to classified information shall be granted in accordance with the following:

(a) *Determination of trustworthiness.* No person shall be given access to classified information or material unless a favorable determination has been made as to the person's trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Department may require in accordance with the standards and criteria of Executive

Order 10450 of April 27, 1953, and Executive Order 10865 dated February 20, 1960, as appropriate. Special and specifically authorized clearances are required for access to information identified as Restricted Data, Cosmic, NATO, SEATO, CENTO, Cryptographic, Intelligence, and other information given special protection by law or regulation.

(b) *Need-to-know doctrine.* A person is not entitled to receive classified information solely by virtue of official position or by virtue of having been granted security clearance. A person must also have a need for access to the particular classified information or material sought in connection with the performance of official duties. The determination of that need shall be made by officers having responsibility for the classified information or material. The "need-to-know" doctrine shall be enforced at all times.

§ 9.21 Access by foreign national employees.

(a) Classified information must not be dictated to, typed, or otherwise prepared by local employees. This restriction must not be circumvented by the assignment of classifications after a local employee has prepared a particular document. However, when warranted, information collected by local employees and prepared in report form by such employees may receive classification protection by appending such reports to classified transmittal reports prepared by U.S. employees.

(b) Except as noted in paragraph (d) and (e), classified information must not be made available to, or left in the custody of, Foreign Service local employees or alien employees resident in the United States nor will such employees be permitted to attend meetings where classified information is discussed.

(c) Authorization for limited access: When local employees obtain information from privileged sources or otherwise develop information warranting an administrative control designation or must be given access to administratively controlled information or material originated elsewhere in order to perform their official duties, they may be authorized limited access to such information provided that:

(1) The local employee's U.S. citizen supervisor requests authority to permit access to administratively controlled material in writing, specifying the reasons the employee must have access in order to perform official duties and describing the type of material, reports, etc., contemplated for access.

(2) The regional security officer concurs in the request, issues a memorandum of limited access, and recommends approval to the principal officer.

(3) The principal officer must authorize the limited access in writing. Such authority shall be reviewed by each succeeding principal officer, and the officer shall affirm or discontinue such authority as the officer deems appropriate.

(4) The employee's access is not construed to mean blanket authority to receive administratively controlled information or material. Select local employees authorized to have access to administratively controlled material shall be permitted access only to that type of material specified in subparagraph (1) of this paragraph on a strict "need-to-know" basis.

(d) Broadcasting services alien personnel: When it is essential that information contained in classified documents (excluding Top Secret) be disseminated to the broadcasting services alien personnel resident in the United States, in order for them to perform their duties, such information must be given verbally. They are prohibited access to Top Secret information and are not authorized visual access to classified documents or material.

(e) Foreign Service local employees: Foreign Service local employees in very limited cases, may be permitted access to Confidential information coming from or to be delivered to the government of the host country. The internal procedures for granting access are the same as those provided in the foregoing parts of § 9.21 with regard to local employee access. Almost all instances of use of this authority will involve necessary translations. Access to such material should be allowed only after consideration of the host government's reaction to the particular Foreign Service local employee's having such access. When and where feasible, the local employee should be given such access only after a responsible agency of the host country has indicated it has no objection to the specific local employee's access to the information.

§ 9.22 Access by historical researchers.

Persons outside the executive branch who are engaged in historical research projects may be authorized access to classified information or material provided that the head of the originating Department determines as follows:

(a) The project and access sought conform to the security and administrative requirements of the originating Department.

(b) The material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(c) The historical researcher agrees to safeguard the information in a manner consistent with NSC Directives.

(d) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information is contained therein.

(e) An authorization for access shall be valid for the period required but no longer than 2 years from the date of issuance unless renewed under regulations of the originating Department.

§ 9.23 Access by other persons outside the executive branch.

(a) Release of classified information to Congress shall be approved and coordinated by the Office of Congressional Relations and the Office of Security.

(b) In all other cases, classified material will not normally be released to persons outside the executive branch of the U.S. Government, except that the head of the Department or agency or designee may authorize a person outside the executive branch to have access to classified information or material, provided that all the following conditions are satisfied:

(1) Knowledge or possession of such information or material is required by the intended recipient and is consistent with the interest of national security.

(2) The intended recipient is determined to be trustworthy in accordance with established standards of the Department concerned.

(3) The intended recipient can and will safeguard the information from unauthorized disclosure in a manner consistent with the provisions of appropriate Executive orders.

(4) The information or material involved will not be further disseminated without the express permission of the Department or agency concerned.

(5) Granting access to the person involved is consistent with appropriate Executive orders and with applicable statutes and national policy.

The Office of Security must, however, specify the manner in which the authorized access or release is to be effected to insure that such action is consistent with the provisions of the appropriate Executive order and NSC Directives.

§ 9.24 Access by contractors or consultants.

(a) Contractors or consultants may not have access to classified material until a personnel security clearance has been authorized in writing by the Office of Security. Such clearances shall also be administratively withdrawn when the person no longer requires access to classified information or material in connection with the performance of his official duties or contractual obligations. Likewise, when a person no longer needs access to a particular security category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

(b) Employees are personally responsible for obtaining clearance from the Office of Security prior to release of classified material to a consultant or contractor. For requirements for storage of classified material by persons not regularly employed, see § 9.47(e).

§ 9.25 Access by former Presidential appointees.

Persons who previously occupied policy making positions to which they were appointed by the President, other than those referred to in section 11 of Executive Order 11652 may be authorized access to classified information or material which they originated, reviewed, signed, or received while in public office. Upon the request of any such former official, such information and material as the

former official may identify shall be reviewed for declassification in accordance with the provisions of these regulations.

§ 9.26 Referral of public requests.

(a) Requests from the public for classified records, whether made to a department or agency office within the United States, or to a post abroad, must be referred to the Chief, Records Services Division (State); Director, Information Staff (AID); or Assistant Director, Office of Public Information (USIA), as appropriate.

(b) Unclassified records may be released upon approval by chiefs of mission at Foreign Service posts in accordance with 5 FAM 482.2. Unclassified records abroad of AID and of USIA may also be released by the AID country mission director and by the USIA country public affairs officer, respectively. (See M.O. 820.1 and M.O.A. III 524.)

(c) Requests for classified records which the chief of mission (for AID, the mission director, or for USIA, the public affairs officer) has declined to make available on such officer's own authority, should be submitted to the appropriate agency, by operations memorandum for USIA and by airgram for State and AID, containing sufficient information to permit consideration of the request.

(d) Classified records to be made available to the public by the above-identified authorized officers in the United States and abroad must first be declassified or decontrolled in accordance with the provision of § 9.1.

For more detailed procedures on releasing records to the public, see the appropriate Department or agency regulations. (State, 5 FAM 480; AID, M.O. 820.1; USIA, M.O.A. III 524.)

§ 9.27 Controlling and safeguarding other official information.

(a) The Freedom of Information Act (5 U.S.C. 552) and earlier legislation recognize the necessity for the Government to withhold from public disclosure certain categories of records in addition to those containing information specified in Executive Order 11652 and other Executive orders. These include, but are not limited to, records, the disclosure of which would be a clearly unwarranted invasion of personal privacy or would violate a privileged relationship.

(b) The absence of a security classification or an administrative control designation on a record should not be regarded as authorizing the public disclosure of information contained therein without independent consideration of the appropriateness of the disclosure. In this regard, Department and agency policy with respect to disclosure of information under the Freedom of Information Act, or otherwise, does not alter the individuals' responsibility arising from his employment relationship with the Department or agency.

§ 9.28 Administratively controlled information.

(a) *Designation.* Certain official information and material which is not national security information and, therefore, cannot be classified, is nonetheless protected by law against disclosure. Such information and material includes, among other things, information received through privileged sources and certain personnel, medical, investigative, commercial, and financial records. Such information and material which requires limited dissemination shall be afforded physical protection comparable to that given "Confidential" material in order to safeguard it from unauthorized disclosure. Such information and material shall be designated and marked "Limited Official Use" by officials authorized to classify information "Confidential," in which case it shall be physically handled, transmitted, and stored as if it were "Confidential."

(b) *Decontrol.* Unless otherwise provided, administratively controlled information shall be automatically decontrolled at the end of the fourth full calendar year after the year in which it is originated. If physical protection is not required for that period of time, the official designating a document "Limited Official Use" shall specify on the document that it shall be decontrolled upon the occurrence of a specified event, removal of controlled attachments, or a passage of an appropriate period of time not to exceed 4 years. If physical protection is required for a period longer than 4 years, the official designating the document "Limited Official Use" shall specify that it is exempted from automatic decontrol. Information and material not exempted by statute may be exempted from automatic decontrol only with the approval of an official authorized to classify information "Secret."

(c) *Decontrol notations.* Administratively controlled information and material shall be marked with the "Limited Official Use" designation in the same manner as classification markings are applied. All such documents and material must also be marked with a decontrol notation.

(1) Information which may be decontrolled upon the conclusion of a specific date, action, or event earlier than 4 years shall be noted to read as follows:

Decontrolled following _____ (Date or conclusion of specific event, or action)

(2) Information or material which is exempt from automatic decontrol by statute should be marked as follows:

Exempt from Automatic Decontrol By Statute

(3) In rare instances where information or material designated "Limited Official Use" is not exempt by statute or decontrolled on an earlier date or event but requires physical protection for a period longer than 4 years, the official designating the material "Limited Official Use" shall mark it as follows:

Exempt from Automatic Decontrol Authorized by _____

In the latter category, information and material may be exempted from automatic decontrol only with the approval of an official authorized to classify information "Secret."

(d) *Review of control status.* The administrative control status of any information or material shall be reviewed upon request. Such information or material shall be decontrolled and disclosed unless the office of origin or the office of primary interest or action determines, within a reasonable period of time after the request and after consultation with legal counsel, that the information is protected by law against disclosure.

§ 9.29 Other Federal agency information.

(a) Classified material that originated in another U.S. department or agency must not be communicated outside the receiving agency without the consent of the originating department or agency, including material originated in State, USIA, and AID. Such approval must be obtained in writing, and a record of the approval and communication must be maintained by the communicator.

(b) Distribution to other Federal agencies: Classified material may be sent to other Federal departments or agencies only through established liaison or distribution channels. An exception is permitted when a post transmits classified material to an office of another U.S. Government agency within the executive branch located outside the United States.

§ 9.30 Controls for dissemination and use of intelligence information.

(a) (1) Information contained in intelligence documents (including those produced by the Bureau of Intelligence and Research) that is marked with specific control markings must be handled within the framework of the limitations imposed by such controls. For details and definitions of these controls, refer to 11 FAM 413.

(2) Failure to comply with these provisions will be considered a violation to be handled as prescribed under § 9.62.

(b) Dissemination of sensitive intelligence information: Information or material bearing the notation "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED," shall not be disseminated in any manner outside authorized channels without the permission of the originating department and an assessment by the appropriate intelligence chief as to the risk to the national security and to the intelligence sources and methods involved.

§ 9.31 Dissemination ordered or requested by a court of law or other official body.

(a) Except as provided in § 9.29(b), any subpena, demand, or request for classified information or records from a court of law or other official body shall be handled in accordance with the regulations of the agency concerned which prescribe procedures for responding to subpenas (State, 5 FAM 485; USIA, M.O.A. III 527 and 625.6).

(b) Testimony involving classified information is subject to the procedures for responding to subpenas must not be given before a court or other official body without the approval required by

those procedures. An employee called upon to give such testimony without prior authorization shall state that to disclose the information desired is not authorized and that a written request for the specific information should be transmitted to the head of the department or agency concerned. Such testimony, when so approved, shall be given only under such conditions as the authorizing officer may prescribe.

(c) All reports, records, and files relative to the loyalty of employees or prospective employees (including reports of such investigative agencies) shall be maintained in confidence, and shall not be transmitted or disclosed except as required in the efficient conduct of business, and then only in accordance with the provisions of the President's directive of March 13, 1948.

§ 9.32 Dissemination to foreign governments.

(a) *Dissemination of classified information to foreign governments and international organizations.* For detailed instructions governing the release of classified information to foreign governments and international organizations, see 11 FAM 600. (AID M.O. 631.4.)

(b) *Disclosure of classified military information to foreign governments and international organizations.* The National Disclosure Policy Committee establishes the procedures governing the release of classified military information to foreign governments and international organizations. All referrals for the release of such information shall be directed to the National Military Information Disclosure Policy Committee (NDPC), National Disclosure Policy Affairs, Bureau of Politico-Military Affairs, U.S. Department of State, Washington, D.C. 20520.

(c) *Disclosure of communications security information to foreign governments and international organizations.* The U.S. Communications Security Board (USCSB) establishes the national policy governing the release of communications security information and the procedure to be followed when communications security assistance is requested by foreign governments and international organizations. Requests for such communications security assistance or advice must be referred to the Deputy Assistant Secretary for Communications (Department of State member of the USCSB).

§ 9.33 Restrictions on personal use.

(a) *Personal interests.* Classified information must not be used for personal interests of any employee and must not be entered in personal diaries or other nonofficial records.

(b) *In conversation.* The discussion of classified information must not be held in the presence or hearing of persons who are not authorized to have knowledge thereof. Classified information must not be discussed in conversations on telephones or office intercoms, except as may be authorized over approved secure communications circuits.

§ 9.34 Special dissemination categories.

(a) *Cryptomarking.* A designation of marking of "Crypto" is applied to cryptographic material and cryptographic information indicating that it requires special consideration with respect to access, storage, handling, and accounting. Regulations and procedures governing use and disposition of documents or material so marked are established by the Communications Security Division as indicated in § 9.50 and documented in communications security publications.

(b) *Authorized special distribution captions.* (1) No Distribution (nodis) means no distribution to other than addressee without the approval of the Executive Secretary. (See 5 FAM 212.a.) This caption is used only on messages of the highest sensitivity between the President, the Secretary of State, and chiefs of mission.

(2) Exclusive Distribution (exdis) means distribution exclusively to officers with essential need to know. This caption is used only for highly sensitive traffic between the White House, the Secretary, the Under Secretaries, and chiefs of mission.

(3) Limited Distribution (limdis) means distribution strictly limited to officers, offices, and agencies with need to know. This caption is reserved for messages of more than usual sensitivity.

(4) No Distribution Outside Department: This caption precludes initial distribution to other Federal agencies and is used when disclosure of certain communications to other agencies would be prejudicial to the best interests of the Department of State. This caption may be used in conjunction with the captions "exdis" and "limdis."

(5) For specific details regarding the procedures to be followed in handling a captioned message, see 5 FAM 212. Within USIA, M.O.A. III, section 352.2 (paragraphs b, c, d), identifies authorized captions used in communications for special distributions and handling of message copy. These captions are properly used to limit the distribution of copies of particularly sensitive messages.

§ 9.35 Transmission and control of classified material.

(a) *Top secret control procedures—Requirements.* Executive Order 11652 and NSC Directives require the designation of Top Secret control officers to provide positive control over the movement, use, and disposition of all Top Secret documents. The use of Top Secret Cover Sheets (JF-9) and a system of Top Secret control numbers and receipts are prescribed to insure that Top Secret documents are fully accounted for at all times, and that information is available on the identity of each person who has had access.

(b) *Required assignment of Top Secret control numbers.* (1) A Top Secret control number must be marked on each copy of each Top Secret document. For telegrams and other documents to which a control number has already been assigned prior to receipt, no additional control number is necessary. If no control number appears on the document when it is received, one must be assigned.

(2) Draft copies should be destroyed when a final version is reproduced and distributed. If it is necessary to retain the draft copy because of draft clearances or for other reasons, it should be assigned a control and copy number and included in the original series designation.

(c) *Composition of Top Secret control numbers.* (1) A Top Secret control symbol must be used by each Top Secret control officer. The symbol belongs to the post or organizational element and not personally to the designated Top Secret control officer. Each successive Top Secret control officer shall use the same post or organizational element symbol.

(2) Control symbols for organizational elements in AID and the Department are devised and issued by management authority having responsibility for regulations and procedures used within the respective agency or Department. Information concerning organizational changes or other circumstances which require changes in assigned symbols shall be submitted immediately to such management authority. Posts and U.S. missions should route such requests through the responsible bureau executive office.

(3) The control symbol plus the copy number, series designation, and capital letter designating the Department or agency of origin constitute the Top Secret control number. For example:

(i) *At posts.* If Top Secret control number is "LND-18-3A-S"—LND is the Top Secret control symbol for London; 18 indicates this is the 18th document numbered under that symbol; 3 is the copy number; A is the series designation; and S identifies State as the agency of origin.

(ii) *In the domestic service.* (a) If the Top Secret control number is "GC-6-1B-A"—GC is the Top Secret control symbol for the Office of the General Counsel; 6 indicates this is the sixth document numbered under that symbol; 1 is the copy number; B is the series designation; and A identifies AID as the originating agency.

(b) The final capital letter of the Top Secret control number shall be S, or A, identifying the originator as the State Department, or Agency for International Development, respectively.

(d) *Use of Top Secret control numbers.* Top Secret control numbers must be assigned to all Top Secret documents and reproduced on all forms serving to identify Top Secret documents. The Top Secret Cover Sheet (JF-9), Classified Material Receipt (JF-6), Top Secret Document Inventory Record (JF-17), etc., must be completed to identify the Top Secret document by its control number and the type of document, subject matter, date, addressee, and originator.

(e) *Assigning Top Secret control numbers.* (1) Upon receipt of a Top Secret document to which a Top Secret control number has not been assigned, regardless of the agency, post, or area of origin,

the receiving Top Secret control officer must immediately insert the Top Secret control number on each copy of the document and must affix a Top Secret Cover Sheet (JF–9) to each copy marked with the appropriate Top Secret control number on it.

(2) The Top Secret control officer distributes the document and copies thereof as indicated by the signing officer or according to established procedures within control officer's area of Top Secret control responsibility.

(3) In AID, these functions are reserved solely to the central Top Secret control officer. In USIA, notify the Office of Security if a Top Secret document is received without a control number.

(f) *Maintenance of records for Top Secret documents.* The following forms are used and maintained in connection with the control of Top Secret material:

(1) Top Secret Cover Sheet, JF–9.
(2) Classified Material Receipt, JF–6.
(3) Receipt Manifest, Form DS–794.
(4) Record of Top Secret Material, JF–10.
(5) Top Secret Document Inventory Record, JF–17.
(6) Index to Consolidated File Number ———, JF–19.

§ 9.36 Distribution of Top Secret documents within State, AID, and USIA posts.

(a) Within the area of responsibility of the Top Secret control officer: Top Secret documents to be distributed within the area of the Top Secret control officer shall be distributed by the Control officer, the officer's alternate, or a U.S. citizen employee under the administrative supervision of either. The individual making the distribution must witness the signature of the recipient on each Top Secret Cover Sheet (JF–9). The transmitting office must maintain a record of the transmission of each copy of each Top Secret document. For accountability and annual inventory purposes, the record must be maintained separately from records or receipts of other classified material. Dependent upon the volume of Top Secret traffic within area of responsibility, the Top Secret control officer may elect to account for internal distribution by using JF–6, JF–10, or DS–794.

(b) Outside the area of responsibility of the Top Secret control officer: (1) Top Secret documents to be distributed outside the area of the Top Secret control officer must be covered by their individual Top Secret Cover Sheets and either:

(i) Classified Material Receipt, JF–6; or

(ii) Receipt Manifest, DS–794, in duplicate.

(2) Top Secret documents must be transmitted by the Top Secret control officer or alternate to the receiving Top Secret control officer by either:

(i) A Top Secret messenger;

(ii) An authorized courier;

(iii) Electrical means in encrypted form; or

(iv) Pneumatic tube.

(c) Top Secret documents must be enclosed in a single, sealed, opaque envelope addressed to the agency, post, or area concerned and to the attention of the appropriate official by title, if known. The envelope must be marked on both sides. These requirements are mandatory for the transmission of all Top Secret material outside the area of the Top Secret control officer.

(1) The envelope, marked "Top Secret," must be transmitted inside another cover, such as a brief case, portfolio, or diplomatic pouch.

(2) Material to be transmitted in the pneumatic tube need only be enclosed in a single, opaque envelope properly addressed and marked "Top Secret" on both sides.

(d) For accountability and annual inventory purposes, receipts reflecting the transmission or receipt of Top Secret material must be filed separately from receipts concerned with material of a lesser classification.

(e) Distribution of Top Secret documents outside posts, the Department, AID, and USIA: Top Secret documents to be distributed to another Federal agency, or elsewhere, are prepared for distribution as indicated in § 9.36 except that the Top Secret Cover Sheet is removed and annotated to record the date, the identity of the addressee, and the preprinted number appearing on the JF–6. When the Top Secret control officer is certain that the addressee has received the Top Secret document (reconciliation of parts I and IV of JF–6, or other notification), the officer files the Top Secret Cover Sheet in Top Secret files for 5 years. At the end of the 5-year period, the Top Secret Cover Sheet should be destroyed when authorized by Department or agency records disposal schedules.

§ 9.37 Top secret cover sheets.

(a) The original and each copy of Top Secret documents must be covered by a Top Secret Cover Sheet (JF–9). The cover sheet must be completed by the Top Secret control officer and shall include the control number, the type of document, subject matter, date, addressee, and originator. All persons having access to the document attached to the Top Secret Cover Sheet must sign and date the cover sheet before accepting responsibility for its custody. The Top Secret Cover Sheet must remain with the document until the document is:

(1) Transferred to another department or agency, outside State, AID, and USIA.
(2) Destroyed.
(3) Retired.
(4) Downgraded or declassified.

(b) When one of the above-listed actions is taken, the Top Secret control officer must record the action on the Top Secret Cover Sheet, retain it in the files for 5 years, and then destroy it.

§ 9.38 Inventories of Top Secret documents.

(a) As of October 31 of each year, each Top Secret control officer assisted by a representative of the Office of Security, must make a physical inventory of all Top Secret documents for which he is accountable. Such an inventory shall reflect the following information: (1) Who authorized the original classification; (2) department or organization; (3) date of classification; (4) subject; (5) whether the material is subject to or exempt from the General Declassification Schedule; (6) if exempt, which exemption category is claimed; (7) addressee—current holder; (8) Top Secret control number; and (9) copy number.

(b) As an exception, repositories or libraries storing large volumes of classified material may request from the appropriate Office of Security a limitation of their annual inventory to all documents and material to which access has been given in the past 12 months and 10 percent of the remaining inventory.

(c) It is mandatory that the presence of each document shown must be physically verified. A report of this inventory is prepared on the Top Secret Document Inventory Record, JF–17, which must be retained for 3 years from date of the inventory by the Top Secret control officer. A copy of the JF–17 also must be forwarded to the appropriate Officer of Security. The JF–17 may be destroyed, when authorized by Department or agency records disposal schedules.

(d) Any documents unreconciled at the time of the annual inventory, must be reported immediately to the appropriate Office of Security or regional security office. (See § 9.44.)

§ 9.39 Consolidation of Top Secret documents.

(a) Purpose and criteria: In order to simplify the recordkeeping required for the accountability of Top Secret documents, they may be consolidated under a single Top Secret control number when such documents may be physically connected because of their relationship to subject matter, their similarity, recurrence and use, or other features which make them susceptible to consolidation. A consolidation of Top Secret documents reduces the document-to-document receipts and signatures required for the dissemination of individual Top Secret documents and permits accountability, including annual inventories, under a single control number.

(b) Authority: Top Secret control officers or higher authority shall determine which Top Secret documents may be consolidated and shall effect the consolidation, utilizing JF–19, Index to Consolidated File No. ———.

(c) Identification: A consolidation of Top Secret documents is assigned a new Top Secret control number in the same manner as an original Top Secret document by the Top Secret control officer making the consolidation.

(d) Assembly and indexing: (1) Each consolidation should be permanently fastened together by the use of staples, by inclusion in binders, or by other equally effective means. An index or list of the control numbers originally assigned to each controlled document

included therein (or its subject, if no control number was previously assigned) should be affixed to the front of the consolidation.

(2) Top Secret material contained in a consolidation is shown on the annual inventory report as one document. The list or index affixed to the consolidation permits the dropping of previously assigned control numbers for inventory purposes.

(e) Top Secret COMSEC material is controlled within the provisions of § 9.55.

§ 9.40 Authorized channels for transmission of classified material.

(a) Under no circumstances shall classified material be transmitted physically across international boundaries except by diplomatic courier or in accordance with § 9.47(d).

(1) Classified material must not be transmitted through U.S. mail or other postal services except through the central mail or pouch unit serving the post or area (in the department or agency) of the sender.

(2) The "mail stop" interagency mail service is not an authorized messenger for delivery of classified material.

(3) See § 9.36 for Top Secret material.

(b) Primary methods of transmission for Secret material: Secret documents must be transmitted, dependent upon the urgency of the information, the maximum security obtainable, and the medium available, by one of the following: (1) Electrical means in encrypted form; (2) pneumatic tube; (3) diplomatic courier (see § 9.47(d)); or (4) authorized messenger of the sending or receiving agency.

(c) Secondary methods of transmission: Whenever the primary methods of transmission (which are under the positive control of the department or agency) are not readily available the registered mail facilities of the United States and U.S. military postal channels, must be used as follows:

(1) U.S. registered mail within and between the 50 States and the District of Columbia, the Commonwealth of Puerto Rico, or a U.S. possession.

(2) U.S. registered mail facilities of the Army, Navy, Air Force, or other U.S. Post Offices outside the areas enumerated in subparagraph (1) of this paragraph: *Provided*, That the information or material does not at any time pass out of U.S. citizen employee control and does not pass through a foreign postal system.

(d) Preparation for transmission: (1) Secret documents must be covered by a cover sheet or folded inwards and, except as authorized in paragraph b of this section, be enclosed in opaque inner and outer envelopes. The inner envelope should be addressed to the appropriate official by title, if known. It must be marked "Secret" on both sides. (See § 9.41(a) for registration if sent by pouch.) The outer envelope should be addressed in the same manner but shall not bear a security classification.

(2) Secret documents must be covered by a JF–6, Classified Material Receipt, or a DS–794, Receipt Manifest, or other receipt approved by the Office of Security or regional security officer whenever the transmission is from one area serviced by one message center to another, from offices and areas not serviced by a decentralized message center or comparable communications unit, from one post to another, etc.

(3) The transmission or distribution of Secret material within the positive control of message center or similar communications unit need not be covered by a receipt, provided that adequate records reflect its distribution (such as JF–7, Register—Distribution of Classified Material, or other logs approved by the Office of Security or regional security officer).

(4) Secret documents transmitted via pouch (i.e., by diplomatic courier) or by authorized messenger or by pneumatic tube need not be enclosed in a second or outer envelope. The pouch, the messenger's portfolio or briefcase, and the pneumatic tube carrier are considered second or outer covers.

(f) Confidential material: (1) Confidential material must be transmitted by one of the means established for Secret material or by certified mail (see section 9.40(b)): *Provided*, That it does not at any time pass out of U.S. Government control and does not pass through a foreign postal system.

(2) Confidential and Limited Official Use material must be prepared for transmission in the manner prescribed for Secret material (see section 9.40(d) of this section). The only exception is that a receipt is not required unless the sender deems one necessary. If material is transmitted by one of the primary methods (section 9.40(b) of this section) without a JF–6, the classification appears on the outer envelope. (See also § 9.41 for transmission by diplomatic pouch.)

(g) Unclassified material: (1) At posts, Unclassified material may be transmitted by diplomatic pouch, U.S. first-class mail; or through foreign postal systems according to instructions issued by principal officers. Unclassified material originating in the United States should be transmitted through the official communications center serving the Department or agency of the sender.

(2) Unclassified material, when transmitted by diplomatic pouch facilities, must be enclosed in an addressed envelope marked "Unclassified" on both sides. When transmitted by postal facilities, it must not be marked "Unclassified."

(h) Transmission to pouch room: During transmission to the pouch room the same safeguards are required as those prescribed for other internal transfers.

§ 9.41 Registering diplomatic pouch mail.

(a) Each piece (envelope, package, or other outer cover) of classified material must be registered by the use of a JF–14, Diplomatic Pouch Mail Registration; JF–6, Classified Mail Receipt; or other registry system approved by the Diplomatic Pouch and Courier Operations Division for items sent by diplomatic pouch. Normally, JF–14 shall be utilized to register Confidential items, leaving JF–6 for Top Secret and Secret items.

(b) Receipts for classified documents: Classified Material Receipt, JF–6, or Form DS–794, Receipt Manifest, or other receipt approved by the Office of Security or regional security officer, must be used in the transmission of all Top Secret and Secret documents when transmitted outside the organizational control of the sender. These receipts may be used for the transmission control of any other document at the discretion of the sender.

(1) *Use of JF–6.* Classified Material Receipt, JF–6, is prepared so that all items are completed and signatures are recorded on parts I, III, and IV. These parts, together with part V, shall be retained for 3 years. If the addressee or unit maintaining records of receipt for the addressee does not receive all the items identified on part IV, and if part IV is not returned promptly to the sender or unit maintaining records of transmission for the originator respectively, the sender shall follow up on the transmission, notifying security personnel and Top Secret control officers when appropriate. The identity of enclosures (on parts I, IV, and V) shall include the type of document, subject, copy number, and series and date of document. Several items may be transmitted in the same address under cover of a single JF–6, provided a listing of the items is retained by the sender and a copy accompanies part V for the addressee's use. Instructions for the preparation and disposition of the JF–6 are contained on it.

(2) *Use of Form DS–794, Receipt Manifest.* Form DS–794, Receipt Manifest, or other approved receipt, is used to cover the transmission of more than one Secret document between the sender and a single addressee such as occurs in the wide distribution of Secret telegrams, etc., reproduced by a central reproduction area. Such receipts are forwarded in duplicate, so that the addressee may acknowledge receipt of the material by signing and returning a copy to the transmitter, retaining the original for addressee's records. Such receipts are retained for 3 years.

(3) *Disposition of receipts.* Originating and receiving elements or employees are not required to maintain additional logs of transmission and receipt of Secret material other than to note internal distribution which may be recorded on part V of the JF–6, the original of DS–794, or other approved means. Three years after the date of transmission or receipt of Secret material, receipts covering the transaction may be destroyed.

§ 9.42 Reproduction and distribution of classified material.

(a) Top Secret and Secret material originated in another Federal agency must not be reproduced without the specific written approval of the originating agency. The authority for the reproduction should be noted on the copy from which the reproduction is made.

(b) Reproduction of Top Secret documents: Permission for reproduction of a Top Secret document must be obtained by the Top Secret control officer of the

reproducing office from the Top Secret control officer of the originating office, or the Top Secret control officer of the operating element authorized to make initial distribution. Both the originating and reproducing offices must maintain appropriate records to reflect the number of copies reproduced and observe all other requirements concerning the control of distribution of such copies. Unauthorized reproduction of classified material (Top Secret, Secret, Confidential) will be subject to appropriate disciplinary action.

(c) Reproduction of Secret documents: Permission for the reproduction of a Secret document originated by State, AID, or USIA is granted interchangeably to their employees without the approval of the originating Department or agency. However, the authority to approve such reproductions is delegated to officers of the area requiring reproduction who have signing authority to approve the classification Secret, as specified in § 9.3. Such officers are responsible for determining that reproduction of the document is essential for efficient operations and that the number of copies reproduced is kept to the absolute minimum required to meet the operational need.

(d) Marking reproduced Top Secret and Secret documents: When reproduction beyond the initial production is required, the copy from which reproduction is made must show the authority for reproduction, the officer requesting the reproduction, and the number of copies made. The certification should be in the following form:

Reprod. Authority By: John Doe (Department or Agency).
------ copies
Robert L. Brown
Department or Agency

(e) Reproduction of Confidential documents: Confidential documents may be reproduced without permission of the originator. However, all material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

(f) Protection of Classified reproduction facilities: Classified reproduction facilities should be controlled and kept separate from unclassified operations and must be monitored periodically during normal working hours and secured within a locked room during nonworking hours. Where this is not possible, the Office of Security or regional security officer must be consulted in determining the procedures necessary to protect facilities used for classified reproduction. Classified material should only be produced on those reproduction machines under the continual control of U.S. personnel.

§ 9.43 Destruction of classified material.

(a) Disposable classified material must be carefully and completely destroyed in the presence of responsible U.S. citizen personnel. Disposable classified material does not include record material, or other material exempted from destruction by agency or department instructions. It does comprise information and extra copies of documents, cylinders, discs, tapes, rough drafts, shorthand notes, carbon paper, and any other nonrecord material, except those specifically prohibited by instructions emanating from offices responsible for records management. Record copies of classified material must not be burned or otherwise destroyed except in accordance with Federal laws and agency regulations governing the disposition of records.

(b) Methods of destruction: Normally, classified material is destroyed by burning. Any other method must have the specific approval of the Office of Security.

(c) Use of burnbags: All classified material to be destroyed must be torn and placed in containers designated as burnbags, which are clearly and distinctly recognizable as burnbags. Burnbags awaiting destruction must be protected by safeguards commensurate with the classification or control designation of the material involved.

(d) Record of destruction for Top Secret material: (1) *Requirement.* Each Top Secret control officer is requested to maintain a record of destruction of Top Secret material in accordance with instructions printed on JF-9, Top Secret Cover Sheet.

(2) *Witness to destruction.* The Top Secret control officer in recording the destruction of a Top Secret document, must sign form JF-9 as the officer destroying the document and one other U.S. citizen employee must sign as witness to the actual destruction; or, they must sign as participants in preparing the material for destruction; i.e., tearing and depositing in burnbags and securing the burnbags for destruction.

(e) Destruction of Secret and Confidential material: (1) Secret and Confidential nonrecord material must be destroyed by burning or other authorized means with the same degree of care and protection required for information of higher sensitivity. A record of destruction need not be made unless the material bears a serialization marking, there is special need to record its destruction, or recording is required by a special regulation. See subparagraph (3) of this paragraph.

(2) Destruction of serialized Secret and Confidential material must be recorded on JF-8, Register—Destruction of Classified Material, or other form or log approved by the Office of Security or the regional security officer. The reverse of part V of JF-6, Classified Material Receipt may also be used as a destruction record provided it bears the signatures of destroying and witnessing officers and the destruction date. All records of destruction must be retained for 3 years following the destruction date.

(3) Documents subject to special regulations, such as NATO, SEATO, Restricted Data, etc., must be destroyed and destruction recorded in accordance with requirements of the applicable special regulation.

§ 9.44 Report of missing or compromised classified documents.

Any employee who discovers that a classified document is missing must make a prompt report to the Office of Security or regional security officer via the unit or post security officer. In the case of a known or suspected compromise of a Top Secret document or cryptographic material, the report must be made immediately. Telegraphic or oral reports must be followed by a prompt submission of a memorandum addressed to the Office of Security or regional security officer, which includes the following information:

(a) Complete identification of the material, including, when possible, the date, subject, originator, address, serial or legend markings, classification, and type of material (i.e., telegram, memorandum, airgram, etc.).

(b) Where compromise is believed to have occurred, a narrative statement detailing the circumstances which gave rise to the compromise, the unauthorized person who had or may have had access to the material, the steps taken to determine whether compromise in fact occurred, and the office or post evaluation of the importance of the material compromised.

(c) Where a document is lost or missing, the narrative statement should detail the movements of the material from the time it was received by the post or office, including to whom it was initially delivered; later routings; the persons having access to the material; the time, date, and circumstances under which loss was realized; and the steps taken to locate the material.

(d) When material is either compromised or missing, identify if possible the person responsible and state the action taken with regard to the person and/or procedures to prevent a recurrence.

(e) Where cryptographic material is involved, a report is also to be made to the Office of Communications using FS-507, Report of Violation of Communications Security.

§ 9.45 Physical protection of classified material.

(a) *Storage repositories for classified material.* Classified material must be stored in prescribed repositories. Personnel must assure that such repositories are locked prior to leaving the room unattended. Any question concerning the approval of the type of repository to be used must be referred to the Office of Security or regional security officer. These minimum security requirements for the storage of classified material may be supplemented by additional safeguards which, at the discretion of the Office of Security or regional security officer, may be necessitated by unusual or changing conditions. Classified documents must not be routinely stored overnight, at overseas facilities, unless there is present a satisfactory emergency destruction capability.

(b) *Top Secret documents.* (1) Top Secret documents must be stored in a

security-approved safe-file cabinet, safe, or vault, equipped with a three-way dial combination lock and located in a restricted area. Other supplemental safeguards, as justified by individual circumstances, will be prescribed by the Office of Security or regional security officer.

(2) At AID overseas facilities, Top Secret documents must be stored in security approved safe-file containers located within a vault, in an area controlled by security cleared American personnel on a 24-hour basis.

(3) At those AID installations where diplomatic status and recognition have not been negotiated. Top Secret documents must not be stored routinely at USAID.

(c) *Secret documents.* (1) Secret documents may be stored in a repository authorized for Top Secret documents or in a barlock cabinet located in a restricted area. Other supplemental safeguards, as justified by individual circumstances, may be prescribed by the Office of Security or regional security officer. In the domestic service, Secret documents need not be stored in restricted areas if the building where such documents are stored is protected by security cleared guards.

(2) At AID overseas facilities all safe-files or barlock cabinets, containing Secret documents, must be located in a vault unless area access is controlled by security cleared American personnel on a 24-hour basis.

(d) *Confidential documents.* Confidential documents must be stored in the same manner prescribed for Secret material in a safe-file container or in a barlock cabinet located in a vault if the area is not controlled by security-cleared American personnel on a 24-hour basis. In the United States, barlock cabinets containing Confidential documents need not be located in a restricted area. Other supplemental safeguards, as justified by individual circumstances, will be prescribed by the Office of Security or regional security officer.

§ 9.46 Keys and combination to repositories.

(a) Security keys must be stored in a security approved repository equipped with a three-way dial combination lock. Any duplication of keys required shall be made only by the Office of Security or regional security officer. Under no circumstances are such keys to be removed from the premises.

(b) The Office of Security or regional security officer will furnish only two keys with each padlock and will determine the number of keys to be issued for other locks used for the protection of classified operations.

(c) Combination locks: Combinations to security equipment and devices shall be changed only by persons having appropriate security clearance.

(1) When setting combinations of three-way combination locks, the combination of each repository must be set in such a fashion as to require the use of three different numbers. In selecting combinations, multiples and simple ascending or descending arithmetical series must be avoided. The combination of each lock must be changed:

(i) When the lock is initially put into use;

(ii) When an employee knowing the combination terminates employment or is permanently transferred to duties which no longer require employee's access;

(iii) Upon knowledge or suspicion that the combination has become known to an unauthorized person;

(iv) At least once every year.

Security officers must insure that combinations are changed as required. Records of combination shall be classified no lower than the highest category of classified information or material authorized for storage in the security equipment concerned.

(2) Combinations must be recorded on a JF-5, Safe Card. Such cards must be completed in their entirety and filed in central repositories in the custody of unit, post, or other security officers according to distribution instructions printed on the card. At a minimum, they must be stored in repositories authorized for the storage of material at the highest combined classification level to which the combinations permit access. However, in the domestic service they must be stored in safes or safe-file cabinets whenever feasible and at posts they must be afforded maximum available security storage.

(3) Defects in or malfunctioning of storage equipment or locking devices must be reported immediately to the Office of Security or regional security officer.

(4) Combinations to repositories containing official funds are subject to the requirements and the instructions of the responsible regional security officer.

(d) Data to be posted on each repository: On the inside of the drawer with the combination lock on a safe-file cabinet, on the inside door to a vault or safe, and on the inside of the top drawer of a barlock cabinet, the names and home telephone numbers of personnel responsible for custody of the combination must be posted. Part 3 of JF-5 is designated for this purpose. Persons on the list may be called after normal working hours. A security officer will determine when it is necessary to have an individual return to check contents of an open and unattended repository. Identifying data described above may be posted on the outside of repositories in lieu of the inside, provided the Office of Security or regional security officer has authorized the substitution.

(e) Cautions involving safe combinations: Except for JF-5, Combination Safe Card, and cards posted inside repositories listing combinations in the immediate area, the recording of combinations is prohibited. Combination numbers must be committed to memory. When closing a combination lock, the dial must be turned at least four complete revolutions in the same direction after closing. It is not sufficient to manipulate the dial in a to-and-from motion to clear the combination.

§ 9.47 Removal of classified material from official premises.

(a) *Where overnight custody is not involved.* Classified material must not be removed from official premises except when necessary in the conduct of official meetings, conferences, or consultations and must be returned to safe storage facilities immediately upon the conclusion of the meeting, conference, or consultation. Residences are not considered official premises except as specifically authorized in writing by the Office of Security. Classified material must not be removed for reasons of personal convenience or be kept overnight in personal custody.

(b) *Where overnight custody is requested.* Under normal circumstances, classified material must not be removed from official premises and kept in overnight personal custody. In unusual circumstances, requiring the overnight removal of such material from official premises, prior approval from the Office of Security or the regional security officer is mandatory. This is to ensure adequate storage measures and compliance with the Executive Order 11652 and applicable NSC Directives.

(c) *Certification upon permanent departure from post.* When departing a post upon transfer, resignation, or retirement, each employee, irrespective of rank, must certify as part of the post clearance procedure that: (1) Classified material is not being taken from the post through other than authorized means; (2) such material is not in their household or personal effects; (3) such material will not be mailed or otherwise transmitted in violation of paragraph (d) of this section.

(d) *Transporting classified material across international borders.* Classified material is carried across international border by professional diplomatic couriers. Nonprofessional diplomatic couriers are given such material for international transmission only in emergencies when the professional service will not cover the area into which the pouch must be carried or the post to which the pouch is addressed within the time that official business must be conducted. In such isolated cases, the nonprofessional diplomatic courier must be in possession of a diplomatic passport and a courier letter, and material must be enclosed in sealed diplomatic pouches until delivered to its official destination.

(e) *Storage of classified material by persons not regularly employed.* Authorized consultants and contractors engaged in work involving classified material may not store such material overnight on their premises unless the Office of Security has granted approval for such storage. No classified material may be made available to consultants or contractors off the official premises or transmitted to such persons off the premises except with the approval of the Office of Security and in conformity with Executive Order 11652.

§ 9.48 Physical security; safeguarding classified information.

Employees using classified material or responsible for its custody, must take every precaution to prevent deliberate or casual inspection of it by unauthorized persons.

(a) *Precautions.* (1) Employees responsible for the custody of such materials should complete JF–15, Security Check Sheet, columns 1 and 2, respectively, when opening and closing security repositories. JF–15 is to be posted on all security repositories (vault doors, safes, safe-file, and barlock cabinets) housing classified documents.

(2) "Open" signs should be placed on the outside handle or drawer-pull of each safe or file cabinet which contains classified material when the repository is unlocked. When such equipment is locked, the sign should be reversed to read "closed."

(3) Classified material must not be delivered to unoccupied rooms, or be left inadequately protected in an occupied office or one occupied by other than security-cleared U.S. citizen employees.

(b) *After working hours and during lunch periods.* (1) Classified material must not be stored in desks or anywhere other than in approved storage containers.

(2) Copies of classified documents, including disposable material such as rough drafts, shorthand notes, extra carbon, or tissue copies, used carbon paper, hectograph masters, and mimeograph stencils, must be safeguarded and locked in appropriate security repositories whenever unattended. Typewriter ribbons must be removed and appropriately stored at the close of business and whenever the office is unattended if the ribbon is a so-called one-time tape or a cloth ribbon which has not been used a sufficient number of times to make it illegible. Recording discs, spools, tapes, etc., must also be removed from recording machines and locked in appropriate security repositories whenever the machines are unattended. Compliance with this requirement is a sound security practice and is advantageous to efficient administrative operations regardless of whether the recording media contain classified information.

(3) All keys to doors kept locked after working hours must be turned in to the U.S.-citizen guard force and released only to authorized personnel. Where no U.S.-citizen guard force is assigned, personal custody of keys may be authorized by the Office of Security or regional security officer. Such instances should be held to an absolute minimum.

(c) *Closing hours security check*—(1) *Report of closing hours security check.* A system of security checks prior to those conducted by security guards should be instituted at the close of each working day, or as soon thereafter as administrative operations permit, to ascertain that classified materials have been properly stored and that containers are locked; that windows and doors, where appropriate, are locked; and that the area is otherwise secure and not susceptible to overt penetration or compromise. In order to fulfill this fundamental, mandatory requirement in all areas, at all echelons, supervisory officers in the United States and at posts must designate employees, on a weekly basis, to conduct a closing hours security inspection of offices within a specifically defined area of responsibility. Such designees will utilize JF–16, Report of Closing Hours Security Check, to record the results of the closing hours security check and forward it to the unit or post security officer upon completion of the final check.

(2) *Reporting infractions.* An infraction of the regulations discovered by an employee designated to conduct the closing security check is not to be construed as a security violation in itself. It should not be reported on JF–11, Notice of Security Violation, unless higher administrative authority determines otherwise or the closing hour security check is, in fact, the final inspection where building guards or U.S. Marines are not on duty. Custodians of classified material are responsible for its safekeeping. Consequently, a violation which is discovered after the closing hours security check, if it is the final inspection after normal working hours, will be charged to the individual personally responsible for the violation.

(3) *Employee responsibility.* Employees designated to conduct closing hours security checks will, as a minimum: (i) Insure that all repositories containing classified and controlled material are secured; (ii) check the tops of all desks, including "in" and "out" boxes, and repositories to insure that all classified and controlled material has been put away; (iii) make a visual check of the remainder of the office. This section imposes a direct and important security responsibility on employees conducting closing hours checks, even though primary responsibility remains with the custodian. Consequently, when a security violation is discovered by a security guard after closing hour check and involving an area over which a checker is responsible, the post unit or regional security officer will inquire into the circumstances and include comments regarding the delinquency of the checker. The Office of Security will then determine total responsibility and recommend the appropriate disciplinary action to be taken.

(d) *Exceptions to requirements.* Exceptions to the foregoing requirements, based upon physical or personnel considerations such as the unusual number of repositories located in a specific area, communications areas, alarmed rooms, posts, and areas with few assigned employees and other operations imponderables, must be requested in writing to the Office of Security or regional security officer.

(e) *Conferences.* (1) In conducting conferences where classified information or material may be involved, every precaution should be observed to ensure that:

(i) In the interests of technical security classified conferences are held on official premises.

(ii) Proper physical security measures are implemented to provide equal or better protection for such information or material than the measures required during normal operations.

(iii) Participants are entitled to access to such information.

(2) Advance notice to (and coordination with) the appropriate post or regional security office or Office of Security should be given by the operations element calling or conducting the conference whenever:

(i) Classified material is to be removed from its normal place of storage and transmitted or carried to the conference site.

(ii) Participants are not personally known to have appropriate security clearance by the officer calling or conducting the classified meetings except when the participants are U.S. citizen employees of the Department, AID, or USIA, or regularly assigned U.S. personnel at diplomatic and consular posts.

(f) *Cameras.* Cameras are not permitted in restricted areas or restricted buildings or in rooms containing classified material without prior approval from the Office of Security or regional security officer.

(g) *Package control.* In unusual or emergency circumstances, the Office of Security or regional security officer, with the approval of higher authority, may impose such restrictions as deemed appropriate to insure that foreign objects are not introduced into U.S. Government facilities or classified materials are not removed.

(h) *Identification of employees.* Official employee identification cards are issued and controlled by the Office of Security or regional security officer.

(i) *Entry of employees in buildings.* Employees must present authorized identification cards to guards, receptionists, and/or other employees on request when entering buildings or restricted areas at any time.

(j) *After hours access to buildings.* (1) In addition to showing proper identification, all employees may be required to sign a register when entering or leaving a building outside of regular working hours.

(2) When local employees are required to work after hours in post buildings and when nonregular employees, contractors, etc., are required to enter or remain in buildings after working hours, the U.S. officer authorizing the work must obtain the concurrence of the Office of Security or regional security officer or the post security officer. Such persons must sign in and out on the appropriate register. Nonregular employees and contractors must be escorted.

(k) *Loss of identification cards.* When an employee identification card is lost in Washington, a memorandum report must be submitted immediately to the Identification Unit, Office of Security. A card lost at a post must be reported immediately to the Identification Unit, Office of Secu-

rity, through the post's administrative officer. In each case, the report should include a statement of the circumstances surrounding the loss and the details of any efforts to recover the card.

(l) *Entry of visitors.* Visitors are not permitted in any building housing classified material or operations after working hours, unless they are escorted in and out of the building by a U.S. citizen employee. Normally, visitors who are escorted in and out of a building after working hours are required to register at the guard desk.

§ 9.49 Security plans for office moves.

A security plan must be devised by the unit or post security officer concerned to insure that proper security measures are observed during office moves. The security plan must then be forwarded to the Office of Security or regional security officer well in advance of the intended move. It should include provisions for assuring that repositories of classified material are securely locked, and that a means is provided for accounting for their dispatch and receipt by a designated U.S. citizen employee. While in transit, repositories containing classified material must be accompanied by a U.S. citizen employee.

§ 9.50 Communications security (COMSEC).

(a) The National Security Council Communications Security Directive dated August 26, 1968, affirms that the security of Federal telecommunications is a national responsibility, "and the activities pertaining thereto must be so organized and managed as to satisfy the requirements of the National Security Council and the departments and agencies of the Government." In addition to establishing and prescribing specific responsibilities and authorities, the directive states that "Nothing in this Directive shall relieve the heads of the individual departments and agencies of their responsibilities for executing all measures required to assure the security of Federal telecommunications."

(b) Communications security regulations are authorized by section 9 of Executive Order 11652, which states in part:

> The originating Department * * * may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to * * * cryptography.

(c) Cryptographic information and all material used in the encryption or decryption of telegrams are protected by law. (See 18 U.S.C. 798 and 952, quoted in Appendix III.)

(d) Responsibilities: The Office of Communications, Communications Security Division is responsible for the development of regulations and procedures for the control of communications security and is responsible for prescribing or approving all systems and techniques used in any manner to assure the security of telecommunications. Included are the application of protective measures to telecommunications systems and facilities and establishment of regulations and procedures governing the operation, use, modification, or removal from use of such systems and techniques.

(e) COMSEC (Communications Security) Officer:

(1) *Designation.* The principal officer at each post and the officer in charge of a major functional area at Washington, D.C., holding cryptographic or other communications security must appoint a COMSEC officer or personally act in that capacity. A current cryptographic clearance is a prerequisite to appointment.

(2) *Responsibilities.* (i) The COMSEC officer is responsible for insuring that the communications security regulations and procedures are observed at the post or unit, and for the prompt investigation and submission of reports regarding violations. The detailed responsibilities of the COMSEC officer are contained in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(ii) Any violation of communications regulations, or procedures which may affect the security of telecommunications is a communications security violation and must be reported by COMSEC officers to the Communications Security Division on Form FS–507, Report of Violation of Communications Security. When such a violation may have resulted in the compromise of classified or administratively controlled information, the initial report must be by official telegram from posts, or by telephone from those units at Washington, D.C. Detailed instructions on the reporting of cryptographic and other communications security violations are contained in the current edition of the COMSEC publication titled "S/KAO–150" obtainable from the COMSEC custodian. (See also §§ 9.44, and 9.62.)

(f) COMSEC (Communications Security) Custodian:

(1) *Designation.* The principal officer at each post and the officer in charge of a major functional area at Washington, D.C., holding cryptographic or other communications security material must appoint an employee to serve as COMSEC custodian and one or more employees to to serve as alternates or must personally act as COMSEC custodian and appoint an alternate(s). A current cryptographic clearance is a prerequisite to appointment. The appointment is to be documented on Form DS–1657, Cryptocustodian and Alternate Cryptocustodian; the completed form is to be forwarded to the Communications Security Division and a copy retained with COMSEC account records. Personnel of other Departments or agencies are not to be appointed either COMSEC custodian or alternate.

(2) *Responsibilities.* The COMSEC custodian is held personally responsible for all material issued to the COMSEC account. The detailed responsibilities of the COMSEC custodian are contained in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(3) Transfer of custody: At least 30 days prior to a custodian's departure from the assignment, a new custodian is to be appointed. Both the incoming and outgoing custodian are to conduct an inventory by sight-checking all material and are to submit a report on SF–153, COMSEC Material Report, to document the transfer of accountability in accordance with § 9.55(c)(6). The COMSEC Central Office of Record is to verify the report with its records and is to relieve the custodian formally of accountability for the material when any discrepancies have been resolved. The new custodian assumes responsibility for all material present in the account as of the time the new custodian signs the report.

§ 9.51 Transmission of classified and administratively controlled telegrams.

(a) *Electrical transmission.* Classified or administratively controlled telegrams must be encrypted prior to transmission by any exposed communications channel.

(b) *Transmission by pouch or mail.* (1) Plain text copies of classified or administratively controlled telegrams must be transmitted in accordance with the regulations for other documents of similar classification or control designation.

(2) A cipher text may be transmitted by unaccompanied pouch or by any postal facilities. Delivery can frequently be expedited by this means when courier-accompanied pouch service is not available. Inquiries regarding this type of transmission must be made to the Department or post communications center.

§ 9.52 Protecting classified and administratively controlled telegrams.

Sections 9.27, 9.35, and 9.45 contain the regulations regarding safeguarding and dissemination of classified and administratively controlled information in any form. No special regulations are applied to the handling, use, physical storage, downgrading, and declassification, dissemination, or reproduction of telegrams.

§ 9.53 Cryptographic clearance.

(a) Cryptographic material holds the key to the information contained in classified or administratively controlled telegrams and requires a high degree of protection. Authorization for access to and/or use of cryptographic material, therefore, must be limited and controlled.

(b) Cryptographic clearance is the necessary, specific formal authorization for access to cryptographic information.

(c) Principal officers, by virtue of appointment and office, have cryptographic clearance and no formal grant of clearance is necessary.

(d) Persons possessing cryptographic clearance have such access on a "need-to-know" basis only.

(e) Responsibility for clearances: The Office of Communications will grant the

formal clearance and forward necessary notification for those employees requiring cryptographic clearance provided they meet the established criteria. Cryptographic clearances remain valid as indicated in paragraph (h) of this section except that they may be revoked for cause.

(f) Criteria for clearance: Each employee who is to use and/or have access to cryptographic systems and cryptographic information must be a U.S. citizen and must have a clearance for access to Top Secret information based on a full field investigation.

(g) Categories of clearance: Cryptographic clearance falls into two categories.

(1) *Cryptographic clearance for use.* Cryptographic Clearance for Use" is the prerequisite to, and authorization for operation, keying, and maintenance of cryptographic systems and equipment issued by the Department of State.

(2) *Cryptographic clearance for access only.* "Cryptographic Clearance for Access Only" is the prerequisite to and authorization for access to crypto information, but does not constitute authorization for use of crypto keying material issued by the Department.

(h) Effective period:

(1) Cryptographic clearance granted by the Department is valid only for the duration of the assignment of the individual to a given post, except that it may be revoked for cause. For this purpose, consecutive tours of duty at the same post will be considered one assignment.

(2) Temporary cryptographic clearance granted by a principal officer is valid only for the duration of the emergency. The Department must be advised when such temporary clearance is withdrawn.

(i) Cryptographic clearance for use: All clearances in this category must be formally granted by the Department, except that in an emergency the principal officer may grant temporary "Cryptographic Clearance for Use" in accordance with paragraph (k) of this section. Each employee cleared for use must be adequately trained in the cryptographic systems to be used and must maintain a working familiarity with communications duties as long as a "use" category clearance is held. Failure to do so constitutes just cause for revocation of clearance.

(j) Employees trained for cryptographic duties:

(1) The Department initiates action covering an employee trained in the Department for cryptographic duties and notifies the post or the appropriate operational unit in the United States that "Cryptographic Clearance for Use" has been granted.

(2) The post should request Departmental training for personnel who are or will be designated by the principal officer to serve as part-time or relief communicators prior to arrival at post so as to avoid on-the-job training.

(k) Regional communications officers and communications technicians. The Department initiates action covering regional communications officers and communications technicians and notifies the post of assignment, and all posts to be visited in line of duty, that "Cryptographic Clearance for Use" has been granted.

(1) *Temporary cryptographic clearance for use.* The principal officer in an emergency may grant a temporary "Cryptographic Clearance for Use" in writing to any U.S. citizen employee of the executive branch of the U.S. Government who is cleared for access to Top Secret information. The principal officer must inform the Communications Security Division by telegram designated "Limited Official Use" at the time clearance is granted. The notification must provide the name and date of birth and justification for such authorization and the anticipated duration.

(2) *Requests for "Cryptographic clearance for use."* (i) Requests for "Cryptographic Clearance for Use" for those persons not specifically assigned to communications duties, but who may be required to key cryptographic equipment, are directed to the Communications Security Division. No person can be allowed to key such equipment prior to receipt of "Cryptographic Clearance for Use." When clearance is received, such employees must be trained in keying by qualified personnel.

(ii) The principal officer at a post having no more than two employees assigned to cryptographic duties may, within the limits of post resources, designate at least one other person for part-time or relief cryptographic work. He must request "Cryptographic Clearance for Use" for personnel so designated. Part-time or relief cryptographic personnel may not assume these duties prior to receipt of "Cryptographic Clearance for Use" from the Communications and Security Division. When such clearance is received they must be trained on the job by qualified cryptographic personnel and be required to maintain a working familiarity with their cryptographic duties. Continuation of clearance is contingent upon successful completion of on-the-job training. At the conclusion of the training, the post must certify to Communications Security Division whether or not a satisfactory level of proficiency in communications operations has been reached.

(iii) Requests for "Cryptographic Clearance for Use" are to be submitted to the Communications Security Division giving the full name, date, date of birth, grade, and function of the person for whom clearance is requested.

§ 9.54 Cryptographic clearance for access only.

Clearances in this category must be formally granted by the Communications Security Division except as specified in paragraph (f) of this section.

(a) *Foreign Service Inspectors, public members of inspection teams, professional security officers, and auditors.* The Department initiates action covering auditors, Foreign Service Inspectors, public members of inspection teams, and representatives of the Office of Security, such as regional security officers, technical security officers, etc., and notifies the post of assignment (and/or posts to be visited in line of duty) that "Cryptographic Clearance for Access Only" has been granted.

(b) *Personnel of the Office of Communications and the Office of Security.* The Department initiates action covering personnel of the Office of Security and the Office of Communications who do not have "Cryptographic Clearance for Use." These persons may not have access to cryptographic material and/or information until formal "Cryptographic Clearance for Access Only" is forwarded to the office or division in which they are employed.

(c) *Post security and COMSEC officers.* In order to perform their assigned functions, the designated post security and COMSEC officers require cryptographic clearance. If they do not already possess either of the two categories of cryptographic clearance, "Cryptographic Clearance for Access Only" must be requested for them in accordance with paragraph (f) of this section.

(d) *Other persons.* Requests for "Cryptographic Clearance for Access Only" for other persons whose duties require access to cryptographic material and/or information are to be directed to the Communications Security Division.

(e) *Requests for "Cryptographic Clearance for Access Only."* Requests for "Cryptographic Clearance for Access Only" are to be submitted to the Communications Security Division giving the full name, date of birth, grade, and function of the person for whom clearance is requested and a justification for the request.

(f) *Temporary "Cryptographic Clearance for Access Only."* (1) The principal officer in an emergency may grant a temporary "Cryptographic Clearance for Access Only" in writing to any U.S. citizen employee of the executive branch of the U.S. Government who is cleared for access to Top Secret information. The principal officer must inform the Communications Security Division by telegram designated "Limited Official Use" at the time clearance is granted. The notification must provide the name and date of birth and justification for such authorization and the anticipated duration.

(2) Concurrent with a request to the Communications Security Division for formal clearance, the principal officer may grant temporary "Cryptographic Clearance for Access Only" to personnel having management or supervisory responsibility for communications, provided such employees meet the criteria in § 9.53(f). When such a clearance has been granted, so state in the request to the Communications Security Division for formal clearance.

§ 9.55 COMSEC material control.

The COMSEC material control system is designed to afford maximum physical security consistent with maxi-

mum utilization of communications security material through positive and continuing control during its production, storage, handling, physical transmission, and disposition. The systems management function and the special measures prescribed governing access to and physical transmission of storage, destruction, and accountability of COMSEC material are the means by which the control is to be established and maintained.

(a) *Management of COMSEC Systems.* The Communications Security Division (OC/S) is responsible for managing the COMSEC assets of the Department of State to ensure the proper and most effective use of the equipment and materials involved. Requests must be submitted to and approved by OC/S prior to a transfer or issue of new or existing equipment or material accounted for in the COMSEC material control system except in an emergency involving safety of human life or the COMSEC material. Requests for a change in types of COMSEC equipment or material or services to satisfy new or changing requirements are to be submitted to OC/S for approval. Specific information can be found in the current edition of the publication title "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(b) *Access to COMSEC material.* Access to COMSEC material or information requires that the individual possess a security clearance equivalent to the level of classification of the material, and a need-to-know. In addition, access to cryptographic information requires formal authorization in the form of cryptographic clearance granted in accordance with § 9.53.

(c) *Transmission of COMSEC material*—(1) *Authorization for transfer.* Except in an emergency only the COMSEC custodian or alternate, with prior OC/S approval is to transfer COMSEC material either within or outside the post or unit of assignment or responsibility. In an emergency, preferably the COMSEC custodian or alternate should transfer COMSEC material.

(2) *Package preparation.* All packages or envelopes containing accountable COMSEC material are to be marked or stamped "To Be Opened Only by the COMSEC Custodian" and are to be registered (JF–14). Packages or envelopes containing cryptographic material (that is, COMSEC material bearing the marking "CRYPTO") or other classified COMSEC material bearing an accounting or register number are to be stamped or marked "Top Secret" if the material is Top Secret, or stamped or marked "Requires Handling as Top Secret" if the material is classified lower than Top Secret. Packages or envelopes containing accountable COMSEC material that does not bear an accounting or register number are to be marked or stamped with a classification reflecting the classification of the contents. Additional information is found in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(3) *Method of transportation (shipment).* Cryptographic material (that is, COMSEC material bearing the marking "Crypto") and other classified COMSEC material bearing an accounting or register number are to be transmitted in the custody of and under constant surveillance of a courier designated or approved by the department for the handling of Top Secret material, using handling procedures specified for Top Secret material in § 9.40. Accountable COMSEC material that does not bear an accounting or register number is to be transmitted using the same method as for other information of equal classification except that the package is to be registered (using JF–14, Diplomatic Pouch Mail Registration). Additional information is found in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(4) *Storage of COMSEC Material.* All cryptographic material (that is, COMSEC material bearing the marking "Crypto") and other COMSEC material bearing an accounting or register number must be stored as specified in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian. All other COMSEC material is to be stored in the same manner as non-COMSEC material of equal classification.

(5) *Destruction of COMSEC material*—(i) *Routine.* When destruction is authorized, accountable COMSEC material is to be destroyed beyond any possibility of recovery by two persons possessing a current cryptographic clearance and the destruction is to be documented (subparagraph (5)). The destruction of certain types of COMSEC material requires that the COMSEC custodian be one of the persons. Additional information is found in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(ii) *Emergency.* All activities conducting cryptographic operations and/or holding classified COMSEC material must consider and plan for the possibility of an emergency which could expose COMSEC material to possible compromise. Plans must be made, and facilities provided, which will prevent entirely, or at least minimize, the extent and effects of such a compromise. A destruction plan must be formulated by the COMSEC officer in conjunction with the security officer at each post, and the necessary equipment must be readily available to effect the destruction of COMSEC material and equipment in an emergency. Specific guidelines pertinent to all aspects of emergency planning and execution, including types of emergencies, the emergency plan, precautionary destruction priorities, and necessary reports, are found in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(6) *Accountability of COMSEC Material*—(i) *COMSEC Central Office of Record (COR).* A COMSEC accounting system is to be maintained by the COR in the Communciations Security Division (OC/S) to provide rapid and accurate identification and location of all COMSEC material held by any organization element within the Department of State.

(ii) *COMSEC accounts.* A COMSEC account is to be established and maintained by the COMSEC custodian and one or more alternates at each post and major functional area at Washington, D.C., holding communications security material. The COR is to establish regulations and procedures for operation of each COMSEC account to provide a uniform reporting and inventory system which will permit a complete "audit trail" of every item of COMSEC material. The detailed regulations and procedures are located in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(iii) *COMSEC transaction reports.* In order that a complete record may be maintained of each COMSEC item, reports must be made on SF–153, COMSEC material report, or other form specified by the COR to record each transaction (e.g., shipment, inventory, destruction, transfer of custodian) involving the material. The reports are to be prepared and forwarded to the COR in OC/S in accordance with instructions detailed in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

(iv) *Periodic physical inventory.* Inventories are required for physical security and COMSEC material management reasons. In accordance with the detailed instructions in the current edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian, a complete physical inventory of each COMSEC account is to be conducted periodically, whenever there is a change in COMSEC custodians (see also § 9.50) during regularly scheduled security surveys by the regional security officer or as directed by the COR. The periodic inventory, on the specified date, is to be conducted by the COMSEC custodian of the account and another individual possessing a current cryptographic clearance. In any inventory, both individuals are to sight check each item in the account as the basis for signing the certification required by the instructions in the effective edition of the COMSEC publication titled "S/KAG–1" and/or "S/KAO–150" obtainable from the COMSEC custodian.

§ 9.56 Access to code room.

(a) Only individuals whose duties require it and who have been specifically authorized by the principal officer may enter the code room. The names of personnel authorized to enter this room during normal operations must be posted inside the code room entrance. The list must include all regular employees assigned to the code room as well as those whose duties may require occasional ad-

mittance during normal operations. Individuals listed must have a Department of State cryptographic clearance; or be a U.S. citizen employee of the executive branch of the U.S. Government with Top Secret clearance and be formally authorized access to cryptographic information by the employing department or agency. Verification of Top Secret clearance and verification of authorization for access to cryptographic information must be obtained in writing prior to allowing those individuals access to the code room. Such employees of other agencies are not to have access to telegrams, particularly those bearing restrictive captions, or physical access to cryptographic keying material issued by the Department of State on the basis of being granted access to the code room.

(b) U.S. citizen employees of the executive branch of the U.S. Government not included on the authorized entrance list must meet access requirements prescribed in appropriate communications security publications, and additionally must be specifically authorized by the principal officer to enter the code room.

(c) Non-U.S. citizen personnel access to code rooms is covered in appropriate communications security documents obtainable from the COMSEC custodian.

§ 9.57 Unauthorized material.

Equipment, devices, materials, or codes and authentication schemes intended to provide security, privacy, or authentication to information transmitted by electrical means (radio, telephone, wireline, etc.) not furnished or authorized for use by the Communications Security Division are not to be used.

§ 9.58 Administration of security regulations.

(a) *Office of Security.* The Office of Security is responsible for developing, defining, inspecting, and advising on facilities, procedures, and controls for safeguarding classified material, and for the enforcement of these regulations as they pertain to such material in the domestic and field services. It establishes inspection programs and maintains active training and orientation programs for employees concerned with classified information and material to impress upon each employee his individual responsibility for exercising vigilance and care in complying with the provisions of these regulations. These programs include a continuing review of the implementation of these regulations to insure that national security material is properly safeguarded.

(b) *Office of Communications.* The Office of Communications, Department of State, is responsible for providing facilities to afford protection in transit of classified information transmitted electrically. It establishes and maintains communications security procedures and controls for the use of these facilities. It administers a training program for personnel assigned to communications duties.

(c) *Regional security officers.* Under the direction of the Deputy Assistant Secretary for Security, regional security officers assist and advise principal officers in discharging security responsibilities. They assist and advise post security officers and conduct security surveys of all overseas establishments, including facilities occupied by personnel of other Federal agencies under the jurisdiction of the principal officer.

§ 9.59 Post security program.

(a) *Designation of post security officers.* A post security officer and deputy must be designated by the principal officer at each post to assist in carrying out the post's security responsibilities. At a post where a regional security officer is stationed that officer assumes the functions of the post security officer, in addition to regional security responsibilities. At a post where a regional security officer is not stationed the administrative officer should generally be designated as the post security officer. Written notification of post deputy post security officer designations and changes must be made to the appropriate regional security office.

(b) *Designation of post unit security officer.* At each post, the post security officer determines the number of unit security officers required and their individual areas of jurisdiction. Such designations must be made in writing and forwarded to the regional security officer. Designation of AID overseas unit security officers must be made with the concurrence of the principal AID officer and the AID Office of Security.

(c) *Responsibilities of post and unit security officers.* Employees designated as post or unit security officers perform the security duties prescribed for them in addition to the duties of their regular positions. Each post security officer maintains active training and orientation program at the post to impress each employee with individual responsibility for exercising vigilance and care in complying with the provisions of the security regulations. The post security officer maintains liaison with the regional security officer and otherwise assists in the general administration of the security program within the assigned area of jurisdiction. In addition to the general duties and responsibilities set forth above, the post or unit security officer performs the specific duties prescribed in the various parts of these regulations and such other security duties as may be required by the regional security officer. Unit security officers assist the post security officer within their areas of jurisdiction.

(d) *Designation of Top Secret control officer and alternate at posts.* At each post, a Top Secret control officer and at least one alternate are designated to control and maintain accountability records of material classified Top Secret (except COMSEC) in the custody of the posts. At diplomatic missions, the Top Secret control officer normally is the deputy chief of mission and the primary alternate is the communications and records supervisor. At consular establishments, the Top Secret control officer normally is the principal officer and the primary alternate is the officer or employee with primary responsibility for communications. The number of alternates should be limited to the minimum required to meet operational needs. When Top Secret control officers and alternates are designated by the principal officer, no action other than written notification to the regional security officer is required. The written notification should include the names and functional titles of the designees and the date of designation.

§ 9.60 Domestic security program.

(a) *Designation of principal unit security officers in the domestic service.* Each officer in charge of a major functional area may designate two officers, for the concurrence of the Office of Security, to serve as the principal unit security officer and alternate. They assist the nominating officer in carrying out day-to-day operational responsibilities for the security of the area.

(b) *Responsibilities of the principal unit security officer in the domestic service.* The principal unit security officer nominates two officers each for the unit security officer and Top Secret control officer positions required in component organizational elements, or one officer to fill more than one of the primary positions. The Office of Security designates one of the two nominees as the unit security officer and, unless requested otherwise, another as the Top Secret control officer, and the remainder as alternates. The principal unit security officer is responsible for submitting the names of nominees to the Office of Security to ensure that the designations are made, and that the unit area is otherwise effectively organized and equipped to carry out its security responsibilities.

(c) *Duties and responsibilities of unit security officers in the domestic services.* Employees designated as unit security officers and alternates perform the duties prescribed for them in addition to the duties of their regular positions. Each unit security officer maintains an active training and orientation program for employees of the unit area and impresses each such employee with individual responsibility for exercising vigilance and care in complying with the provisions of the security regulations. The unit security officer maintains liaison with the appropriate security officer in the Office of Security and otherwise assists in the general administration of the security program within the assigned area of jurisdiction. In addition to the general duties and responsibilities set forth above, such officer performs the specific security duties prescribed in the various parts of these regulations and such other security duties as may be prescribed.

(d) *Duties and responsibilities of Top Secret control officer and alternate.* Top Secret control officers formally designated according to §§ 9.59(d) and paragraph (a) of this section have the following responsibilities and duties:

(1) Assign appropriate Top Secret control numbers to Top Secret documents originating or received within their area without a control number. In USIA, see § 9.35(e).

(2) Maintain required records of incoming and outgoing Top Secret documents.

(3) Maintain a permanent register to account for all Top Secret documents either originating in or used in the area (using JF–10 Record of Top Secret material, or similar log, or JF–9 Top Secret cover sheet, or JF–6, Classified Material Receipt, and prepare annual inventories of Top Secret documents.

(4) Consolidate Top Secret documents when desirable to simplify work procedures.

(5) Exercise stringent controls on the reproduction of Top Secret documents.

(6) Change classification when directed by appropriate authority.

(7) Destroy or arrange for the destruction of Top Secret documents.

(8) Retire or arrange for the retirement of Top Secret documents.

(9) Maintain liaison with the Office of Security or regional security officer on all matters relating to the accountability for the safeguarding of Top Secret documents.

§ 9.61 Security briefing of employees.

(a) *New employees.* All new U.S. citizen employees must be afforded indepth security briefings concerning Executive Order 11652 and National Security Council Directives. Each employee is provided with a copy of the security regulations or told where these regulations are available. Each new employee is also required to read and sign JF–4, Security Acknowledgement, at the time of initial security briefing. In addition, it is the responsibility of the post concerned to insure that all newly assigned or newly employed U.S. citizen personnel are given security briefings.

(b) *Terminating personnel.* Personnel at all levels of employment and without exception, when terminating employment or contemplated separation for 60 days or more, are given security briefing concerning their continued responsibility to safeguard classified information. The briefing includes information pertinent to laws and regulations concerned with the protection and disclosure of classified information and the execution of JF–3, Separation Statement.

§ 9.62 Enforcement of security regulations.

Section 13 of Executive Order 11652 directs that the head of each Department take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been knowingly responsible for any release or disclosure of national security information or material, except in manner authorized by the order and, where a violation of criminal statutes may be involved, to refer any such case promptly to the Department of Justice.

(a) Reports of violation: Guards and other persons specifically designated are responsible for making inspections during and after working hours to ensure that these regulations for safeguarding classified material are being properly observed. Their official duties authorize their entry into any unprotected office at any time. In addition, each employee must inform the appropriate security officer orally or in writing of any improper observance or poor security practice which comes to the employee's attention in order that remedial action may be taken.

(b) (1) Guards and employees specifically designated for security functions (excluding the closing hours security check, when subsequent inspection will be conducted) must submit JF–11, Notice of a Security Violation, identifying apparent violations to the next higher level in the chain of security operations. Reports of security violations are prepared on JF–12, Record of Violation, and should include, at a minimum, the information required to respond to the instructions printed on the reverse side.

(2) If any violation of the security regulations results in the loss, theft, or unauthorized viewing of cryptographic material or the transmission of an unencrypted classified telegram by an exposed communication channel, a report must also be made immediately by telegram to the Office of Communications, Department of State. (See § 9.44 for reporting missing or compromised material.) It is mandatory that the JF–12 be unclassified. If material is considered compromised, or if for other reasons a classified report is advisable, the report should be submitted in a separate memorandum and be referred to in the JF–12.

(c) *Violations by employees of other agencies.* Violations are reported and processed for employees of other Federal agencies in the same manner as above.

(d) *Evaluation of security violations.* (1) All reports of infractions of the security regulations will be evaluated initially by the post or unit security officer (except communications security violations) to determine whether or not a violation may have occurred. If a violation has occurred, appropriate remarks will be included on the JF–12, Record of Violation, and it will be forwarded to the Office of Security through the unit security officer or the regional security officer. While the presumption of responsibility for a violation will be guided by the principle of primary and individual responsibility as defined in § 9.2 (a) and (b), supervisors may be held responsible for failure to provide effective organizational security procedures, particularly when other than normal conditions cause the interruption of routine security procedures or controls that are not normally the sole responsibility of any individual. Substantive conflicting disclaimer or statement of mitigation in section 2 of the JF–12 must be resolved or responded to by the investigating officer before the form is forwarded for adjudication.

(2) Violation reports in all cases will be made a matter of record pending final adjudication and, at posts, a copy of the report will be placed in the employee's personnel file. If, after adjudication, it is determined that a security violation should not be charged to the employee, the Office of Security will so notify the employee and instruct the unit, post, or regional security officers concerned to amend their records accordingly, after the foregoing period. The Office of Security will determine whether first violations should be submitted with recommendations to the responsible personnel office. All subsequent violations will be forwarded with recommendations for appropriate action to the personnel office unless 2 years have elapsed or in AID and USIA, unless 1 year has elapsed. The Office of Security may, in its discretion, treat a subsequent violation as a first violation.

§ 9.63 Disciplinary action for security violations.

(a) *For State and AID.* After an affirmative adjudication of a violation one of the following actions may be taken under applicable personnel rules and regulations:

(1) Letter of warning;

(2) Letter of reprimand;

(3) Administrative action less than dismissal; or

(4) Dismissal.

As the occasions demand, reports of charged security violations may be placed in the employee's permanent personnel and security files. The Office of Security will recommend to the responsible personnel office that disciplinary action be taken when such action is indicated. The responsible personnel office has final authority and responsibility to take disciplinary action with respect to security violations. However, should circumstances warrant, the department may take action under the provisions of section 13 of Executive Order 11652 and Executive Order 10450.

(b) *U.S. Information Agency.* (1) After an affirmative adjudication of a violation the following actions may be taken under applicable personnel rules and regulations:

(a) First violation—Letter of Warning;

(b) Second violation—Letter of Reprimand;

(c) Third violation—Suspension without pay for 1 day.

The above progression of penalties is normally followed for a succession of violations that result from unintentional errors of omission. Where particularly serious violations result from errors of commission, more severe penalties may be recommended, including more than 1 day's suspension without pay, reassignment to a nonsensitive position, or dismissal.

(2) Report of a first violation is filed in the employee's permanent security file, but is not forwarded for inclusion in the employee's permanent personnel file unless it is to be considered along with a subsequent violation for disciplinary action of a letter of reprimand or greater penalty. Reports of violation that result in disciplinary action greater than a letter of warning are forwarded for inclusion in the employee's permanent personnel file as well as the security file. The Office of Personnel has final authority and responsibility to take dis-

ciplinary action with respect to security violations. However, should circumstances warrant, the Office of Security may initiate action under the provisions of Executive Order 10450 and section 13 of Executive Order 11652.

§ 9.64 Abuse of classification and declassification policies.

The Council on Classification Policy is responsible for recommending appropriate administrative action against any officer or employee who unnecessarily classifies or overclassifies information or material, including warning letter, formal reprimand, and to the extent permitted by law suspension without pay, and removal.

§ 9.65 Applicable criminal laws.

Penalties of fine and imprisonment are established by statute for the unauthorized disclosure, dissemination, communication, furnishing, transmission, or other unlawful release of classified information, and for making false or fraudulent statements to an agency of the Government.

APPENDIX A—DEFINITIONS

The following definitions are applicable to this part:

Access. The ability and opportunity to obtain knowledge of classified or administratively controlled information.

Administrative Control Designation. The label "Limited Official Use" is used to safeguard certain privileged and other nonclassified information from indiscriminate disclosure.

Airgram. A message form used by State and AID for written communications on matters of policy, economic, and political reporting and other subjects requiring multiple distribution. An airgram is not encrypted. (See also Field Message.)

Chief of Mission. The principal diplomatic representative of the United States in charge of a U.S. mission, who is an ambassador, minister, minister resident, charge d'affaires, commissioner, or diplomatic agent. Reporting directly to the Secretary of State, the Chief of Mission directs all programs and operations of the entire U.S. mission within the country to which accredited, including those of other U.S. agencies except the military commands.

Classification. The determination that official information requires, in the interest of national security, a specific degree of protection against unauthorized disclosure, coupled with the designation of the appropriate category: Top Secret, Secret, or Confidential.

Classified Information. Official information which has been determined to require, in the interest of national security, protection against unauthorized disclosure and to which the appropriate category, Top Secret, Secret, or Confidential has been applied.

Code Room. The designated area in which cryptographic operations are conducted.

Communications Security (COMSEC). Measures designated to protect information during electrical transmission or associated processing.

Communications Security (COMSEC) Material. All material associated with the security of telecommunications. Term used to cover both cryptographic and noncryptographic items.

Compromise. Loss of security enabling unauthorized access to classified or administratively controlled information. Affected material is not automatically declassified. Possible Compromise means unauthorized access physically possible but it cannot be established that an unauthorized person took advantage of the opportunity. Considered Compromise means circumstances indicate a strong likelihood that unauthorized access was attained. Countermeasures or special precautions may be appropriate to minimize effects of the security loss.

Courier. A U.S. citizen employee of the Department of State whose chief function is to transport diplomatic pouches across international frontiers between the Department and posts and between posts.

Cryptographic material. All COMSEC material bearing the marking "Crypto" or otherwise designated as incorporating cryptographic information.

Declassification. The determination that particular classified information no longer requires protection against unauthorized disclosure in the interest of national security. Such determination shall be by specific action or automatically after the lapse of a requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

Decontrol. The authorized removal of an assigned administrative control designation.

Department. The term also includes any agency or other Government unit and their contractors, unless the text indicates otherwise.

Document. Any recorded information regardless of its physical form or characteristics, including, but not limited to, the following:

(a) Written material, whether handwritten, printed, or typed.

(b) Painted, drawn, or engraved material.

(c) Sound or voice recordings.

(d) Printed photographs and exposed or printed film, still or motion picture.

(e) Reproductions of the foregoing, by whatever process reproduced.

Downgrading. The determination that particular classified information requires a lesser degree of protection against unauthorized disclosure than currently provided. Such determination shall be by specific action or automatically after lapse of the requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

Field Message. A nonencrypted, multiple copy message from a USIS post abroad to USIA headquarters, Washington, D.C. (See also Airgram.)

Formerly Restricted Data. Information removed from the Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information subject to the restrictions on transmission to other countries and regional defense organizations that apply to Restricted Data.

Information. Knowledge which can be communicated by any means.

Material. Any document, product, substance, equipment, supplies, or apparatus.

National Security. Refers to national defense or foreign relations matters of the United States.

Nonrecord Material. Extra and/or duplicate copies that are only of temporary value, including shorthand notes, used carbon paper, preliminary drafts, and other material of similar nature.

Office of Security. The offices which have been designated in State, AID, and U.S.I.A. to administer their respective security programs.

Official Information. Information which is owned, produced, or subject to the control of the U.S. Government.

Original Classifier. An authorized individual in the executive branch who initially determines that particular official information requires a specific degree of protection against unauthorized disclosure in the interest of national security and applies the appropriate category, Top Secret, Secret, or Confidential.

Paraphrasing. A restatement of text in different phraseology without alteration of its meaning.

Post Security Officer. A U.S. citizen employee of the Foreign Service who is a nonprofessional security officer designated to perform security functions.

Pouch Message. A nonencrypted, multiple copy message from headquarters to a U.S.I.S. post.

Principal Officer. As defined by the Foreign Service Act of 1946, as amended, "the officer in charge of an embassy, legation, or other diplomatic mission or a consulate general, consulate, or vice consulate of the United States." Principal officers, other than chiefs of mission, are responsible for the effective organization, operation, and supervision of programs within their jurisdiction at subordinate post. (See also Chief of Mission.)

Product and Substance. Any item of material (other than a document) in all stages of development, processing, or construction and including elements, ingredients, components, accessories, fixtures, dies, models, and mockups associated with such items.

Record Material. All books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the U.S. Government in connection with the transaction of public business and preserved or appropriated by any agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, or other activities of any agency of the Government, or because of the informational data contained therein.

Regional Security Officer. The officer who has been designated to administer the security program for a specific area or post.

Restricted Area. A specifically designated and posted area in which classified or administratively controlled information or material is located or in which sensitive functions are performed, access to which is controlled and to which only authorized personnel are admitted.

Restricted Data. All data (information) concerning: (1) Design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. (See section 11w, Atomic Energy Act of 1954, as amended; 42 U.S.C. 2014(y).)

Security Classification Categories. Refers to Top Secret, Secret, and Confidential designations on classified information or material as defined in section 1 of Executive Order 11652.

Sensitive Intelligence Information.—Such intelligence information, the unauthorized disclosure of which could lead to counteraction: (a) Jeopardizing the continued productivity of intelligence sources or methods which provide intelligence vital to the national security, or (b) offsetting the value of intelligence vital to the national security.

Telegram.—Any document recording information or for transmission by telegraphic, telephone, cable, radio, or other electrical means. An airgram or field message is not transmitted by electrical means.

Unit Security Officer.—A U.S. citizen employee who is nonprofessional security officer designated within a specific or homogeneous working unit to assist the Office of Security in carrying out functions prescribed in these regulations.

Upgrading.—The determination and designation that particular classified information or material falls within a higher security classification category, in the interests of national security, than currently provided.

U.S. AID Director.—The senior officer in charge of the AID program in designated countries.

U.S.I.A. Field Establishment, Head of.—The senior U.S.I.A. officer at a post, or at an installation or activity located outside Washington, D.C.

[FR Doc.72-12079 Filed 8-2-72;8:45 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 489-72]

PART 17—REGULATIONS RELATING TO THE CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL PURSUANT TO EXECUTIVE ORDER NO. 11652

The following regulations govern the classification and declassification of national security information and material originating in or coming under the jurisdiction or control of the Department of Justice (the "Department").

By virtue of the authority vested in me by Executive Order No. 11652 of March 8, 1972 (the "Order"), sections 509 and 510 of title 28, United States Code, Chapter I of Title 28 of the Code of Federal Regulations is amended by adding the following new Part 17.

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AUTHORITY: The provisions of this Part 17 issued under Executive Order No. 11652 of March 8, 1972 (the "Order"), sections 509 and 510 of title 28, United States Code.

Subpart A—General Provisions

§ 17.1 Purpose and effect.

(a) The purpose of these regulations is to insure that official information and materials originating in or coming under the control or jurisdiction of the Department which requires classification or which is classified in the interest of national security, in accordance with provisions of the Executive order, is protected against unauthorized disclosure, but only to the extent and for such period as is necessary.

(b) No information or material originated within the Department shall be classified in the interest of national security except in accordance with these regulations, the order, directives issued pursuant to the order through the National Security Council (the "Directives"), or the Atomic Energy Act of 1954, as amended (the "Atomic Energy Act").

§ 17.2 Applicability.

(a) These regulations apply to classified information and material relating to national security as defined herein, and no information or material shall be classified hereunder unless it requires protective safeguarding in the interest of national security.

(b) The assignment of a classification under these regulations to information or material which does not require safeguarding in the interest of national security is hereby strictly prohibited.

(c) Information and material shall only be classified under these regulations in accordance with the tests for assigning a classification category set forth in Subpart C of this part. Under no circumstances shall information or material be classified under these regulations to conceal inefficiency or administrative error, to prevent embarrassment to an individual or the Department, to restrain competition or independent initiative or to prevent for any other reason the release of information or material which does not require protection in the interest of national security. Each person possessing classifying authority

pursuant to Subpart E of this part, shall be held accountable for the propriety of the classifications attributable to him.

§ 17.3 Responsibility.

Responsibility for observance of the rules governing classification, declassification, and protection of national security information and material originating in or coming under the control or jurisdiction of the Department shall be the obligation and duty of each individual officer or employee of the Department having such information or knowledge thereof, no matter how that information or material was obtained; and in meeting that responsibility each officer or employee shall comply with the provisions of the Order, the directives, and these regulations. If an officer or employee holding classified information or material believes that the information or material is unnecessarily or improperly classified, or that the information or material is subject to declassification under the Order, the directives or these regulations, he shall so inform the classifying authority who shall thereupon reexamine the classification.

§ 17.4 Orientation.

It shall be the duty of each officer and employee of the Department having knowledge of classified information or material relating to the national security no matter how such knowledge was obtained to familiarize himself with, and adhere to these regulations relating to the classification, declassification, and protection of national security information and material. It shall be the duty of the Security Office of the Department to establish an orientation program throughout the Department for the instruction and familiarization of employees with these regulations. Such program shall initially emphasize the changes in the rules governing classification, declassification, and protection of national security information and material resulting from the Order, the directives and these regulations. In addition, the Security Office shall establish a continuing program for the instruction of employees regarding national security information or material and the requirements of these regulations.

§ 17.5 Construction.

Nothing in these regulations shall be construed to authorize or permit the dissemination, handling, or transmission of classified information or material in a manner contrary to the provisions of any Federal statute, Executive order or directive.

§ 17.6 Interpretation.

The Attorney General, upon the request of the head of a Division made through the Security Office of the Department, shall, personally or through the Department Review Committee, render an interpretation of these regulations in connection with any problem arising out of the administration thereof.

§ 17.7 Penalties for violation and administrative action.

Any officer or employee who violates any provision of the order, of the directives, or of these regulations shall be subject to appropriate disciplinary action. The Department Review Committee established by § 17.38 hereof shall recommend to the Attorney General such prompt and stringent administrative action as it deems appropriate to be taken against any officer or employee determined to have been knowingly responsible for any failure to classify, or release or disclosure of classified national security information or material except in the manner authorized by these regulations, or knowingly responsible for classification of information or material not related to the national security, or not meeting the tests for assigning a classification set forth in Subpart C of this part, or knowingly responsible for overclassifying information or material relating to the national security. Such action may include, but shall not be limited to, notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal. In all cases, upon receipt of such a recommendation, the Attorney General shall act promptly and advise the Department Review Committee of his action. Whenever a violation of criminal statutes may be involved in a deliberate unauthorized release or disclosure of classified national security information or material, criminal prosecution, in an appropriate case, shall also be instituted.

§ 17.8 The Atomic Energy Act: Restricted data; and intelligence and cryptography.

Nothing in these regulations shall supersede any requirements made by or under the Atomic Energy Act. "Restricted Data" and material designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act and the regulations of the Atomic Energy Commission. Further, nothing in these regulations shall prohibit compliance with any special requirements that another department or agency may impose as to classified information or material relating to communications intelligence, cryptography, and related matters originated by that department or agency.

Subpart B—Definitions

§ 17.8a Definitions.

As used in these regulations the following terms shall have the meanings indicated:

(a) *Classification.* The determination that official information requires, in the interest of national security, a specific degree of protection against unauthorized disclosure, coupled with the designation of the appropriate classification category.

(b) *Classification categories.* The "Top Secret," "Secret," and "Confidential" designations of classified information or material as defined herein.

(c) *Classified information.* Official information which has been determined to require, in the interest of national security, protection against unauthorized disclosure and to which an appropriate classification category has been applied.

(d) *Classifying authority.* Any officer or employee of the Department who is authorized in writing to assign a classification to information or material pursuant to Subpart E of this part, and, with respect to specific classified national security information or material, an officer or employee of the Department who assigned the classification thereto.

(e) *Compromise.* The known or suspected exposure of classified material to an unauthorized person.

(f) *Custodian.* An individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting for classified information or material.

(g) *Cryptographic system.* Any method or system employed to change information from plain language form into coded form, or from coded form into plain language form.

(h) *Declassification.* The determination that particular classified information or material no longer requires, in the interest of national security, protection against unauthorized disclosure, coupled with a removal or cancellation of the classification designation. Such determination and removal or cancellation shall be by specific action or automatically on a specified date, upon the occurrence of a specified event, under the General Declassification Schedule, or after 30 years. If such determination and removal or cancellation is by specific action the material shall be so marked.

(i) *Department.* The Department of Justice, including all Divisions, Bureaus, Services, Offices, Administrations and Boards of the Department, as well as the offices of the U.S. Attorneys and U.S. Marshals.

(j) *Division.* All Divisions, Bureaus, Services, Offices, Administrations and Boards of the Department, and includes offices of the U.S. Attorneys and U.S. Marshals.

(k) *Document.* Any recorded official information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps and charts; paintings; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice, or electronic recordings in any form.

(l) *Downgrading.* The determination that particular classified information or material requires a lower degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designa-

tion to reflect such lower degree. Such determination and changing shall be by specific action or automatically on a specified date, upon the occurrence of a specified event, under the General Declassification Schedule, or after 30 years. If such determination and changing is by specific action the information or material shall be so marked.

(m) *Formerly Restricted Data.* Information or material removed from the "Restricted Data" category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information or material relates primarily to the military utilization of atomic weapons and that such information or material can be adequately safeguarded as classified national security information or material.

(n) *Information.* Knowledge which can be communicated by any means.

(o) *Material.* Any document, product or substance, on or in which information may be recorded or embodied.

(p) *National security.* Any matters relating to the national defense or the foreign relations of the United States.

(q) *Nonrecord material.* Extra copies and duplicates, and shall also include shorthand notes, preliminary drafts, used carbon paper, onetime typewriter ribbons, and other material of similar temporary nature.

(r) *Official information.* Information which is owned by, produced by, or subject to the control of the U.S. Government.

(s) *Record material.* All documentary material made or received by a department or agency of the Government in connection with transaction of public business and preserved as evidence of the organization, functions, policies, operations. decisions, procedures, or other activities of any department or agency of the Government, or because of the informational value of the data contained therein.

(t) *Restricted data.* All data, information, and material concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the "Restricted Data" category pursuant to section 142 of the Atomic Energy Act.

(u) *Sensitive intelligence information.* Such intelligence information, the unauthorized disclosure of which could lead to counteraction (1) jeopardizing the continued productivity of intelligence sources or methods which provide intelligence affecting the national security, or (2) offsetting the value of intelligence affecting the national security.

(v) *Upgrading.* The determination that particular classified information or material requires, in the interest of national security, a higher degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such higher degree. Such material shall be marked to reflect the change pursuant to the requirements of § 17.40.

Subpart C—Classification Categories

§ 17.9 Classification categories.

Official information or material which requires protection against unauthorized disclosure in the interest of national security shall be limited to three categories of classification, which, in descending order of importance, shall carry one of the following designations: "Top Secret," "Secret," or "Confidential."

§ 17.10 Scope of categories.

No other categories shall be used to classify official information or material as requiring protection in the interest of national security except as otherwise provided by statute or in these regulations. Additional warning notices as specified in § 17.44 or other limitations on access promulgated under § 17.63 hereof may be placed on any classified official information or material.

§ 17.11 Top Secret.

Except as may be otherwise expressly provided by statute, the use of the classification "Top Secret" shall be authorized by the appropriate classifying authority only for national security information or material which requires the highest degree of protection. The "Top Secret" classification shall be applied only to that information or material the national security aspect of which is paramount, and the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include, but are not limited to, disruption of foreign relations vitally affecting the national security; armed hostilities against the United States or its allies; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; or the disclosure of scientific or technological developments vital to the national security. This classification shall be used with utmost restraint.

§ 17.12 Secret.

Except as may be otherwise expressly provided by statute, the use of the classification "Secret" shall be authorized by the appropriate classifying authority only for national security information or material which requires a substantial degree of protection. The "Secret" classification shall be applied only to that information or material the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include, but are not limited to, disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plants or intelligence operations; or compromise of significant scientific or technological developments relating to national security. This classification shall be sparingly used.

§ 17.13 Confidential.

Except as may be otherwise expressly provided by statute, the use of the classification "Confidential" shall be authorized by the appropriate classifying authority only for national security information or material which requires protection. The "Confidential" classification shall be applied only to that information or material the unauthorized disclosure of which could reasonably be expected to cause damage to the national security.

Subpart D—Classification Procedures

§ 17.14 Documents.

Each document or other material containing national security information requiring protection under the order shall be marked with its assigned classification at the time of origination. Documents shall be classified according to their own content and not merely according to their relationship to other documents or to a classified file. Information or material containing references to classified information or material, which references do not reveal classified national security information or material, shall not be classified.

§ 17.15 Unnecessary and overclassification.

Information or material shall be assigned to the lowest classification category consistent with its proper protection. Unnecessary classification and overclassification shall be scrupulously avoided in order to prevent depreciation of the importance of properly classified information or material, to eliminate unnecessary withholding from the public and to prevent unnecessary delay and expense in the handling, transmission, storage, and downgrading and declassification of documents and other material.

§ 17.16 Physically connected documents.

The classification of a file or group of physically connected documents shall be at least as high as that of the highest classified document therein. Documents separated from a file or group shall be handled in accordance with the individual classification.

§ 17.17 Multiple classification.

A document, product, or substance shall bear a classification at least as high as that of its highest classified component. The document, product, or substance shall bear only one overall classification, notwithstanding that pages, paragraphs, sections, or components thereof bear different classifications.

§ 17.18 Extracts and compilations.

When classified information or material from more than one source is incorporated into a new document or other material, the new document or material shall be classified at least as high as the most highly classified information or material incorporated into such document or material. If an extract or paraphrase is based upon information or material in a classified document, and the information or material extracted or para-

phrased was not in and of itself a basis for assigning a classification, such extract or paraphrase shall be classified only in accordance with its own content.

§ 17.19 Information originated by a foreign government or organization.

Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned an appropriate classification under Subpart C of this part. In either case the classification shall assure a degree of protection equivalent to that required by the foreign government or international organization which furnished the classified information or material.

§ 17.20 Observance of classification.

Whenever classified information or material is incorporated in another document or other material by any person other than the classifying authority, the previously assigned classification shall be reflected thereon together with the identity of the classifying authority and all other markings relevant to such incorporated information or material.

§ 17.21 Identification of classifying authority.

The highest level officer or employee authorizing a classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance, the Security Officer of the division shall establish procedures and maintain records by which the classifying authority can readily be identified.

§ 17.22 Resolution of doubts.

If the classifying authority has any substantial doubt as to which classification category is appropriate or as to whether the information or material should be classified at all, he should designate the less restrictive treatment.

Subpart E—Authority for Classification and Declassification

§ 17.23 Top Secret.

National security information or material may be classified "Top Secret" only by the Attorney General and such other officials and employees of the Department as he has designated in writing pursuant to the provisions of section 2(A) of the order. Such designations shall be by title and shall also authorize "Top Secret" classification by an official or employee serving in an acting capacity in the designated office. The Attorney General shall designate the minimum number absolutely required for efficient conduct of the business of the Department.

§ 17.24 Secret and Confidential.

The Attorney General and those persons he has designated in writing pursuant to § 17.23 hereof are authorized to classify national security information or material in the "Secret" and "Confidential" categories. The Attorney General or the head of a division of the Department with "Top Secret" classification authority pursuant to § 17.23 hereof may designate in writing a minimum number of subordinates to have the authority to originally classify national security information or material in the "Secret" and "Confidential" categories or in the "Confidential" category. As in the case of "Top Secret" designations, these designations shall be by title and shall also authorize classification by an official serving in an acting capacity in the designated office. The designation of such positions shall be limited to the minimum number absolutely required for the efficient conduct of the business of the Department.

§ 17.25 Classifying authority: Personal and nondelegable.

Classifying authority of national security information or material vests in and may only be exercised by those persons authorized and designated in writing under §§ 17.23 and 17.24. Such persons may only classify information or material at the level authorized or below, and such authority may not be delegated.

§ 17.26 Authority to downgrade and declassify.

Classified national security information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in the same capacity or by a supervisory official of either. In addition, national security information or material may be downgraded or declassified by any person designated in writing for that purpose by the Attorney General or by the head of the originating division, and by the Department Review Committee.

§ 17.27 Authority to exempt.

Classified national security information or material may be exempted from downgrading and declassification within the time periods set by the General Declassification Schedule only by a person with "Top Secret" classifying authority as provided in § 17.23. Such person may exempt only classified information or material originated by him or under his supervision, and only if it falls within one of the categories specified in § 17.31. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements.

§ 17.28 Procedure.

National security information or material shall be classified in the manner provided in Subpart H by the appropriate classifying authority. In extreme circumstances which require national security information or material to be classified immediately when an appropriate classifying authority is not available, an unauthorized officer or employee of the department may place a tentative classification thereon. Such tentatively classified information or material shall be safeguarded in accordance with these regulations. The tentative classifier thereof shall at the earliest possible time, and in no event later than 5 days, assure that the classification is reviewed, and confirmed or revised, by the appropriate classifying authority. When a document is marked with a classification only because it contains information or material which was previously classified within or outside the department, the classification of that document need not be submitted to a classifying authority for review.

Subpart F—Downgrading and Declassification

§ 17.29 Earlier downgrading and declassification.

Classified national security information and material shall be downgraded or declassified as soon as there are no longer any grounds for continued classification within the classification categories set forth in Subpart C hereof. At the time of classification, whenever possible, the classifying authority shall clearly mark on the information or material a specific date or event, earlier than that called for in the General Declassification Schedule set forth in § 17.30 hereof, upon which downgrading or declassification shall occur. Such dates or events shall be as early as is possible without causing damage to the national security.

§ 17.30 General declassification schedule.

Classified information and material, unless downgraded and declassified earlier under the provisions of § 17.29 or exempted from the General Declassification Schedule under § 17.31, shall be assigned a date or event on which downgrading and declassification shall occur within the prescribed limits outlined below:

(a) *Top Secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(b) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the 2d full calendar year following the year in which it was originated, and declassified at the end of the 8th full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the 6th full calendar year following the year in which it was originated.

The rules of this section apply to information or material classified before June 1, 1972, which is assigned to Group 4 under Executive Order No. 10501, as amended. Unless exempted, the application of the General Declassification Schedule to such information and ma-

terial will commence beginning December 31, 1972. All other information or material classified before June 1, 1972, whether or not assigned to Groups 1, 2, or 3 under Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule.

§ 17.31 Exemptions from general declassification schedule.

Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule in § 17.30 above. An official authorized to classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification of the information or material involved. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be strictly limited to information or material in the following categories:

(a) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(b) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(d) Classified information or material the disclosure of which would place a person in immediate jeopardy.

§ 17.32 Declassification of classified material after 10 years.

All classified information or material, whether classified before or after June 1, 1972, shall be subject to mandatory classification review pursuant to the provisions of Subpart G of this part at any time after the expiration of 10 years from the date of origin.

§ 17.33 Declassification of classified material after 30 years.

All classified information or material which is 30 years old or more, is subject to automatic declassification as follows:

(a) All information and material classified by the Department after June 1, 1972, shall become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material as the Attorney General personally determines in writing at that time to require continued protection because such continued protection is essential to the national security, or when disclosure would place a person in immediate jeopardy. In either such case the Attorney General shall also specify the period of continuing classification.

(b) All information and material classified before June 1, 1972, and more than 30 years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year it was originated. All such information and material shall be declassified except that specifically identified by the Attorney General for continued classification as set forth in paragraph (a) of this section.

§ 17.34 Notification of change in classification.

When classified information or material is downgraded or declassified in a manner other than that originally specified, the classifying authority shall, to the extent practicable, promptly notify all recipients of the classified information or material. In turn, the recipients shall notify any other known holders of the declassification or downgrading of the information or material.

Subpart G—Review of Classified Material

§ 17.35 Systematic reviews.

All information and material classified after June 1, 1972 by the Department, and evaluated under 44 U.S.C. 2101–2114 as being of sufficient historical or other value to warrant preservation, shall be systematically reviewed on a timely basis by the Department for the purpose of making such information and material publicly available in accord with the declassification determination made by the classifying authority. During each calendar year the Department shall segregate to the maximum extent reasonably possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Department, or the Archives of the United States, if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

§ 17.36 Mandatory review of material over 10 years old.

(a) All classified information and material specified in § 17.32 hereof shall be subject to a classification review provided:

(1) A department (any agency of the Government or other governmental unit) or a member of the public requests the review;

(2) The request is in writing and describes the classified information or material with sufficient particularity to enable the Department to identify it; and

(3) The classified information or material can be obtained with only a reasonable amount of effort.

(b) Deficient requests: When the description in a request is deficient the requester should be asked to provide as much additional identifying information as possible. Before denying a request on the ground that the information or material is not obtainable with a reasonable amount of effort, the requester should be asked to limit his request to information or material that is reasonably obtainable. If the requester then fails to describe the information or material he seeks with sufficient particularity, or it cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal the decision to the Department Review Committee.

(c) Procedure: Requests for classification review under this section should be directed to the Office of the Deputy Attorney General. The Office of the Deputy Attorney General shall assign the request to the appropriate division within the Department for action, and the latter shall immediately acknowledge receipt of the request to the requester in writing. If the request requires the rendering of services requiring the charging of fees pursuant to 31 U.S.C. 483a, the requester shall so be notified, and fees shall be charged in accordance with the schedule set forth in § 16.4 of this chapter. The division shall thereafter make a determination within 30 days of receipt of the request or shall explain to the requester the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Department Review Committee established by § 17.38 for a determination. If the division determines that continued classification is required, the requester shall promptly be notified, and, whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Department of Review Committee and the notice of determination shall advise him of this right. If, after appeal by the requester, the Department Review Committee determines that continued classification is required, it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

§ 17.37 Mandatory review of material over 30 years old.

All classified information or material which is thirty (30) years old or more, shall be declassified in accordance with § 17.33 hereof. In addition, a department or agency of the Government or a member of the public may request a review of the classification of such information or material. Such requests should meet the conditions for requests set forth in § 17.36. Such requests shall be referred directly to the Archivist of the United States for processing. The Attorney General shall cooperate with the Archivist in the review of such request, and shall determine personally whether continued classification of such information or material is required, and specify the period of continued classification.

§ 17.38 Department Review Committee.

(a) A Department Review Committee is hereby established. The Committee is responsible for the continuing review of the administration of these regulations with respect to classification and declassification of information or material originated within the Department. It shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The Committee is authorized to overrule on behalf of the Attorney General classification determinations in whole or in part, when in its judgment, continued protection is not required. If the Committee determines that continued classification is required it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(b) The Committee shall review all appeals of requests for records under the Freedom of Information Act, 5 U.S.C. 552, when the proposed denial is based on continued classification under the order. The Committee shall have the responsibility for recommending to the Attorney General appropriate administrative action to correct abuse or violation of any provision of the order, the directives or these regulations, including but not limited to notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

§ 17.39 Burden of proof.

In making its determinations concerning requests for declassification of classified information or material the Department Review Committee shall impose for administrative purposes the burden of proof on the originating division to show that continued classification is warranted.

Subpart H—Marking Requirements

§ 17.40 Face markings.

All classified documents, and insofar as practicable all other classified materials, shall show on the face thereof:

(a) The overall classification assigned;

(b) Whether the document is subject to or exempt from the General Declassification Schedule or subject to declassification at an earlier date or event;

(c) The office of origin;

(d) The date of preparation and classification, and if preparation and classification are distinct in time, the date of each should be shown; and

(e) The identity of the highest authority authorizing the classification; where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

§ 17.41 Security classification markings.

(a) *Overall and page marking of documents.* The overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page, and on the outside of the back cover (if any). To the extent practicable each interior page of a document which is not permanently bound shall be conspicuously marked or stamped at the top and bottom according to its own content, including the designation "Unclassified" when appropriate.

(b) *Paragraph marking.* Whenever portions of a classified document require different levels of classification or a portion requires no classification, each section, part, or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified.

(c) *Material other than documents.* If classified material cannot be marked, written notification of the information otherwise required in markings shall accompany such material.

(d) *Transmittal documents.* A transmittal document shall carry on it a prominent notation as to the highest classification of the information which is carried with it, and a legend showing the classification, if any, of the transmittal document standing alone.

(e) *Wholly unclassified material not usually marked.* Normally, unclassified material shall not be marked or stamped "Unclassified" unless the purpose of the marking is to indicate that a decision has been made not to classify it.

§ 17.42 General declassification schedule markings.

(a) For marking documents which are subject to the General Declassification Schedule, the following stamp shall be used:

(Top Secret, Secret or Confidential)
Classified by _____ Subject to General Declassification Schedule of Executive Order 11652 Automatically Downgraded at 2-Year Intervals and Declassified on December 31, _____
(insert year)

(b) For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule the following stamp shall be used:

(Top Secret, Secret, or Confidential)
Classified by _____ Automatically Declassified on _____
(effective date or event)

(c) For marking documents which are exempt from the General Declassification Schedule the following stamp shall be used:

(Top Secret, Secret, or Confidential)
Classified by _____ Exempt From General Declassification Schedule of Executive Order 11652 Exemption Category (section 5B (1), (2), (3), or (4)) Automatically Declassified on _____
(*effective date or event, if any*)

Should the classifying authority inadvertently fail to mark a document with one of the foregoing stamps the document shall be deemed to be subject to the General Declassification Schedule. In the absence of a marking indicating otherwise, the officer or employee who signs or finally approves a document or other material containing classified information or material shall be deemed to be the classifying authority. If the classifying authority is other than such officer or employee he shall be identified on the stamps required in this section. The "Restricted Data and Formerly Restricted Data" stamps, below, are, in themselves, evidence of exemption from the General Declassification Schedule.

§ 17.43 Downgrading, declassification, and upgrading markings.

(a) *Changes in markings.* Whenever a change is made in the original classification or in the date of downgrading or declassification of any classified information or material it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. In addition, all earlier classification markings shall be canceled, if practicable; in any event, those on the first page shall be canceled.

(b) *Limited use of posted notice for large quantities of material.* When the volume of information or material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading, declassification, or upgrading notices to the storage unit in lieu of the remarking otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, the identity of the person taking the action and the storage units to which it applies. When individual documents or other materials are withdrawn from such storage units they shall be promptly remarked in accordance with the change, or if the documents have been declassified, the old markings shall be canceled.

(c) *Transfer of stored quantities covered by posted notice.* When information or material subject to a posted downgrading, upgrading, or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other materials is transferred from one place to another, the transfer may be made without remarking if the notice is attached to or remains with each shipment.

§ 17.44 Additional warning notice markings.

In addition to the marking requirements set forth in §§ 17.40–17.43 warning notices shall be prominently displayed on classified documents or materials as prescribed in paragraphs (a), (b), (c), and (d) of this section. When display of these warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(a) *Restricted Data.* For classified information or material containing "Restricted Data":

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

(b) *Formerly Restricted Data.* For classified information or material containing solely "Formerly Restricted Data":

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in foreign dissemination. Section 144.b, Atomic Energy Act, 1954.

(c) *Information Other Than Restricted Data or Formerly Restricted Data.* For classified information or material furnished to persons outside the executive branch of Government other than as described in paragraphs (a) and (b) of this section:

NATIONAL SECURITY INFORMATION

Unauthorized disclosure subject to criminal sanctions.

(d) *Sensitive intelligence information.* For classified information or material relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in paragraph (a), (b), or (c) of this section, as appropriate:

Warning Notice—Sensitive Intelligence Sources and Methods Involved.

§ 17.45 Origin, date of preparation and classification.

If not otherwise clearly shown, the originator of a classified document shall add information to the face thereof reflecting the office originating the document and its date of preparation and classification.

§ 17.46 Uniform abbreviations.

Except in the case of face markings required under § 17.40 and the markings required by §§ 17.42 and 17.44 the following uniform abbreviations may be used:

(a) *GDS.* General Declassification Schedule.

(b) *XGDS 1, 2, 3, or 4.* Exempt from General Declassification Schedule (exemption number indicated).

(c) *ADS.* Accelerated Declassification Schedule, that is, information or material automatically declassified on a specified date or event earlier than the General Declassification Schedule.

(d) *RD.* Restricted Data.

(e) *FRD.* Formerly Restricted Data.

(f) *NSI.* National Security Information.

(g) *SIS.* Sensitive Intelligence Sources and Methods.

Subpart I—Custody and Safekeeping of Classified Information and Material

§ 17.47 General.

Classified national security information and material shall be used, held or stored only where there are facilities or under conditions adequate for secure storage or protection thereof, and which prevent unauthorized persons from gaining access thereto.

§ 17.48 Storage requirements.

Whenever classified information or material is not under the direct supervision of authorized persons, whether during or outside of working hours, the following means shall be taken to protect it:

(a) *Storage of Top Secret.* "Top Secret" information and material shall be stored in a safe or safe-type steel file container having a built-in, three-position, dial-type combination lock, vault, or vault-type room, or other storage facility which meets the standards for "Top Secret" established under the provisions of paragraph (c) of this section, and which minimizes the possibility of unauthorized access to, or the physical theft of, such information or material.

(b) *Storage of Secret or Confidential.* "Secret" and "Confidential" material may be stored in a manner authorized for "Top Secret" information and material, or in a container or vault which meets the standards for "Secret" or "Confidential," as the case may be, established under the provisions of paragraph (c) of this section.

(c) *Standards for security equipment.* The General Services Administration (GSA) shall, in coordination with departments or agencies originating classified information or material, establish and publish uniform standards, specifications, and supply schedules for containers, vaults, alarm systems, and associated security devices suitable for the storage and protection of all categories of classified information and material. The Department may establish for its own use more stringent standards. Whenever new security equipment is procured by the Department, it shall be in conformance with the foregoing standards and specifications and shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, GSA. No other equipment to be used for the storage of classified national security information shall be procured without the prior approval of the Department Security Officer.

(d) *Exception to Standards for Security Equipment.* As an exception to paragraph (c) of this section "Secret" and "Confidential" material may also be stored in a steel filing cabinet having a built-in, three-position, dial-type combination lock, or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA approved changeable combination padlock.

§ 17.49 Changes of combinations.

Combinations to security equipment and devices shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination is transferred from the office to which the equipment is assigned, whenever a combination has been subjected to possible compromise, and at least once every year. Such changes shall be under the supervision of the Division Security Officer.

§ 17.50 Knowledge of combinations.

The knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. The name, address, and telephone number of each person knowing the combination of a safe, vault, or cabinet and the combination shall be entered on a single list which shall be maintained by the Division Security Officer.

§ 17.51 Classification of combinations.

Records of combinations shall be classified no lower than the highest category of classified material authorized for storage in the security equipment concerned and shall be handled and stored in accordance with the provisions of these regulations.

§ 17.52 Responsibilities of custodians.

Custodians of classified information or material shall be responsible for providing protection and accountability for such information or material at all times and particularly for locking classified information or material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information or material shall not be discussed with or in the presence of unauthorized persons.

§ 17.53 Telecommunications conversations.

Classified information or material shall not be revealed in telecommunications conversations, except as may be authorized under these regulations.

§ 17.54 Inspections.

It shall be the duty of the Security Officer of the Department, the Security Officer of each Division and of each officer or employee charged with the custody of classified national security information to accomplish such periodic inspections as are necessary to insure that all procedural safeguards prescribed by these regulations are taken to protect such information at all times.

§ 17.55 Loss or compromise of classified information.

Any officer or employee of the Department who has knowledge of the loss or possible compromise of classified national security information or material shall promptly report and confirm in writing the circumstances to the Security Officer of his Division, who shall take appropriate action forthwith, including: (a) Notice to the originating office and any interested department or agency; (b) an assessment of the damage incurred; and (c) an inquiry to determine whether corrective measures and appropriate administrative, disciplinary or legal action should be taken. A copy of the report shall be furnished the Security Officer of the Department and the Department Review Committee.

§ 17.56 Removal of classified material.

Whenever it is absolutely necessary to remove classified information and material from the Department, including its field installations, the officer or employee removing such material shall obtain written permission in duplicate of the head of his Division. One copy of such permission shall be forwarded to the Division Security Officer and the other copy to the Office of Records Operations and Management or other file custodians to be made a permanent part of the file. The officer or employee who removes classified material from the Department, including its field installations, shall assume full responsibility for the safekeeping of such material in conformity with the provisions of these regulations or shall keep it under his personal supervision at all times.

Subpart J—Dissemination

§ 17.57 Security clearance.

Except as hereinafter provided in § 17.60, no person shall be given access to any classified information or material originated by, in the custody or under the control of the Department unless such person has been determined to be trustworthy and unless access to such information or material is necessary in the performance of his duties.

§ 17.58 Determination of trustworthiness.

The trustworthiness determination of eligibility for access to classified information or material, referred to as a security clearance, shall be made by the Security Officer of the Department and shall be based on such investigation as the Department by regulation requires in accordance with the standards and criteria of Executive Order No. 10450, as amended. Current and valid clearances issued to persons by other departments and agencies may be accepted in appropriate cases in lieu of such clearance by the Security Officer but only for access purposes. No determination of trustworthiness shall be required by the Department Security Office as to any presidential appointee employed by the Department. Such appointees shall be considered to have a security clearance at the level necessary by virtue of such appointment and effective as of the date of entrance on duty.

(a) Security clearances of employees of the Federal Bureau of Investigation (FBI) and the Immigration and Naturalization Service (Immigration) for access to classified information shall be made in the manner provided by the respective head of each such organization.

(b) Security clearances of employees of other Divisions for access to classified information shall be made by the Department Security Office upon the submission by heads of such Divisions of the names of the persons proposed for such clearance together with an indication of the category of classified information to which access is required.

(c) The Administrative Officer, or other officer serving in such capacity, of the Division concerned (except for those Divisions which maintain their own record files) shall immediately notify the Office of Records Operations and Management whenever an employee who has been cleared for access to classified information is separated, transferred, or suspended, or whenever the necessity for clearance has ceased to exist in order that the employee's name may be deleted from the list of those authorized to receive classified files.

(d) The Department Security Officer also shall be notified immediately by the Administrative Officer, or other officer serving in such capacity, of the Division concerned whenever an employee of a Division (other than the FBI or Immigration) who has been cleared for access to classified information is separated, transferred or suspended, or whenever the necessity for clearance otherwise has ceased to exist.

§ 17.59 Determination of need-to-know.

In addition to a security clearance, a person must have a need for access to particular classified information or material necessary to the performance of his official duties or contractual obligations. The determination of that need shall be made by the official or employee having responsibility for such classified information or material.

§ 17.60 Exception from need-to-know requirement for historical researchers and presidential appointees.

The requirement in § 17.57 that access to classified information or material be granted only to persons whose official duties require such access shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policymaking positions to which they were appointed by the President with respect to those papers which the former official originated, reviewed, signed, or received while in public office; *Provided, however,* That in each case the Attorney General determines that granting access to such researchers and former appointees is clearly consistent with the interests of national security and assures that the classified information or material to which access is granted will not be published or disseminated to unauthorized persons, or otherwise compromised in any manner.

(a) *Access by historical researchers.* (1) Prior to granting access to persons engaged in historical research projects, the Attorney General shall also determine that the information or material to which access is sought is reasonably accessible and is identified with such particularity as to be located and/or compiled with a reasonable amount of effort; that the researcher agrees to safeguard the information or material in a manner consistent with these regulations and to a review of his notes and subsequent manuscript or other writings prepared therefrom, if any, for the sole purpose of determining that no classified information is revealed by either.

(2) An authorization for access for historical research shall be made a matter of record in the Department Security Office. Such authorization shall be valid for the period required but in no event for a period longer than 2 years from date of issuance at which time it may be renewed under the same conditions and agreements as when initially granted.

(b) *Access by former presidential appointees.* (1) Persons who have previously occupied policy positions in the Department to which they were appointed by the President may be authorized access to classified information or material to the extent they originated, reviewed, signed, or received such information or material during their tenure.

(2) Former presidential appointees seeking such access shall be required to identify the information or material with sufficient particularity as to make it retrievable with reasonable time and effort and, if not otherwise apparent, establish that they did in fact originate, review, sign, or receive such during their tenure. They shall also agree to the same conditions regarding the protection of such information or material as is required of historical researchers as set forth in subparagraph (1) of this paragraph. An authorization for access granted a former presidential appointee shall be made a matter of record in the Department Security Office.

§ 17.61 Consent of originating department to dissemination by recipient.

Except as otherwise provided by section 102 of the National Security Act of 1947, 50 U.S.C. 403, classified information or material originating in one department or agency shall not be disseminated outside any other department or agency to which it has been made available without the consent of the originating department or agency.

§ 17.62 Dissemination of sensitive intelligence information.

Information or material bearing the notation "Warning Notice—Sensitive Intelligence Sources and Methods Involved" shall not be disseminated in any manner outside authorized channels without the permission of the originating department or agency and an assessment by the senior intelligence official in the disseminating department or agency as to the potential risk to the national security and to the intelligence sources and methods involved.

§ 17.63 Special departmental requirements.

As considered necessary with respect to classified information originated in the Department, special requirements, in addition to those set forth herein, may be established with respect to access, distribution, and protection of classified information and material, including any which presently relate to communications intelligence, intelligence sources, and methods and cryptography. Such special requirements may only be established upon the specific prior approval of the Attorney General.

§ 17.64 Dissemination outside the executive branch.

Classified information or material shall not be disseminated outside the executive branch except under conditions and through channels authorized or heretofore authorized by the Attorney General, and assuring its proper protection.

Subpart K—Accountability

§ 17.65 Designation of Top Secret Control Officers.

The head of each Division shall designate a person or persons within his Division to serve as Top Secret Control Officer or Officers. A person so designated will be responsible for carrying out the procedure for the control of national security information classified "Top Secret" which is set forth below.

§ 17.66 Top Secret Control.

(a) All "Top Secret" material coming into the Department must be received initially and registered by the Top Secret Control Officer of the Office of Records Operations and Management except that Top Secret material addressed to the FBI, Immigration, Bureau of Prisons, Bureau of Narcotics and Dangerous Drugs ("BNDD"), Community Relations Service, and Law Enforcement Assistance Administration ("LEAA") shall be delivered to their respective Top Secret Control Officers. No other official or employee of the Department is authorized to receive "Top Secret" material before it is recorded except as authorized by the Department Security Officer. Any courier or messenger delivering "Top Secret" material shall be directed to the Top Secret Control Officer of the Office of Records Operations and Management. All copies of "Top Secret" material originating within the Department which material has been processed by the Records Administration Office shall immediately be submitted to the Top Secret Control Officer of the Office of Records Operations and Management for recording. All copies shall be identified by number, by means of a stamp reading "copy ____ of ____ copies." The record shall indicate the disposition of all copies of the material, including any which may be dispatched from the Department. In recording "Top Secret" documents only enough information to identify the document shall be recorded, and recording of the contents thereof shall be avoided.

(b) The Top Secret Control Officer of the Office of Records Operations and Management shall transmit all "Top Secret" material for a particular Division to the Top Secret Control Officer for that Division, who shall maintain a register and such other records as are necessary to indicate the custody and location of such material at all times at which such material is in the custody of the Division.

(c) When "Top Secret" material received by the Department or originating within the Department is transmitted from one official of the Department to another or to other departments or agencies a receipt signed by the recipient shall be obtained. In the case of "Top Secret" material transferred between officials within a particular Division of the Department, strict accountability shall likewise be maintained through a similar system of receipts, or, with the specific consent of the Security Office, by comparable methods which are not inconsistent with the requirements of the Order. In all such cases the Top Secret Control Officer of the Division shall retain such receipts and make a record which will identify the material and the recipient thereof and which will indicate the disposition of all copies.

(d) In addition to the requirements in paragraph (c) of this section when a "Top Secret" departmental file is transferred from one Division to another, a transfer slip identifying the transferor the transferee, and the file, and indicating the date of transfer shall be sent by the Top Secret Control Officer of the transferring Division and to the Top Secret Control Officer of the Office of Records Operations and Management.

(e) The procedure set forth above is to apply to all Divisions of the Department except that the FBI, Immigration, Bureau of Prisons, BNDD, Community Relations Service, and LEAA shall establish independent control for the receiving, transmission and safekeeping of "Top Secret" material which shall be consistent with the provisions of the Order.

§ 17.67 Control of secret and confidential information and material.

The head of each Division shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified national security information in the categories of "Secret" and "Confidential". As a minimum, however, records shall be maintained which will identify the original and all copies of all "Secret" and "Confidential" information and material received from other Divisions of the Department or other departments or agencies, the date of receipt and disposition; and the original and all copies of all "Secret" and "Confidential" information and material sent out of the Division.

§ 17.68 Physical inventory; restraint on reproduction and number of copies.

(a) A physical inventory of all "Top Secret" material shall be made at least annually. To the extent required, because of depositories storing large volumes of "Top Secret" material, development and maintenance of current inventory lists of such material or other finding aids shall be acceptable in lieu of all annual physical inventory.

(b) Documents or portions of documents containing "Top Secret" information shall not be reproduced without the consent of the originating office. All other classified material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

(c) The number of copies of documents containing classified information shall be kept to a minimum to decrease risk of compromise and reduce storage costs.

Subpart L—Transmission of Classified Information and Material

§ 17.69 Preparation and receipting.

Classified information and material shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and address. The outer cover shall be sealed and addressed with no indication of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that Confidential material shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be signed by the recipient and returned to the sender.

§ 17.70 Transmission of Top Secret.

The transmission of "Top Secret" information and material shall be effected preferably by oral discussions in person between the officials concerned. Otherwise the transmission of "Top Secret" information and material shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, over authorized communications circuits in encrypted form or by other means authorized by the National Security Council; except that in the case of information transmitted by the FBI, such means of transmission may be used as are approved by the Director of the FBI, unless express reservation to the contrary is made in exceptional cases by the originating department or agency.

§ 17.71 Transmission of Secret.

The transmission of "Secret" material shall be effected in the following manner:

(a) *The 50 States, District of Columbia, Puerto Rico.* "Secret" information and material may be transmitted within and between the 48 contiguous States and District of Columbia, or wholly within the State of Hawaii, the State of Alaska, or the Commonwealth of Puerto Rico by one of the means authorized for "Top Secret" information and material, the U.S. Postal Service registered mail and protective services provided by the U.S. air or surface commercial carriers under such conditions as may be prescribed by the head of the Department or agency concerned.

(b) *Other areas, vessels, military postal services, aircraft.* "Secret" information and material may be transmitted from or to or within areas other than those specified in paragraph (a) of this section, by one of the means established for "Top Secret" information and material, captains or masters of vessels of U.S. registry under contract to a department or agency of the executive branch, U.S. registered mail through Army, Navy, or Air Force Postal Service

facilities provided that material does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system, and commercial aircraft under charter to the United States and military or other government aircraft.

(c) *Canadian government installations.* "Secret" information and material may be transmitted between U.S. Government or Canadian Government installations, or both, in the 48 Contiguous States, Alaska, the District of Columbia, and Canada by United States and Canadian registered mail with registered mail receipt.

(d) *Special cases.* The Department Security Office may authorize the use of the U.S. Postal Service registered mail outside the 49 contiguous States, the District of Columbia, the State of Hawaii, the State of Alaska, and the Commonwealth of Puerto Rico if warranted by security conditions and essential operational requirements provided that the material does not at any time pass out of U.S. Government and U.S. citizen control and does not pass through a foreign postal system.

§ 17.72 Transmission of confidential.

"Confidential" information and material shall be transmitted within the 48 contiguous States and the District of Columbia, or wholly within Alaska, Hawaii, the Commonwealth of Puerto Rico, or a U.S. possession, by one of the means established for higher classifications, or by certified or first-class mail. Outside these areas, "Confidential" information and material shall be transmitted in the same manner as authorized for higher classifications.

§ 17.73 Transmission within the department.

When classified national security information is transmitted within the Department by direct personal contact between officers or employees who are required, and cleared, to know the contents thereof, no special preparation thereof for transmision shall be required. When transmittal is other than by such direct personal contact, classified national security information shall be prepared in the manner specified for transmission thereof outside the Department, except that it shall be covered by a receipt only when the accountability procedures prescribed in Part XI of these regulations so provide. In the case of information transmitted by the FBI, such means of transmission may be used as are currently approved by the Director of the FBI unless express reservation to the contrary is made in exceptional cases by the originating Department or agency.

Subpart M—Destruction of Classified Information and Materials

§ 17.74 Record material.

(a) Record material may be destroyed only in accordance with 44 U.S.C. 3301–3314.

(b) Classified record material may be destroyed, pursuant to the statutory authority mentioned in paragraph (a) of this section, only by written authorization of the Security Officer of the Department, or a Security Officer of the Division involved.

§ 17.75 Nonrecord material.

Nonrecord material containing classified information (including shorthand notes, used carbon paper, one-time typewriter ribbons, preliminary drafts, type, plates, records and tapes, stencils, negatives, and the like, and wastage incidental thereto) shall be destroyed, in accordance with section 1303 hereof, as soon as it has served its purpose.

§ 17.76 Method of destruction.

Material marked "Top Secret," or "Secret," or "Confidential" shall be destroyed by burning or preferably by equally complete methods of destruction. Such material shall not be destroyed except in the presence of an appropriate officer or employee specifically designated for such purpose by the Security Officer of the Department, or a Security Officer of the Division involved.

§ 17.77 Records of destruction.

Appropriate records of the destruction of record material classified as "Top Secret" or "Secret" shall be maintained by the Office of Records Operations and Management. Such records shall contain the nature of the document destroyed, the nature of the information therein contained, the method used, the time and place of destruction, the reason for such destruction, and the name of the witness, or witnesses, present.

Subpart N—Data Index System and Records

§ 17.78 Central data index system.

The Office of Records Operation and Management of the Department shall establish and maintain a central data index system for all "Top Secret," "Secret" and "Confidential" information classified after December 31, 1972, in categories specified to the Department by the Interagency Classification Review Committee. The index system shall contain the following data for each document indexed:

(a) Identity of classifier.
(b) Department of origin.
(c) Addresses.
(d) Date of classification.
(e) Subject/area.
(f) Classification category and applicability of or exemption from General Declassification Schedule.
(g) If exempt from General Declassification Schedule, the exemption relied upon.
(h) Date or event set for declassification.
(i) File designation.

Each classifying authority in the Department shall, commencing January 1, 1973, immediately upon the original classification of any national security information or material, forward to the Top Secret Control Officer of the Office of Records Operations and Management a form containing all of the data specified above with respect to the classified information or material.

§ 17.79 Records.

(a) Each Division of the Department shall establish and maintain current listings by name of the officials who have been designated in writing to have "Top Secret," "Secret," and "Confidential" classification authority. The foregoing lists and records shall be updated by each Division on a quarterly basis commencing on September 20, 1972, and copies of such lists and records shall be forwarded to the Department Security Officer not later than 5 days after they must be updated.

(b) The office of Records Operations and Management shall maintain lists for submission to the Attorney General and the Department Review Committee identifying all classified materials classified before June 1, 1972, and more than 30 years old. Such lists shall contain the recommendations of the Office of Records Operations and Management with respect to continued classification or declassification of such material. In addition, with respect to all classified materials classified before June 1, 1972, and more than 30 years old which the Attorney General has determined in writing shall remain classified, the Office of Records Operations and Management shall maintain lists identifying the material, indicating the reason for continued classification, and specifying the date on which such material shall be declassified.

Subpart O—Security Officers

§ 17.80 Department Security Officer.

There shall be a Security Officer of the Department, and such assistants as he may designate, whose duty it shall be to supervise the administration of these regulations. Except as otherwise provided in these regulations, the Department Security Officer shall also carry out the functions and exercise the authority of the Attorney General and Department Review Committee in the administration within the Department of the regulations.

§ 17.81 Division Security Officers.

(a) The head of each Division of the Department shall designate or appoint one or more Security Officers for his Division.

(b) It shall be the duty of each Division Security Officer, under the general direction of the Department Security Officer, and for the FBI, its Security Officer, to administer these regulations insofar as they pertain to his Division and to conduct such inspections and to make such reports as will enable the head of his Division, the Attorney General and the Department Review Committee to be fully and currently informed concerning the administration of these regulations.

This order supersedes Order No. 433–70 of March 23, 1970, entitled "Regulations Relating to the Protection of Defense Information Pursuant to Executive Order No. 10501, as Amended."

Dated: July 31,1972.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.72-12139 Filed 8-2-72;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER D—SECURITY

PART 159—INFORMATION SECURITY PROGRAM REGULATION

This Part 159 governing the classification, downgrading, declassification and safeguarding of classified information is issued under the authority of and pursuant to Secretary of Defense DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972 (§ 159.100(a)). This Part 159 has been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and the National Security Council Directive issued pursuant thereto.

ROBERT C. MOOT,
Assistant Secretary of Defense.

JULY 15, 1972.

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159.1500–3 Appendix D—Instructions governing use of code words, nicknames and exercise terms. (See § 159.701–10)

Authority: The provisions of this Part 159 issued under Executive Order 11652, March 8, 1972, F.R. Vol. 37, No. 48, Part II, Page 5209, dated March 10, 1972; National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information, dated May 17, 1972; sec. 301, 80 Stat. 379; 5 U.S.C. 301.

Subpart—General Provisions

References

§ 159.100 References.

(a) DOD Directive 5200.1, DOD Information Security Program, June 1, 1972.[1]

(b) Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972.

(c) National Security Council "Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information," dated May 17, 1972.

(d) DOD Directive 5230.9, "Clearance of Department of Defense Public Information," dated December 24, 1966.[1]

(e) DOD Directive C–5200.5, "Communications Security (U)," dated April 13, 1971.[2]

(f) DOD Instruction 5200.22, "Reporting of Security and Criminal Violations," dated September 12, 1966.[1]

(g) DOD Directive 5210.50, "Investigation of and Disciplinary Action Connected with Unauthorized Disclosure of Classified Defense Information," dated April 29, 1966.[1]

(h) DOD Directive 5210.8, "Policy on Investigation and Clearance of DOD Personnel for Access to Classified Defense Information," dated February 15, 1962 (reprint March 1, 1966).[1]

(i) DOD Directive 5400.4, "Provision of Information to Congress," dated February 20, 1971.[1]

(j) DOD Directive 7650.1, "General Accounting Office Comprehensive Audits," dated July 9, 1958.[1]

[1] Filed as part of original. Copies available from U.S. Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

(k) DOD Directive 5220.22, "DOD Industrial Security Program," dated July 30, 1965.[1]

(l) DOD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," dated March 26, 1970.[1]

(m) DOD Directive 5200.15, "Controlling the Dissemination and Use of Intelligence and Intelligence Information Produced by Members of the Intelligence Community," dated July 26, 1962.[1]

(n) DOD Directive 5210.2, "Access to and Dissemination of Restricted Data," dated October 18, 1968.[1]

(o) DOD Instruction C-5210.21, "Implementation on NATO Security Procedure (U)," dated December 20, 1969.[2]

(p) DOD Instruction C-5210.35, "Implementation of CENTO Security Regulation (U)," dated June 5, 1968.[2]

(q) DOD Instruction 5210.54, "Implementation of SEATO Security Manual (U)," dated September 27, 1967.[1]

(r) DOD Directive 5400.7, "Availability to the Public of DOD Information," dated June 23, 1967.[1]

(s) DOD Instruction 7230.7, "User Charges," dated August 17, 1970.[1]

(t) DOD Directive 5220.6, "Industrial Personnel Security Clearance Program," dated December 7, 1966.[1]

(u) Joint Army-Navy-Air Force Publication (JANAP) No. 119 December 1970 and No. 299 September 1971.

(v) Allied Communication Publications (ACP) No. 119 August 1970.

(w) National Security Agency KAG I-D December 1967.

(x) DOD Directive S-5200.17, "The Security, Use and Dissemination of Communications Intelligence (COMINT) (U)", dated January 26, 1965.[2]

(y) DOD Directive 5535.2, "Secretary of Certain Inventories and Withholding of Patent; Delegation of Authority to Secretaries of Army, Navy and Air Force," dated September 30, 1966.[1]

(z) DOD Directive 5200.12, "Security Measures, Approval and Sponsorship for Scientific and Technical Meetings Involving Disclosure of Classified Information," March 7, 1967.[1]

PURPOSE AND APPLICABILITY

§ 159.101 Purpose.

To insure that official information of the Department of Defense relating to national security is protected, but only to the extent and for such period as is necessary, this part establishes the bases for identification of information to be protected; prescribes a progressive system for classification, downgrading and declassification; prescribes safeguarding policies and procedures to be followed; and establishes a monitoring system to ensure the effectiveness of the Information Security Program throughout the Department of Defense.

[1] Filed as part of original. Copies available from U.S. Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

[2] Classified document. Not available to the public.

§ 159.101-1 Applicability.

This part governs the Department of Defense Information Security Program and takes precedence over all other departmental publications affecting that program. In accordance with the provisions of references § 159.100(b) and (c) above, it establishes for uniform application throughout the Department of Defense, the policies, standards, criteria, and procedures for the security classification, downgrading, declassification and safeguarding of official information or material originated, produced or handled by, or under the sponsorship of, the Department of Defense or components thereof.

§ 159.101-2 Nongovernment operations.

Except as otherwise provided herein, the provisions of this Part shall be made applicable by contract, or other legally binding instrument, to operations of nongovernment personnel entrusted or to be entrusted with classified information.

§ 159.101-3 Combat Operations.

The provisions of this part with regard to accountability, dissemination, transmission, or safekeeping of classified information or material may be modified as necessary to meet local conditions by military commanders in connection with combat or combat-related operations. Classified information or material should be introduced into forward combat areas or zones only to the extent essential to accomplishment of the military mission. When so introduced, the appropriate military commander shall provide the degree of protection prescribed by this part for the classification involved as nearly as the circumstances permit.

§ 159.101-4 Atomic Energy Act.

Nothing in this part shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

§ 159.101-5 Exceptions.

(a) For material under his special cognizance, in lieu of the requirements of §§ 159.701-7(a) and 159.702, the Director, National Security Agency, shall prescribe for the internal handling of such material such special procedures as may be necessary to conform to policies and standards prescribed for NSA by higher authority outside the DOD.

(b) Provisions for security, use and dissemination of Communications Intelligence (COMINT) are governed by DOD Directive S-5200.17, reference § 159.100(x).

DEFINITIONS

§ 159.102 Definitions.

As used herein, the following terms and meanings shall be applicable:

§ 159.102-1 Classification.

The determination that official information requires, in the interests of national security, a specific degree of protection against unauthorized disclosure, coupled with a designation signifying that such a determination has been made.

§ 159.102-2 Classified information.

Official information which has been determined to require, in the interests of national security, protection against unauthorized disclosure and which has been so designated.

§ 159.102-3 Classifier.

An individual who either:

(a) Determines that official information, not known by him to be already classified, currently requires, in the interests of national security, a specific degree of protection against unauthorized disclosure and having the authority to do so, designates that official information as Top Secret, Secret, or Confidential; or

(b) Determines that official information is in substance the same as information known by him to be already classified by the Government as Top Secret, Secret, or Confidential and designates it accordingly.

§ 159.102-4 Component.

The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the unified and specified commands, and the Defense Agencies.

§ 159.102-5 Compromise.

The known or suspected exposure of classified information or material to an unauthorized person.

§ 159.102-6 Custodian.

An individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting for classified information.

§ 159.102-7 Declassification.

The determination that classified information no longer requires, in the interests of national security, any degree of protection against unauthorized disclosure, coupled with a removal or cancellation of the classification designation.

§ 159.102-8 Document.

Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps, charts; paintings; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice, or electronic recordings in any form.

§ 159.102-9 Downgrade.

To determine that classified information requires, in the interests of national security, a lower degree of protection against unauthorized disclosure than

currently provided, coupled with a changing of the classification designation to reflect such lower degree.

§ 159.102–10 Formerly restricted data.

Information removed from the Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information.

§ 159.102–11 Information.

Knowledge which can be communicated by any means.

§ 159.102–12 Material.

Any document, product or substance on or in which information may be recorded or embodied.

§ 159.102–13 Official information.

Information which is owned by, produced for or by, or is subject to the control of the United States Government.

§ 159.102–14 Original classification authority.

Original classification authority is the authority to make original classifications vested specifically and in writing in an official of the Government as the incumbent of an office and in the official specifically and in writing designated to act in the absence of the incumbent.

§ 159.102–15 Restricted data.

(a) All data (information) concerning: (1) Design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. (See section 11w, Atomic Energy Act of 1954, as amended, and "Formerly Restricted Data.")

§ 159.102–16 Upgrade.

To determine that certain classified information requires, in the interests of national security, a higher degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such higher degree.

POLICIES

§ 159.103 Classification.

(a) *Basic policy.* The introduction to Executive Order 11652 states in part: The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both overt and covert nature, it is essential that such official information and material be given only limited dissemination.

(1) Consistent with the foregoing, the use and application of security classification shall be limited to only that information which is truly essential to national security because it provides the United States with: (i) A military or defense advantage over any foreign nation or group of nations, or (ii) a favorable foreign relations posture, or (iii) a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert; which could be damaged, minimized, or lost by the unauthorized disclosure or use of the information.

(b) *Resolution of doubts.* Unnecessary classification and higher than necessary classification shall be scrupulously avoided. Any substantial doubts as to which of two levels of security classification is appropriate, or as to whether certain information or material should be classified at all, should be resolved in favor of the less restrictive treatment.

(c) *Improper classification.* Classification shall apply only to official information requiring protection in the interests of national security. It may not be used for the purpose of concealing administrative error or inefficiency, to prevent personal or departmental embarassment, to restrain competition or independent initiative, or to prevent for any other reason the release of official information which does not require protection in the interests of national security.

§ 159.103–1 Regrading and declassification.

In order to preserve the effectiveness and integrity of the information security program, assigned classifications shall be responsive at all times to the current needs of national security. Classification, when determined to be required, shall be retained for the minimum length of time considering the degree of sensitivity, cost, and probability of compromise. When classified information is determined in the interests of national security to require a different level of protection than that presently assigned, or no longer to require any such protection, it shall be regraded or declassified.

§ 159.103–2 Safeguarding.

Official information or material classified under the provisions of this part shall be afforded the level of protection against unauthorized disclosure commensurate with the level of classification assigned under the varying conditions which may arise in connection with its use, dissemination, storage, movement or transmission, and destruction.

SECURITY CLASSIFICATION CATEGORIES

§ 159.104 General.

Official information or material which requires protection against unauthorized disclosure in the interests of national security shall be classified in one of three categories, namely, "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interests of national security, except as otherwise expressly provided by statute.

§ 159.104–1 "Top Secret".

"Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

§ 159.104–2 "Secret".

"Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

§ 159.104–3 "Confidential".

"Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

AUTHORITY TO CLASSIFY, DOWNGRADE AND DECLASSIFY

§ 159.105 Original classification authority.

The authority for making original classification determinations shall be restricted solely to those officials specifically designated in writing pursuant to the provisions of this part, including the officials who are specifically designated in writing to act in their absence. These designations shall be limited to the minimum number absolutely required for efficient administration. Such officials may classify information or material only at the level authorized or below. This authority is personal to the incumbent of the designated office and may not be

delegated. For the purpose of assuring both positive management control of classification determinations and ability to meet local operational requirements in an orderly and expeditious manner, the Assistant Secretary of Defense (Comptroller) shall exercise control over the exercise of authority for original classification of official information. Pursuant to section 2 of reference § 159.100(b), above, original classification authority may be exercised by the following:

(a) *For Top Secret.* The officials designated in or pursuant to Part 1 of Appendix A (§ 159.1500).

(b) *For Secret.* The officials designated in or pursuant to Parts 1 and 2 of Appendix A (§ 159.1500).

(c) *For Confidential.* The officials designated in or pursuant to Parts 1, 2, and 3 of Appendix A (§ 159.1500).

§ 159.105–1 Record and report requirements.

Records and reports of designations of original classification authority shall be maintained and submitted as follows:

(a) *Top Secret listings.* The Office of the Assistant Secretary of Defense (Comptroller), for (1) the Office of the Secretary of Defense, (2) the Organization of the Joint Chiefs of Staff, (3) the unified and specified commands, and (4) the Defense Agencies, shall maintain currently a listing of the officials by title, designated to exercise Top Secret original classification authority in those organizations. The offices named shall advise the Assistant Secretary of Defense (Comptroller) of any changes deemed necessary in the designations made. The offices of the secretaries of the military departments shall maintain lists of the officials by title in their respective departments designated to exercise original Top Secret classification authority.

(b) *Secret and Confidential listings.* The head of each Department of Defense component, the Office of the Assistant Secretary of Defense (Comptroller) acting for the Office of the Secretary of Defense, the Director, Joint Staff acting for the Organization of the Joint Chiefs of Staff, and the Commanders in Chief of unified and specified commands for their respective headquarters, shall maintain listings by title of the officials designated to exercise Secret and Confidential original classification authority in their respective organizations.

§ 159.105–2 Currency of designations.

Designations of original classification authorities shall be kept current by written action of the officials authorized to make such designations.

§ 159.105–3 Reports.

The military departments shall submit by July 1, 1972, to the Deputy Assistant Secretary of Defense (Security Policy) a listing by title of the officials designated to exercise Top Secret original classification authority. The heads of all Department of Defense components, as indicated in § 159.105–1(b) above, shall submit to the Deputy Assistant Secretary of Defense (Security Policy) by July 1, 1972, the listings by title of the officials in their respective organizations who have been designated to exercise Secret and Confidential original classification authority. Changes in such reports shall be submitted quarterly beginning October 1, 1972. These reporting requirements have been assigned Reports Control Symbol DD–A(Q) 1183.

§ 159.105–4 Downgrading and declassification authority.

Original classification authorities or higher officials in the same chain of command or supervisory responsibility are authorized to downgrade or declassify information classified by the original classifier. In addition, to the maximum extent practicable, heads of Department of Defense components shall establish procedures by which officials are designated at headquarters level who are authorized to downgrade and declassify information under the classification jurisdiction of any subordinate offices or echelons and to resolve conflicts or doubts as to the classifications that are appropriate as of a current date.

Subpart—Classification

Classification Responsibilities

§ 159.200 Accountability of Classifiers.

Each classifier shall be held accountable for the propriety of the classifications assigned by him, whether in the exercise of original classification authority or in the determination and application of classifications assigned in source documents or as prescribed by applicable classification guidance, and shall maintain adequate records to support his actions. Such records could take the form of an approved security classification guide or a notation on the record copy of the classified document indicating the source of the classification or, if an original classification, a brief justification for the classification determination. In any case, the classifier is required to maintain a record to show the basis for classification or by which the chain of classification authority can be traced to an original classification authority who can justify the initial classification determination, should an occasion demand such action. (See also § 159.302.) An official with the requisite classification authority who classifies a document or other material and who identifies himself thereon as the classifier, is and continues to be, the accountable classifier even though the document or material is finally approved or signed at a higher level in the same organization.

§ 159.200–1 Classification Review.

(a) When an official signs or finally approves a document or other material already marked to reflect a particular level of classification, he shall review the information contained therein to determine if the classification marking(s) is (are) appropriate. If, in his judgment, the classification marking(s) is (are) not supportable, he shall cause such marking(s) to be removed or changed as appropriate to reflect accurately the classification of the information involved prior to issuance.

(b) A higher level official through or to whom a document or other material passes for signature or final approval becomes jointly responsible with the accountable classifier for the classification(s) assigned. In any particular organization a determination as to whether the higher level official wishes to have his subordinates who have requisite classification authority to be shown as the accountable classifier is a matter for internal management to decide.

(c) If no one is specifically identified as the classifier, the official who finally signs or approves the document or other material is the accountable classifier.

§ 159.200–2 Classification planning.

(a) Advance classification planning is an essential part of the development of any plan, operation, program, research and development project, or procurement action in which security is a major factor, or which involves classified information. The classification aspects must be considered from the beginning to assure adequate protection for the information and for the activity itself, and to eliminate impediments to the execution or implementation of the plan, operations order, program, project, or procurement action.

(b) The commander or official charged with the development of any plan, program, or project, in which classification is a factor, shall include therein, under a clearly identifiable title or hearing, a classification guide covering the information involved in that effort or a classification plan, prepared by qualified personnel who have at hand the necessary knowledge and technical intelligence to make reasonable determinations covering the following:

(1) Isolation and identification of items of information involved in the effort which require classification.

(2) Classification guidance specifying the levels of classification to be applied to identified items of information and material developed in connection with the plan, program, or project.

(3) A schedule for phased downgrading and declassification covering each item of classified information and material. If the information is of a nature which is exempted from the general declassification schedule (see § 159.302–1), a statement shall be included indicating which of the four exemption categories is applicable and, unless impossible, a date or event on which declassification will occur.

(4) Provision for periodic review to determine the currency and accuracy of the classification, downgrading, and declassification guidance provided.

§ 159.200–3 Recipient of classified information or material.

If the recipient of classified information or material has reason to believe that it should not be classified or that current security considerations justify a change in the assigned classification, he shall make such changes if he is authorized to do so. If not so authorized, he shall promptly submit the matter to the appropriate classifier with his recom-

mendations and reasons therefor. Pending final determination, the material shall be safeguarded as required for its assigned or proposed classification, whichever is higher, until the classification is changed or otherwise verified. The responsible classifying authority shall act on such recommendations within thirty (30) days of receipt.

IDENTIFICATION OF CLASSIFIER

§ 159.201 Identification of classifier.

(a) Information or material classified under this part shall indicate on its face, in the case of documents, or by notice or other means, in the case of material, the identity of the classifier. Such identification shall be shown on the "Classified by" line of the notations authorized under § 159.403–1. Clear and complete identification is construed to mean that the description standing alone shall be sufficient to identify a particular official, source document or classification guide, as the case may be.

(1) If all of the information in the document or other material is classified as an act of original classification, the official with requisite classification authority who made the classification determination shall be identified on the face of the document in the "Classified by" space by his title and position in his organization.

(2) If all of the classified information contained in a document is classified because of classification imposed by a single outside source, for example, a source document or classification guide, and no original classification is involved, the outside source shall be identified on the face of the document in the "Classified by" space. In this case, if the classifier of the source document or the official responsible for the substantive content of the classification guide is known, the official title and position of that official in his organization shall be shown in the "Classified by" space.

(3) If the situation is like subparagraph (2) of this paragraph except that the identity of the classifier or official responsible for the classification guide is not known, an accurate description of the source document or classification guide shall be shown in the "Classified by" space.

(4) If the classified information contained in a document or other material is classified because of classifications imposed by more than one outside source document, classification guide or combination thereof, the official title and position in his organization of the signer or final approver of the new document or other material shall be shown in the "Classified by" space.

(5) If a particular official has been designated by the head of an organization to be the approver of the security classification assigned to all classified material leaving the organization, the official title and position in his organization of that designated official shall be shown in the "Classified by" space.

(b) In all of the situations in subparagraphs (1) through (5) of this paragraph, the official responsible for completing the blank space in the stamp shall establish and retain adequate records to support his action.

CLASSIFICATION PRINCIPLES, CRITERIA AND CONSIDERATIONS

§ 159.202 Balanced judgment requirement.

Classification is a balanced judgment. There must be a positive basis for classification, but both advantages and disadvantages to classifying must be considered. Determination to classify shall not be made and a classification marking shall not be applied until after full consideration of both aspects. All §§ 159.202 through 159.202–15 must be considered before a classification determination is made or a classification marking is applied.

§ 159.202–1 Identification of specific information.

Classification determinations must be preceded by an exact identification of each item of information which may require security protection in the interests of national security. This process involves identification of that specific information which comprises the basis for the particular national advantage or advantages which, if the information were compromised, would or could be damaged, minimized, or lost, thereby adversely affecting the national security.

§ 159.202–2 Reasons for classification.

An evaluation of information forms the base for classification. A document or other material is classified either: (a) Because of the information it contains which may be ascertained by study, analysis, observation, or use of it; or (b) because of the information it may reveal when associated with other information, including that which the classifier knows already has been officially released into the public domain.

§ 159.202–3 Specific classifying criteria.

A determination to classify shall be made only when one or more of the following considerations are present and the unauthorized disclosure of the information could reasonably be expected to result in a degree of harm to the national security:

(a) The information provides the United States, in comparison with other nations, with a scientific, engineering, technical, operational, intelligence, strategic, or tactical advantage directly related to the national security.

(b) Disclosure of the information would weaken the position of the United States in the discussion, avoidance, or peaceful resolution of potential or existing international differences which could otherwise generate a military threat to the United States or its mutual security arrangements, create or increase international tensions contrary to the national security of the United States, result in a disruption in foreign relations, or lead to hostile political or military action against the United States or its allies, thereby adversely affecting the national security.

(c) Disclosure of the information would weaken the ability of the United States to wage war or defend itself successfully, limit the effectiveness of the armed forces, or make the United States vulnerable to attack.

(d) There is sound reason to believe that other nations do not know that the United States has, or is capable of obtaining, certain information or material which is important to the national security of the United States vis-a-vis those nations.

(e) There is sound reason to believe that knowledge of the information would: (1) Provide a foreign nation with an insight into the war potential or the war or defense plans or posture of the United States; (2) allow a foreign nation to develop, improve, or refine a similar item of war potential; (3) provide a foreign nation with a base upon which to develop effective countermeasures; and (4) weaken or nullify the effectiveness of a defense or military plan, operation, project or activity which is vital to the national security.

§ 159.202–4 Dissemination considerations.

The degree of intended or anticipated dissemination and use of material, and whether the end purpose to be served renders effective security control impractical, are factors which must be considered. These factors do not necessarily preclude classification, but they do force consideration of the extent to which classification under such circumstances may degrade the classification system by attempting to impose security control in impractical situations. Determinations significantly dependent upon these factors shall not be made below the level of the official having original classification authority over the particular plan, program project or item.

§ 159.202–5 Net national advantage.

In exceptional circumstances involving scientific and technical information or material, it may be necessary to weigh the benefits which would accrue to the United States generally from the unclassified use by other U.S. government agencies or commercial interests of information which is classified or otherwise classifiable under this part, against the advantage which would be gained or retained by classification or continued classification of the information. When a net advantage to the United States resulting from unclassified use distinctly can be ascertained beyond a reasonable doubt, that factor should be considered in reaching the classification determination which is to be made by a designated classification authority having classification jurisdiction over the information involved.

§ 159.202–6 Lead time advantage.

Unlike § 159.202–5, this section concerns situations in which obtaining or maintaining a national defense lead time advantage is essential.

(a) Lead time is the interval between the acquisition of knowledge by or on behalf of the Goverment of the United

States and the time when the Government of the United States believes that the same knowledge is known to, or reasonably could be known to, the private community in the United States or to other nations through the application of their own resources.

(b) The United States as a Nation may have a sufficient edge on a sufficiently broad basis of technical competence over other nations that an essential national defense lead time advantage might be obtained or maintained through an open race with other nations.

(c) If it is reasonably believed that an essential national defense lead time advantage can be obtained or maintained as well or better through reliance upon the total available U.S. technological base, open circulation, after public release approval, will be preferred to security classification.

(d) If it is reasonably believed that an essential national defense lead time advantage which could be obtained or maintained through security classification more than likely would be lost through open circulation after public release approval, the determination will be to use security classification.

§ 159.202–7 Cost factor.

Cost alone is not a positive basis for classification. Cost may be a reason for not classifying under certain conditions as shown below.

(a) If cost resulting from classification in terms of time, money, or personnel becomes a critical factor and actually might impede or prevent attainment of the desired mission or objective of the program, project, or operation, it will be necessary to consider:

(1) Value to national defense of accomplishing the desired mission or objective.

(2) Risk attendant upon nonclassification of certain information in order to attain the desired goal.

(3) Maximum extent to which classification can be employed without actually impeding attainment of the goal.

(b) Whenever officials responsible for carrying out a program, project, or operation consider that the cost factor resulting from classification may impede or prevent attainment of the desired mission or objective, the matter shall be referred, with appropriate explanations and recommendations, to the original classifying authority for the program, project, or operation.

(c) Final determinations of the effect of the cost factor on classification under circumstances set forth in paragraph (b) of this section, above, shall be made only at or above the level of the original classifying authority for the program, project, or operation.

§ 159.202–8 Classifying research data.

Ordinarily, except for information which meets the definition of Restricted Data, basic scientific research or results thereof shall not be classified. However, classification would be appropriate if the information concerns an unusually significant scientific "breakthrough" and there is sound reason to believe it is not known or within the state-of-the-art of other nations, and it supplies the United States with an advantage directly related to national security.

§ 159.202–9 Classifying documents.

Each document shall be classified on the basis of the information it contains or reveals. The fact that a document makes reference to a classified document is not a basis for classification unless the reference, standing alone, reveals classified information. The overall classification of a document, file, or group of physically connected documents shall be at least as high as that of the most highly classified component. Each component, however, shall be classified individually on its own merits.

§ 159.202–10 Classifying material other than documents.

(a) Items of equipment or other physical objects may be classified only when classified information may be derived from them by visual observation of internal or external appearance, structure, operation, test, application, or use. The overall classification assigned to equipment or physical objects shall be at least as high as the highest classification of any of the items of information revealed by the equipment or objects.

(b) In every instance when classification of an item of equipment or other physical object is determined to be warranted, such determination must be based on a finding that there is at least one aspect of the item or object which affords the United States a national defense advantage. If mere knowledge of the existence of the item of equipment or physical object would compromise or nullify its national defense advantage, its existence would warrant classification.

§ 159.202–11 State-of-the-art and intelligence.

Classification requires consideration of the information available from intelligence sources concerning the extent to which the same or similar information is known or is available to others. It is also important to consider whether it is known, publicly or internationally, that the United States has the information or even is interested in the subject matter. The state-of-the-art in other nations is a vital factor requiring consideration.

§ 159.202–12 Effect of open publication.

Appearance in the public domain of information currently classified or being considered for classification does not preclude initial or continued classification; however, such disclosures require immediate reevaluation of the information to determine whether the publication has so compromised the information that downgrading or declassification is warranted. Similar consideration must be given to related items of information in all programs, projects, or items incorporating or pertaining to the compromised items of information. In these cases, if the release is shown to have been made or authorized by an official Government source, classification of clearly identified items shall no longer be continued. However, holders should continue classification until advised to the contrary by a competent Government authority. Under no circumstances may a compilation of official releases be classified.

§ 159.202–13 Reevaluation of classification because of compromise.

Specific classified information subjected to compromise or possible compromise and information related thereto shall be reevaluated and acted upon as follows:

(a) The original classifying authority, upon learning that a compromise or possible compromise of specific classified information has occurred, shall:

(1) Reevaluate the information involved and determine whether: (i) The classification should be continued without changing the specific information involved; (ii) the specific information, or parts thereof, should be modified to minimize or nullify the effects of the reported compromise and the classification retained; (iii) immediate downgrading is appropriate; (iv) the original schedule specified for downgrading the information involved should be changed to reflect an earlier downgrading time; or (v) declassification is warranted.

(2) When such determination is within category in subdivision (ii), (iii), (iv), or (v) of subparagraph (1) of this paragraph, give prompt notice thereof to all holders of such information.

(b) Upon learning that a compromise or possible compromise of specific classified information has occurred, any official having original classification jurisdiction over related information shall reevaluate the related information and determine whether one of the courses of action enumerated in paragraph (a)(1) of this section should be taken or, in lieu thereof, upgrading of the related information is warranted. When such a determination is within category in subdivision (ii), (iii), (iv), or (v) of paragraph (a)(1) of this section, or that upgrading of the related items is warranted, prompt notice of the determination shall be given to all holders of the related information.

§ 159.202–14 Compilation of information.

The general rule is that a compilation of unclassified items shall not be classified. In rare and unusual circumstances, however, classification may be required if the combination of unclassified items together provides an added factor which warrants classification. Classification on this basis shall be used sparingly. (See also § 159.202–12.)

§ 159.202–15 Extracts of information.

Information or material extracted from a classified source will be classified, or not classified, as the case may be, in accordance with the classification markings shown in the source. The overall marking and internal markings of the source should supply adequate classification guidance to the person making the

extraction. However, if internal markings, as an exception to the general rule, are lacking, and if no classification guidance is included in the source and no reference is made to an applicable classification guide which is vailable for use by the person making the extraction, the extracted information or material will be classified to correspond to the overall marking of the source, or in accordance with guidance specifically sought and received from the classifier of the source material.

CLASSIFICATION GUIDES

§ 159.203 General.

A classification guide, based upon classification determinations made by appropriate classification authorities, shall be issued for each system, program, or project. Successive operating echelons shall prescribe any further detailed supplemental guides deemed essential to assure accurate, uniform, and consistent classification.

§ 159.203–1 Multiservice interest.

For each system, program, project, or item involving or being used by more than one component of the Department of Defense (a) the component in the Office of the Secretary of Defense which assumes or is expressly designated to exercise overall cognizance or (b) the Department of Defense component which is expressly designated to serve as the executive or administrative agent for development and administration of the particular effort shall be responsible for assuring the issuance of an appropriate classification guide for the particular system, program, project, or item.

§ 159.203–2 Other multiservice interest cases.

The Assistant Secretary of Defense (Comptroller) shall develop, in coordination with the designated senior official (§§ 159.1302–1, 159.1302–2) of each interested Department of Defense component, and issue appropriate classification guides covering:

(a) General subject matters which will be involved in any individual systems or equipments and for which it is deemed essential to establish proper bases for uniform, consistent classification assignments.

(b) Any system, program, project, or item of multiservice interest not covered in § 159.203–1.

§ 159.203–3 Research, development, test and evaluation programs.

Each system and equipment development program which involves Research, Development, Test and Evaluation (R.D.T. & E.) of technical information shall be supported by a program security classification guide which is both meaningful and timely. For all active programs of this kind, the following rules apply:

(a) For each such program covered by an approved Development Concept Paper (DCP) or Program Memorandum (PM), initial basic security classification guidance shall be developed and submitted with the proposed DCP or PM to the Director, Defense Research and Engineering, for approval of the proposed security classifications applicable to technical characteristics of the system or equipment. A detailed security classification guide shall be developed and issued in accordance with the policies and procedures established by this part as nearly contemporaneously as practicable with the granting of approval of the DCP or PM.

(b) A recommended master security classification guide for each such program falling below the DCP or PM threshold shall be approved at the level of the Assistant Secretary (R. & D.) of the Military Departments, the Assistant to the Chairman, Joint Chiefs of Staff, or the Deputy Directors of the Defense Agencies, or their respective designees.

§ 159.203–4 Project phases.

Whenever feasible, classification guides shall cover, phase by phase, the transition from research through development, test, and evaluation, procurement, production, service use, and obsolescence, with changes made in assigned classifications which are appropriate to changing sensitivity of the information involved. Classifications shall be specific as to the system or item concerned.

§ 159.203–5 Review of classification guides.

Classification guides shall be reviewed by the originator for currency and accuracy not less often than once each year. Changes shall be issued promptly to all holders. If no changes are made, the originator shall place on the record copy of the guide a notation, signed by an appropriate official, attesting to the fact of the review and the date thereof.

§ 159.203–6 Sufficiency of classification guides.

Classification guides must be sufficiently detailed to identify the critical items of information which require classification and yet sufficiently flexible to assure accurate classification of documentation and other material developed at various levels and during different stages of the program or project. It is particularly important that such guides not result in stagnation and overclassification through automatic application of their content.

§ 159.203–7 Distribution of guides to office, Secretary of Defense.

Except as determined by the Secretary of Defense for certain categories of information, a copy of each classification guide and changes thereto shall be sent to the Directorate for Security Review, Office, Assistant Secretary of Defense (Public Affairs) and to the Information Security Division, Office, Deputy Assistant Secretary of Defense (Security Policy), Office, Assistant Secretary of Defense (Comptroller).

RESOLUTION OF CONFLICTS

§ 159.204 General.

When two or more offices, headquarters, or activities disagree concerning a classification, declassification, or regrading action, the disagreement must be resolved promptly. Normally, mutual consideration by the offices, headquarters, or activities concerned of the arguments for and against classification will provide adequate basis for reaching agreement.

§ 159.204–1 Procedures.

If agreement cannot be reached at the operating level, the matter shall be referred for decision to the lowest superior common to the disagreeing parties. If agreement cannot be reached at the major command (or equivalent) level, the matter shall be referred for decision to the headquarters office having overall classification management responsibilities for the component. To avoid undue delay, that office shall also be advised, on an information basis, of any disagreement at any echelon if it appears that prompt resolution if not likely. This will permit the headquarters to consider direct action to hasten resolution.

§ 159.204–2 Final decision.

Disagreements between Department of Defense component headquarters, if not resolved promptly, shall be referred to the Deputy Assistant Secretary of Defense (Security Policy) (DASD(SP)) for resolution. If appropriate, DASD(SP) may refer the question to the DOD Information Security Advisory Board (§ 159.1301–2) for action.

§ 159.204–3 Timing.

Action at each level of consideration on any disagrement on a classification, declassification, or regrading problem shall be completed as soon as possible but within thirty (30) days. Failure to reach decision within thirty (30) days shall be cause for referral to the next higher echelon.

OBTAINING CLASSIFICATION EVALUATIONS

§ 159.205 Tentative classification.

If a person not authorized to classify originates or develops information which he believes should be safeguarded he shall:

(a) Safeguard the information in the manner prescribed for the intended classification.

(b) Mark the information (or cover sheet) with a tentative classification (e.g., "TENTATIVE CONFIDENTIAL").

(c) Forward the material to an appropriate classifying authority for evaluation and decision. If such authority is not readily identifiable, the material should be forwarded to a headquarters activity of a Department of Defense component, to the headquarters office having overall classification management responsibilities for a Department of Defense component or to the Deputy Assistant Secretary of Defense (Security Policy) (DASD(SP)).

(d) In an emergency requiring immediate communication of the information, after taking the action prescribed by paragraphs (a) and (b) of this section, transmit the information and then proceed in accordance with paragraph (c) of this section.

Upon decision by the classifying authority, the tentative marking shall be removed. If a classification has been assigned, appropriate markings shall be applied as prescribed by this part.

PRIVATE INFORMATION

§ 159.206 General.

Although only official information may be classified, there are some circumstances in which information not meeting the definition in § 159.102–13 may warrant protection in the interest of national security.

§ 159.206–1 Patent Secrecy Act.

The Patent Secrecy Act of 1952 (35 U.S.C. 181–188) provides that the Secretary of Defense, among others, may determine that disclosure of an invention by granting of a patent would be detrimental to national security. DOD Directive 5535.2, reference § 159.100(y), delegates to the Secretaries of the Army, Navy, and Air Force the authority to make such determinations on behalf of the Secretary of Defense. When such determination is made, the Commissioner of Patents on request of the DOD representative takes specified actions concerning grant of a patent and protection of the information. A patent application on which a secrecy order has been imposed shall be handled as follows within the Department of Defense:

(a) If the patent application contains official information which warrants classification, it shall be assigned a classification and be marked and safeguarded accordingly. In addition, a cover sheet with wording as in § 159.206–1(b) below, shall be attached.

(b) If the patent application does not contain official information which warrants classification, the following procedures shall be followed:

(1) A cover sheet (or cover letter for transmittal) shall be placed on the application with substantially the following language:

The attached material contains information on which secrecy orders have been issued by the United States Patent Office after determination that disclosure would be detrimental to national security (Patent Secrecy Act of 1952, 35 U.S.C. 181–188). Its transmission or revelation in any manner to an unauthorized person is prohibited by law. Handle as though classified: *Confidential* (or such other classification as would have been assigned had the patent application been official information).

(2) The information shall be withheld from public release; its dissemination within the Department of Defense shall be controlled; the applicant shall be instructed not to disclose it to any unauthorized person; and the patent application (or other document incorporating the protected information) shall be safeguarded in manner prescribed for equivalent classified material.

(c) If filing of a patent application with a foreign government is approved under provisions of the Act of 1952 and agreements on interchange of patent information for defense purposes, the copies of the patent application prepared for foreign registration (but only those copies) shall be marked at the bottom of each page as follows:

Withheld under the Patent Secrecy Act of 1952 (35 U.S.C. 181–188). Handle as: *Confidential* (or such other level as has been determined).

§ 159.206–2 Independent research and development.

(a) The product of independent research and development shall not be classified unless the product incorporates classified information to which the person or the company was given prior access.

(b) Independent research and development may be Government sponsored, or may be a purely private, unsponsored effort. Government sponsored independent research and development may be done by a person who or company which previously was given, classification is not permissible unless the Government first acquires a proprietary interest.

(c) In cases in which no prior access was given but the person or company conducting the independent research or development believes that protection may be warranted in the interest of national security, he should safeguard the information in accordance with § 159.205 and submit it to an appropriate Department of Defense element for evaluation. The Department of Defense element receiving such a request for evaluation shall make or obtain a determination whether a classification would be assigned if the information were official. If the determination is negative, the originator shall be advised that the information is unclassified. If the determination is affirmative, the Department of Defense element shall make or obtain a determination whether an official proprietary interest in the research and development will be acquired. If such an interest is acquired, the information shall be assigned proper classification. If no such interest is acquired, the originator shall be informed that there is no basis for classification and the tentative classification shall be canceled.

§ 159.206–3 Other private information.

In any other instance, for example, an unsolicited bid, in which a firm, organization, or individual submits to the Government private information for determination of classification, the steps specified in § 159.205 shall be taken.

UPGRADING

§ 159.207 Raising to a higher level of classification.

Upgrading classified information to a higher level than previously determined is permitted only when it is determined by the upgrading authority that:

(a) All holders of the information are authorized access to the higher classification category;

(b) All holders of the information can be promptly notified of the upgrading; and

(c) Any dissemination to holders not authorized access to the higher classification category can be neutralized through retrieval.

§ 159.207–1 Classification of information previously determined to be unclassified.

Unclassified information, once communicated as such, is permitted to be classified only when the classifying authority makes the same determination described for upgrading in § 159.207 and, in addition, determines that control of the information has not been lost by such communication and can still be prevented from being lost.

§ 159.207–2 Information released to secondary distribution centers.

No attempt shall be made to classify information previously determined to be unclassified which is contained in documents released to secondary distribution centers, such as the Defense Documentation Center, unless it is determined that no secondary distribution has been made and can still be prevented. The provision of § 159.207–1 apply to this kind of material.

§ 159.207–3 Notification.

Notification of upgrading or the classification of information previously determined to be unclassified shall not be given to holders from whom retrieval is accomplished or cannot be accomplished.

INDUSTRIAL OPERATIONS

§ 159.208 Classification in industrial operations.

Classification in industrial operations shall be based strictly on security classification guidance furnished by the Government. Industrial management does not make original classification determinations but applies the classification decisions of the contracting authority with respect to information and material developed, produced or handled by the contracting facility itself. Industrial management shall designate persons who shall have the responsibility for assuring that Government security classification guidance is applied accurately and uniformly. Numbers of persons authorized to determine the proper classifications to be applied in accordance with the Government guidance shall be limited to the minimum consistent with operational requirements.

Subpart—Downgrading and Declassification

GENERAL PROVISIONS

§ 159.300 Downgrading and declassification determinations.

When a classification determination is made, it is necessary to determine how long the classification shall last in accordance with the policy expressed in § 159.103–1. Classified information and material shall be downgraded and declassified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in §§ 159.104–159.104–3, and the classification principles, criteria and considerations set forth in §§ 159.202–159.202–15.

§ 159.300–1 Priority consideration of earliest possible date or event.

The individual exercising original classifying authority shall, to the maximum extent practicable, predetermine at the time of origination, dates or events on which downgrading and declassification shall occur. These dates or events shall be as early as the national security will permit, and shall be in accordance with the limits of the dates of the General Declassification Schedule as set forth in § 159.301, below, only if earlier dates cannot be predetermined.

§ 159.300–2 Dates or events carried forward.

Downgrading and declassification dates or events under § 159.300–1, above, or dates scheduled under the General Declassification Schedule (§ 159.301), below, shall be carried forward and applied whenever the classified information is incorporated in later documents or other material.

GENERAL DECLASSIFICATION SCHEDULE

§ 159.301 Automatic downgrading and declassification.

Classified information and material, unless downgraded or declassified earlier under the provisions of § 159.300–1 or exempted from the General Declassification Schedule under § 159.302–1, below, shall be assigned a date or event on which downgrading and declassification shall occur in accordance with the prescribed limits of the General Declassification Schedule outlined below:

(a) *Top Secret.* Information or material originally classified Top Secret shall be automatically downgraded to Secret at the end of the second full calendar year following the year in which it was originated, downgraded to Confidential at the end of the fourth full calendar year following the year in which it was originated and declassified at the end of the 10th full calendar year following the year in which it was originated. For example, a document classified Top Secret on June 1, 1972 will automatically be downgraded to Secret on December 31, 1974, downgraded to Confidential on December 31, 1976 and declassified on December 31, 1982.

(b) *Secret.* Information and material originally classified Secret shall be automatically downgraded to Confidential at the end of the second full calendar year following the year in which it was originated and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified Confidential shall be automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

§ 159.301–1 Retroactive application.

Information or material classified before June 1, 1972 shall be treated as follows:

(a) When marked as Group 4 under Executive Order 10501, as amended, it shall be subject to the General Declassification Schedule (§ 159.301). However, the fact that under the preceding sentence, Group 4 information or material is being declassified in advance of originally scheduled dates shall not prevent it being redesignated as falling within an exempt category as provided for in § 159.302–1 below. Unless exempted, these advanced declassifications will take effect beginning December 31, 1972. Such exemption may be made only if action is taken in time for notification thereof to be received by all holders of the document prior to the advanced downgrading or declassification date established under the General Declassification Schedule.

(b) Information or material marked as Group 1, 2, or 3 under Executive Order 10501, as amended, or other information or material not group-marked under Executive Order 10501, shall be excluded from (not "exempted" from) the General Declassification Schedule. However, it shall be subject to the same conditions and criteria that apply to classified information and material created after June 1, 1972, as set forth in §§ 159.303–159.304–3.

§ 159.301–2 Redesignating material as exempted.

If an original classifier at any time determines that information or material falls within one of the four exempt categories described in § 159.302–1, below, the fact that such information or material was previously placed under the General Declassification Schedule (159.301) or marked for earlier declassification (159.300–1, 159.301–1), shall not prevent it being redesignated as falling within an exempt category. This determination shall be based on a finding either that the original downgrading and declassification determination was in error, or that the material or information, due to a change in circumstances, falls within one of the four exempt categories. Upon such redesignation, notice shall be promptly given to all holders of such information. Such redesignation may be made only when all recipients of the information can be notified prior to the scheduled date for declassification. Redesignation shall preserve the level of classification in effect at the time of redesignation, subject, however to § 159.300, above, and §§ 159.303–159.304–3, below.

EXEMPTIONS FROM GENERAL DECLASSIFICATION SCHEDULE

§ 159.302 General provisions.

Certain classified information or material may warrant some degree of protection against unauthorized disclosure for a period exceeding that provided in the General Declassification Schedule in §§ 159.301–159.301–2, above. An official authorized to exercise original Top Secret classification authority may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case, the original Top Secret classification authority shall specify in writing on the material or by means of written policy direction issued in advance, the exemption category being claimed and, unless impossible, shall specify a date or event for automatic declassification of the information involved. The head of each component shall establish procedures to assure that original Top Secret classification authorities limit the use of this exemption authority to the absolute minimum consistent with national security requirements. When a document or other material is being prepared and an exemption determination is based upon a classification guide or on a source document, the classifier's (see § 159.201) retained records shall be maintained in such manner as to enable the identification of the source(s) of the exemption(s) used. (See also § 159.200)

§ 159.302–1 Exemption categories.

(a) Exemptions from the General Declassification Schedule are strictly limited to information or material in the following categories (numbered according to section 5(B), Executive Order 11652):

(1) Furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Disclosing a system, plan, installation, project, or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Disclosure would place a person in immediate jeopardy.

MANDATORY REVIEW OF MATERIAL OVER 10 YEARS OLD

§ 159.303 Material covered.

All classified information and material originated after June 1, 1972, which is exempted under § 159.302–1 from the General Declassification Schedule shall, upon request, be subject to a mandatory classification review by the originating DOD component at any time after the expiration of 10 years from the date of origin.

§ 159.303–1 Processing requirements.

Requests for review of the classification of information or material exempted from the General Declassification Schedule (§§ 159.302–159.302–1) shall be processed promptly, subject to the following:

(a) A U.S. Government department or agency or a member of the public has requested review.

(b) The request is in writing and describes the record with sufficient particularity to enable the component to identify it. Whenever a request is deficient in the description of the record sought, the requester should be asked to provide additional identifying information.

(c) The record can be obtained with only a reasonable amount of effort. What is "reasonable" depends on the amount of records sought, their location and accessibility, and the time, effort and related costs required to identify and compile them. Before denying a request on the grounds that it is unduly burdensome, the requester should be asked to limit his

request to records that are reasonably obtainable.

(d) If, after taking the alternative action prescribed by paragraph (b) or (c) of this section, the request does not describe the records sought with sufficient particularity, or the record cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why his request cannot be granted.

§ 159.303–2 Submission of requests for review.

Requests for review for downgrading and declassification shall be submitted directly to the Chief, Records Management Branch, Office, Assistant Secretary of Defense (Comptroller), The Pentagon, Washington, D.C. 20301.

§ 159.303–3 Action on requests for review.

The office which first acts upon a request for review for declassification shall immediately acknowledge receipt of such request in writing. The following procedures shall apply:

(a) Such office shall make a determination within thirty (30) days of receipt or shall explain to the requester the reasons why further time is necessary.

(b) If at the end of sixty (60) days from receipt of the request for review no determination has been made, the requester may appeal through appropriate channels to the DOD Classification Review Committee (§ 159.1301–1).

(c) Information or material which no longer qualifies for exemption under §§ 159.302 and 159.302–1 shall be declassified and processed for release to the requester in accordance with DOD Directive 5230.9, reference § 159.100(d).

(d) Information or material continuing to qualify for an exemption under § 159.302–1 shall be marked in accordance with §§ 159.400–159.405–4, and, unless impossible, a date for automatic declassification shall be set. The requester shall be so notified and, whenever possible, he shall be provided with a brief statement as to why the requested information or material cannot be declassified. This notice shall also advise him of his right to appeal to the DOD Classification Review Committee (§ 159.1301–1).

(e) Fair and equitable fees for copies of available records shall be established pursuant to DOD Instruction 7230.7, reference § 159.100(s).

ACTION ON 30-YEAR-OLD MATERIAL

§ 159.303–4 Burden of proof.

In considering appeals from denials of declassification requests, the DOD and Military Department Classification Review Committees shall place the burden of proof, for administrative purposes, on the originating DOD component to show that continued classification is warranted.

§ 159.304 Material Covered.

All classified information or material which is 30 years old or more over which the Department of Defense exercises exclusive or final original classification authority is subject to declassification under the conditions stated below.

§ 159.304–1 Systematic Review.

All information and material in the custody of the National Archives and Records Service which was classified before the effective date of this part and more than 30 years old is to be systematically reviewed for declassification by the Archivist of the United States. The Archivist shall refer to the Department of Defense such material as has been indicated by the Department of Defense to require further review. In the case of 30-year-old information in the custody of the components of the Department of Defense, such review will be accomplished by the custodians of the respective components. The Department of Defense component having primary jurisdiction over the material received from the Archivist or in its custody, shall proceed as follows:

(a) Classified information or material over which the Department of Defense exercises exclusive or final original classification authority and which is to be kept protected in accordance with § 159.304–2 shall be listed by the responsible custodian and referred through established channels to the Secretary of Defense or the Secretary of the appropriate Military Department depending upon which of these officials has current security classification jurisdiction over it. This listing shall:

(1) Identify the information or material involved, including its date of origin and field of interest;

(2) Recommend continued classification beyond 30 years to a specific future event which is certain to happen, or for a fixed period of time to terminate on December 31 of a given future year; and

(3) State that the reason for the recommended continued classification is that earlier disclosure would place an identified or identifiable person in immediate jeopardy, or that, because of reasons which are stated, continued classification is essential to the national security.

(b) The Secretary of Defense or the Secretary of the Military Department concerned shall personally consider and determine which category of material shall be kept classified and the period of continued classification. The Archivist shall be so notified.

(c) The provisions of § 159.400–159.405–5 of this part govern the remarking of all documents or other materials determined, under the provisions of these §§ 159.304–159.304–3 to be declassified.

§ 159.304–2 Exceptions to automatic declassification.

All information and material classified after the effective date of this part, whether or not declassification has been requested, becomes automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified categories of information or material which the head of the originating Military Department or the Secretary of Defense for other components personally determines in writing at that time to require continued protection against unauthorized disclosure because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the aforementioned officials shall also specify the period of continued classification.

§ 159.304–3 Requests for review.

A request by a member of the public or by a U.S. Government department or agency to review classified information more than 30 years old shall be referred directly to the Archivist of the United States for action in accordance with § 159.304–1. Such requests shall be processed within the Department of Defense in the manner prescribed in § 159.303–3. The provisions of § 159.303–4 are also applicable to these cases.

TRANSFER OF CLASSIFIED DOCUMENTS OR MATERIAL

§ 159.305 Material officially transferred.

In the case of classified information or material transferred by or pursuant to statute or executive order from one department or agency to another for the latter's use and as part of its official files or property, as distinguished from transfers merely for purpose of storage, the receiving department or agency shall be deemed to be the classifying authority over such material for purposes of downgrading and declassification.

§ 159.305–1 Material not officially transferred.

When any department or agency of the Department of Defense has in its possession any classified information or material originated in an agency outside the Department of Defense which has since become defunct and whose files and other property have not been officially transferred to another department or agency within the meaning of § 159.305, or when it is impossible for the possessing department or agency to identify the originating agency, and a review of the material indicates that it should be downgraded or declassified, the said possessing department or agency shall have the power to declassify or downgrade such material. If it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained, the possessing department or agency shall not exercise the power conferred upon it by this section, except with the consent of the other department or agency, until 30 days after it has notified such other department or agency of the nature of the material and of its intention to downgrade or declassify the same. During such 30-day period the other department or agency may, if it so desires, express its objections to downgrading or declassifying the particular material, but the power to make the ultimate decision shall reside in the possessing department or agency.

§ 159.305–2 Transfer for storage or retirement.

Insofar as practicable, classified documents shall be reviewed to determine whether or not they can be downgraded or declassified prior to being forwarded to records centers or to the National Archives for storage. When this is done, certification of classification review shall be entered on or affixed to the transmittal form. Records Transmittal and Receipt Form, SF 135, or similar document, and appropriate changes reflecting downgrading or declassification shall be indicated as necessary on each document.

MISCELLANEOUS ACTIONS

§ 159.306 Notification of changes in classification or of declassification.

When classified material which has been properly marked with specific dates or events under § 159.403–1 (a) or (b), is remarked in accordance therewith, it is not necessary to issue notices of those remarkings to any holders. However, when downgrading or declassification action is determined by appropriate authority to occur earlier than originally scheduled, or upgrading is involved, or the exemption status is changed, the action official or the custodian of the records shall promptly notify all addressees to whom the information or material was originally transmitted. Notification shall include the specific action to be taken, the authority therefor and the effective date. Upon receipt of notification of change in classification or exemption status or of declassification, recipients shall effect the proper changes and shall notify addressees to whom in turn they have transmitted the classified information or material.

§ 159.306–1 Presidential papers.

The Archivist of the United States has the authority to review and declassify information and material which has been classified by a President, his White House staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a presidential library. Such declassification shall only be undertaken in accord with:

(a) The terms of the donor's deed of gift.

(b) Consultations with the departments having a primary subject matter interest.

(c) The provisions of this subpart.

§ 159.306–2 General review requirements.

All information and material classified after June 1, 1972, which is determined under applicable records administration standards to be of sufficient historical or other value to warrant preservation as permanent records, shall be systematically reviewed on a timely basis by the appropriate custodian for the purpose of making such information and material publicly available if, after consideration under §§ 159.300–159.302–1, it is declassified. Whenever possible, without destroying the integrity of the files, such information and material should be set aside for public release on request.

Subpart—Marking

GENERAL PROVISIONS

§ 159.400 Designations.

Subject to the special situation set forth in § 159.400–2, information determined to require classification protection against unauthorized disclosure under the provisions of this part shall be so designated, generally in the form of physical marking. Designation by means other than physical marking may be used but should be followed by physical marking as soon as practicable.

§ 159.400–1 Purpose of designation.

Designation by physical marking, notation, or other means, serves to inform and to warn the holder of the classification of the information involved, the degree of protection against unauthorized disclosure which is required for that particular level of classification, and to facilitate downgrading and declassification actions.

§ 159.400–2 Exception.

No article which, in whole or in part, has appeared in newspapers, magazines, or elsewhere in the public domain, nor any copy thereof, which is being reviewed and evaluated by any component of the Department of Defense to compare its content with official information which is being safeguarded in the Department of Defense by security classification, may be marked on its face with any security classification, control or other kind of restrictive marking. The results of the review and evaluation shall be separate from the article in question.

§ 159.400–3 Documents or other material in general.

Each classified document shall, in addition to other markings required by this subpart, show on its face its overall classification and whether it is subject to or exempt from scheduled downgrading and declassification (see §§ 159.300–159.306–2). It shall also show the office of origin, the identity of the classifier (see § 159.201), the date of preparation and classification, and, except as provided herein, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Other material shall, whenever practicable, show the foregoing information on the material itself or in related or accompanying documentation.

§ 159.400–4 Wholly unclassified material.

Normally, unclassified material shall not be marked or stamped "Unclassified" unless it is essential to convey to a recipient of such material that it has been examined specifically with a view to imposing a security classification and has been determined not to require classification.

CLASSIFICATION MARKINGS ON DOCUMENTS

§ 159.401 Overall and page marking.

Except as otherwise specified for working papers (see § 159.702–4) the overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom on the outside of the front cover (if any), on the title page (if any), on the first page, on the back page and on the outside of the back cover (if any). Each interior page of a document shall be conspicuously marked or stamped at the top and bottom with the highest classification of information appearing thereon, including the designation "Unclassified" when appropriate. In special situations, such as the printing by the Government Printing Office or similar facility of classified documents comprised of many pages (studies, manuscripts, reports, manuals, etc.), the overall classification assigned to the document may be shown on each page: *Provided,* That the classified and unclassified parts of that page are clearly identified to the recipient by paragraph marking or by other means set forth in the document. In such cases, paragraph marking or other means shall take precedence over page marking.

§ 159.401–1 Marking components.

In some complex documents, its major components are likely to be used separately. In such instances, each major component shall be marked as a separate document. Examples include: (a) Each annex, appendix, or similar component of a plan, program, or operations order; (b) attachments and appendices to a memorandum or letter; and (c) each major part or chapter of a report.

§ 159.401–2 Paragraph marking.

Each section, part, paragraph, or subparagraph, when there are differences in their classifications, shall be marked to show the level of classification, if any, or that such section, part, paragraph or subparagraph is unclassified. If, in an exceptional situation, such marking is determined to be impracticable, the document shall contain a description sufficient to identify the exact information which is classified and the categories to which it is assigned. When different items of information in one paragraph require different classifications, but segregation into separate paragraphs would destroy continuity or context, the highest classification required for any item shall be applied to that paragraph. In marking paragraphs, sections, or parts, the appropriate marking shall be placed immediately preceding and to the left of the parts involved. If desired, the symbols (TS) for Top Secret, (S) for Secret, (C) for Confidential, and (U) for Unclassified, may be used. When appropriate, the symbols (RD) for Restricted Data and (FRD) for Formerly Restricted Data shall be added.

§ 159.401–3 Compilations.

In cases where the use of a classification is required to protect a compilation of information under § 159.202–14, the overall classification assigned to such documents shall be placed conspicuously at the top and bottom of each page and on the outside of the front and back covers, if any, and an explanation of the

basis for the assigned classification shall be included on the document or in its text.

§ 159.401–4 Subjects, titles, abstracts and index terms.

Subjects, titles, abstracts, and index terms shall be selected, if possible, so as not to require classification. However, a classified subject, title, abstract or index term may be used when necessary to convey meaning. To show its classified or unclassified status, each such item shall be marked with the appropriate symbol, (TS), (S), (C), or (U) placed immediately following and to the right of the item. When appropriate, the symbols (RD) and (FRD) shall be added.

§ 159.401–5 File, folder or group of documents.

Files, folders or groups of documents shall be conspicuously marked to assure their protection to a degree as high as that of the most highly classified document included therein. Documents separated from the file, folder, or group shall be marked as prescribed herein for individual documents.

§ 159.401–6 Transmittal documents.

A transmittal document, including indorsements and comments when such indorsements and comments are added to the basic communication, shall carry on its face a prominent notation as to the highest classification of the information transmitted by it, and a legend showing the classification, if any, of the transmitted document, indorsement or comment standing alone. For example, in the case of an unclassified document which transmits as an attachment a classified document, it shall bear a notation substantially as follows: Regraded Unclassified When Separated From Classified Enclosure."

§ 159.401–7 Electrically transmitted messages.

Classified messages shall be marked at the top and bottom with the assigned classification and paragraph marked in the manner prescribed above for documents. In the case of a message printed by an automated system, these classification markings may be applied by that system, provided that the markings so applied are made clearly distinguishable on the face of the document from the printed text. In addition, the first item of information in the text of a classified message will be the overall classification of the message. The last line or paragraph of the message shall show either:

(a) "ADS (*date*)" Advanced Declassification Schedule for date or event earlier than GDS;

(b) "GDS (*date*)" for GDS cases; or

(c) "XGDS (*number of exemption category*)" for exemption cases.

Dates shall be the last two digits of the declassification year.

§ 159.401–8 Translations.

Translations of United States classified information into a language other than English shall be marked to show the United States as the country of origin and shall be marked with the appropriate classification markings under §§ 159.401–159.401–8 and the foreign language equivalent thereof. [See Appendix B (§ 159.1500–1).]

CLASSIFICATION MARKINGS ON MATERIAL OTHER THAN DOCUMENTS

§ 159.402 General provisions.

The assigned security classification shall be conspicuously stamped, printed, written, painted, or affixed by means of a tag, sticker, decal, or similar device, on classified material other than documents, and on their containers, if possible. If the material or container cannot be marked, written notification of the security classification shall be furnished to recipients. Following are the procedures for marking the security classification on various kinds of material other than ordinary documents. These are not all inclusive and may vary somewhat with organizational and operational requirements and with the physical characteristics of the material.

§ 159.402–1 Charts, maps and drawings.

Charts, maps, and drawings shall bear the appropriate classification marking under the legend, title block or scale, in such manner as to differentiate between the classification assigned to the document as a whole and the classification assigned to the legend or title. The markings also shall be inscribed at the top and bottom of each such document. Where the customary method of folding or rolling charts, maps, or drawings would cover the classification markings, additional classification markings shall be placed so as to be clearly visible when the document is folded or rolled.

§ 159.402–2 Photographs, films and recordings.

Photographs, films, including negatives, recordings, and their containers shall be marked in such a manner as to assure that any recipient or viewer will know that classified information of a specified level of classification is involved.

(a) *Photographs.* Negatives and positives shall be marked with the appropriate classification markings and kept in containers bearing conspicuous classification markings. Roll negatives shall be marked at the beginning and end of each strip and single negatives marked with the appropriate classification. Each photographic print shall be marked with the appropriate classification at the top and bottom of the face side and where practicable the center of the reverse side. Caution must be exercised when using self-processing film or paper to photograph or reproduce classified material, since the negative of the last exposure may remain in the camera. All component parts of the last exposure shall be removed and destroyed as classified waste or the camera shall be protected as classified material.

(b) *Transparencies and slides.* The applicable classification markings shall be shown on each transparency or slide. Other applicable markings, when practical, shall be shown on the border, holder, or frame.

(c) *Motion picture films.* Classified motion picture films shall be marked at the beginning and end of each reel by titles bearing the appropriate classification. Such markings shall be visible when projected on the screen. Reels shall be kept in containers bearing conspicuous classification markings.

(d) *Recordings.* Recordings, sound or electronic, shall contain at the beginning and end a statement of the assigned classification which will provide adequate assurance that any listener or receiver will know that classified information of a specified level of classification is involved. The recording material and containers also shall be marked conspicuously.

§ 159.402–3 Decks of accounting machine cards.

A deck of classified accounting machine cards need not be marked individually but may be marked as one single classified document so long as they remain within the deck. A deck so marked shall be stored, transmitted, destroyed, and otherwise handled in the manner prescribed for other classified documents of the same classification. An additional card shall be added, however, to identify the contents of the deck and the highest classification involved. Cards removed for separate processing or use, and not immediately returned to the deck after processing, shall be protected to prevent compromise of any classified information contained therein, and for this purpose shall be marked individually as prescribed herein for an individual ordinary document.

§ 159.402–4 Electrical machine and automatic data processing tapes.

Electrical machine and Automatic Data Processing (ADP) tapes shall bear external markings and internal notations sufficient to assure that any recipient of the tapes, or of the classified information contained therein when reproduced by any medium, will know that classified information of a specific classification category is involved.

§ 159.402–5 Pages of ADP listings.

Classification markings on pages of listings produced by ADP equipment may be applied by the equipment provided that the markings so applied are made clearly distinguishable on the face of the document from the printed text. As a minimum, such listings shall be marked with the security classification on the first and last pages of the listing and on the front and back covers, if any, as prescribed in § 159.401 for ordinary documents.

§ 159.402–6 Material for training purposes.

Classified material used for training purposes shall be transmitted, stored, and otherwise safeguarded as prescribed in this Part. In utilizing unclassified documents (material) for training purposes, the unclassified documents (material)

shall be marked "(insert classification) for training, otherwise unclassified."

§ 159.402–7 Miscellaneous material.

Material, such as rejects, typewriter ribbons, carbons, and similar items, developed in connection with the handling, processing, production, and utilization of classified information shall be handled in a manner which assures adequate protection of the classified information involved and that destruction is effected at the earliest practicable moment. Unless a requirement exists to retain this type material for a specific purpose, there is no need to mark, stamp, or otherwise indicate that the recorded information is classified.

DOWNGRADING AND DECLASSIFICATION MARKINGS

§ 159.403 Regrading and declassification markings.

Whenever classified material is downgraded, declassified, or upgraded, the material shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action and the identity of the person or activity taking the action. In addition, except for upgrading (see § 159.403–2), all the old classification markings shall be cancelled, if practicable, but in any event on the first page, and the new classification markings, if any, shall be substituted. In cases where classified material is downgraded or declassified under the provisions of this part and is marked as prescribed in § 159.403–1, such markings shall suffice to meet the aforementioned requirements.

§ 159.403–1 Downgrading and declassification.

At the time of origination, each classified document or other material, shall, in addition to the security classification markings prescribed by § 159.401–159.402–7 above and the foregoing provision of § 159.403, be marked to reflect downgrading and declassification instructions in accordance with the following:

(a) *Action by specific date or event.* When specific dates or events for downgrading and declassification, with emphasis on declassification without intervening downgrading, are predetermined under the provisions of § 159.300–2 (earlier than those limits of the General Declassification Schedule), documents and other material shall be conspicuously marked to show clearly to the recipient of such material when downgrading and declassification action is intended by the originator to occur. For this purpose, the following marking shall be stamped or otherwise printed at the bottom of the first page of title page or shall be placed conspicuously in a similarly prominent place immediately below, or adjacent to and in conjunction with the classification marking:

Downgrade to:
Secret on (_____)
effective date
Confidential on (_____)
effective date
Declassify on (_____)
effective date
Classified by _____ (see (e) below)

The effective date in this case may fall on any specific day or month of a calendar year or, in its place, could be inserted a specific event such as, for example, "Declassify on Date of Rollout."

(b) *General declassification schedule.* When specific dates for downgrading and declassification are assigned in accordance with the provisions of §§ 159.301–159–301–2 hereof (General Declassification Schedule), documents and other material shall be marked in the following manner:

Classified by_____. Subject to General Declassification Schedule of Executive Order 11652, automatically downgraded at 2-year intervals, declassified on December 31, (year).

(c) *Exemptions from General Declassification Schedule.* Unless marked RD or FRD (§§ 159.405–1 and 159.405–2), documents or material containing information which is exempt from the General Declassification Schedule under the provisions of §§ 159.306—159.306–2, hereof, shall be marked for downgrading and declassification purposes in the following manner:

Classified by _____ (see (e) below). Exempt from General Declassification Schedule of Executive Order 11652, exemption category _____, declassify on _____
(effective date)

As prescribed by the aforementioned in §§ 159.306—159.306–2, unless impossible, a specific date or event for automatic declassification of the exempted material shall be specified. Such effective dates shall reflect December 31 of a particular calendar year as the anniversary date for declassification for insertion in the space provided. The exemption category to be identified in the above prescribed marking is the citation of the applicable number of the exemption category listed in § 159.302–1. For example, a classified document originated on June 1, 1972, containing information which is exempt from the General Declassification Schedule by appropriate authority because it discloses a particular intelligence collection method but which the originator believes could be declassified 15 years from date of origin, would be marked as follows:

Classified by _____ (see (e) below). Exempt from General Declassification Schedule of Executive Order 11652, exemption category (2), declassify on December 31, 1987.

(d) If the classifier inadvertently fails to mark a document with one of the foregoing markings, the recipient shall take appropriate action to mark it properly, either by direct action in accordance with §§ 159.300–159.306–2 or by referral to the originator.

(e) In the space for showing the classifier, to the maximum extent possible, the original classification authority shall be shown, including, if applicable, the controlling classification guide. Otherwise, the person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier (§ 159.201).

(f) The Restricted Data (§ 159.405–1) and Formerly Restricted Data (§ 159.405–2) markings are, in themselves, evidence of exemption and the exemption stamp paragraph (c) of this section above, is not to be used when such markings appear on the material.

(g) When a document or material includes classified information, either newly developed or extracted from one or more sources, which is designated under more than one of the provisions of paragraph (b), or (c), of this section, above, the single downgrading and declassification marking assigned the document or material shall be the most restrictive of those which are applicable to the information contained therein. When more than one category of exempted material is involved, the single downgrading and declassification marking shall reflect the identification of such categories.

§ 159.403–2 Upgrading.

When material is upgraded under the provisions of this part, it shall be promptly and conspicuously marked as prescribed in § 159.403, except that in all such cases the old classification markings shall be cancelled and the new substituted therefor.

§ 159.403–3 Limited use of posted notice for large quantities of material.

When the volume of material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading and declassification notices to the storage unit in lieu of the remarking otherwise required by § 159.403. Each notice shall specify the authority for the downgrading or declassification action, the date of the action and the storage unit to which it applies. When individual documents or other materials are withdrawn from storage units, they shall be promptly remarked with the proper security classification category, or the classification marking canceled, if declassified, on at least the first page. However, when documents or other material subject to a downgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other material is transferred from one place to another the transfer may be made without remarking if the notice is attached to or remains with each shipment.

REMARKING OLD MATERIAL

§ 159.404 Remarking material already marked Group 4.

When a document or other material classified before June 1, 1972, and marked with a Group 4 marking under E.O. 10501, as amended, is removed from file or storage for any purpose, it shall be remarked in accordance with § 159.403–1 (b) or (c), as appropriate to the determination made under § 159.301–1.

§ 159.404–1 Remarking material already marked Group 1, 2, or 3, or not group marked.

When a document or other material classified before June 1, 1972, and marked

with a Group 1, 2, or 3 marking or not group marked at all under Executive Order 10501, as amended, is removed from file or storage for any purpose, it shall be marked "Excluded from General Declassification Schedule." Such marking does not relieve the original classification authority of the information involved from immediately downgrading or declassifying the information in accordance with § 159.300, or from setting specific future dates or events for automatic downgrading or declassification in accordance with § 159.300–1, or from placing the information under the General Declassification Schedule in accordance with § 159.301, or from referring the information to an appropriate Top Secret classification authority for consideration for exemption in accordance with § 159.302. If any of these actions is taken by the original classification authority, the document or other material shall be appropriately marked in accordance with § 159.403–1 and appropriate notice given in accordance with § 159.306.

ADDITIONAL WARNING NOTICES

§ 159.405 General provisions.

When applicable, in addition to the foregoing marking requirements, one or more of the following warning notices shall be prominently displayed on classified documents or materials. When display of warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

§ 159.405–1 Restricted data.

For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended:

RESTRICTED DATA

This material contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

§ 159.405–2 Formerly Restricted Data.

Except when the Restricted Data notice is used, for classified information or material containing Formerly Restricted Data, as defined in section 142.d, Atomic Energy Act of 1954, as amended:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to administrative and criminal sanctions. Handle as Restricted Data in foreign dissemination. Section 144b, Atomic Energy Act, 1954.

§ 159.405–3 Information other than restricted Data or formerly Restricted Data.

For classified information or material other than described in § 159.405–1 or § 159.405–2 furnished to persons outside the Executive Branch:

NATIONAL SECURITY INFORMATION

Unauthorized disclosure subject to criminal sanctions.

§ 159.405–4 Sensitive intelligence information.

For classified information or material containing sensitive intelligence information, the following warning notice shall be used in addition to and in conjunction with those prescribed in § 159.405–1, § 159.405–2, or § 159.405–3, as appropriate:

WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED

Subpart—Safekeeping and Storage

STORAGE AND STORAGE EQUIPMENT

§ 159.500 General policy.

Classified information or material may be used, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. The exact nature of security requirements will depend on a thorough security evaluation of local conditions and circumstances. They must permit the accomplishment of essential functions while affording selected items of information various reasonable degrees of security with a minimum of calculated risk. The requirements specified in this part represent the minimum acceptable standards.

§ 159.500–1 Standards for storage equipment.

The General Services Administration establishes and publishes uniform standards, specifications, and supply schedules for containers, vault doors, alarm systems, and associated security devices suitable for the storage and protection of classified information and material throughout the Government. The head of a DOD component may establish for the use of such component equal or more stringent standards. Security filing cabinets conforming to Federal Specifications bear a Test Certification Label on the locking drawer attesting to the security capabilities of the container and lock (on some early cabinets, the label was located on the wall inside the locking drawer compartment). Such cabinets manufactured after February 1962 will also be marked "General Services Administration Approved Security Container" on the outside of the top drawer.

§ 159.500–2 Storage of classified material.

Whenever classified material is not under the personal control and observation of an authorized person, it will be guarded or stored in a locked security container as prescribed below:

(a) *Top Secret.* Top Secret material shall be stored in:

(1) A safe or safe-type steel file container having a three-position dial-type combination lock as approved by the General Services Administration, or a Class A vault which meets the standards established by the head of the DOD component concerned.

(2) An alarmed area, provided such facilities are adjudged by the local responsible official to afford protection equal to or better than that prescribed in subparagraph (1) of this paragraph. When an alarmed area is utilized for the storage of Top Secret material, the physical barrier must be adequate to prevent surreptitious removal of the material, and observation when observation would result in the compromise of the material. The physical barrier must be such that forcible attack is required which will give evidence of attempted entry into the area or room. The alarm system must as a minimum provide immediate notice to a security force of attempted surreptitious forced entry.

(b) *Secret and Confidential.* Secret and Confidential material may be stored in the manner authorized for Top Secret; or, in a Class B vault, or a vault-type room, strong room, or secure storage room, which has been approved in accordance with the standards prescribed by the head of the DOD component; or, until phased out, in containers described in paragraph (d) of this section.

(c) *Specialized Security Equipment—*(1) *One-drawer container.* One-drawer, GSA-approved security containers are used primarily for storage of classified information in mobile communication assemblages or transportable tactical assemblages. Such containers must be securely fastened or guarded to prevent the theft of the container. Mobile facilities which contain one-drawer security containers housing classified material will be afforded the protection necessary to prevent the theft of the entire mobile unit.

(2) *Field safe.* A field safe has been approved by GSA and listed on the Federal Supply Schedule. Similar precautions as those prescribed for the one-drawer container should be taken to prevent theft.

(3) *Map and Plan file.* A GSA-approved Map and Plan file has been developed for storage of odd-sized items such as computer cards, maps, and charts.

(d) *Non-GSA approved containers.* In addition to the security containers meeting GSA standards, Secret and Confidential material may be stored in a steel filing cabinet having a built-in, three-position, dial-type combination lock; or, as a last resort, an existent steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA-approved changeable combination padlock.

§ 159.500–3 Procurement and phase-in of new storage equipment.

(a) *Preliminary survey:* New security storage equipment shall not be procured until:

(1) A current physical survey has been made of on-hand security equipment and classified records, and

(2) It has been determined, based upon the survey, that it is not feasible to use available equipment or to retire, return, declassify, or destroy a sufficient volume of records currently on hand to make the needed security storage space available.

(b) Purchase: Whenever new security storage equipment is procured, it will be from the security containers listed on the Federal Supply Schedule, GSA. Further acquisition of security containers not on the Federal Supply Schedule, or modification of cabinets to bar-padlock type as storage equipment for classified information and material is prohibited. Exceptions may be made by heads of components, with notification to the Assistant Secretary of Defense (Comptroller).

(c) Nothing in this subpart shall be construed to modify existing Federal Supply Class Management Assignments made under DOD Directive 5030.47, "National Supply System," May 27, 1971.

§ 159.500–4 Designations and Combinations.

(a) Numbering and designating storage facilities: Each vault or container used for the storage of classified material shall be designated but not externally marked as to the level of classified material authorized to be stored therein. Each vault or container shall be assigned a number or symbol for identification purposes. The number or symbol shall be affixed in a conspicuous location on the outside of the vault or container.

(b) Combinations to containers:

(1) *Changing.* Combinations to security containers will be changed only by individuals having an appropriate security clearance. Combinations will be changed under any of the following circumstances:

(i) When placed in use after procurement.

(ii) Whenever an individual knowing the combination is transferred, discharged, or reassigned from the element to which the security container is assigned, or the security clearance of an individual knowing the combination is reduced, suspended, or revoked by proper authority.

(iii) When the combination or record of combination has been compromised or possibly compromised or the security container has been discovered unlocked and unattended.

(iv) At least annually unless more frequent change is dictated by the type material stored therein.

(2) *Classifying combinations.* The combination of a vault or container used for the storage of classified material shall be assigned a security classification equal to the highest category of the classified material authorized to be stored therein.

(3) *Recording Storage Facility Data.* A record shall be maintained for each vault, secure room, or container used for storing classified material, showing location, the names, home addresses, and home telephone numbers of persons having knowledge of the combinations to such storage facilities.

(4) *Dissemination.* Knowledge of or access to the combination of a vault or container used for the storage of classified material shall be given only to those appropriately cleared persons who are authorized access to the classified information stored therein and who must have it for efficient operation.

(5) *Repair.* Uncleared personnel will not be permitted to change combinations or to neutralize lockouts on security containers utilized for the storage of classified material. This service will be provided by personnel specifically trained in approved methods of combination changing, maintenance, neutralization of lockouts, and repair of any perforations affected during neutralization of lockouts.

Custodial Precautions

§ 159.501 Responsibilities of custodians.

(a) Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

(b) Classified information or material shall not be removed from officially designated office or working areas for the purpose of working on such material during off duty hours or for other purposes involving personal convenience. The head of a component or his designee may authorize removal from such working areas in cases of compelling necessity, provided that appropriate component regulations applicable to such situations insure maximum protection possible under the circumstances.

§ 159.501–1 Care during working hours.

Each individual shall take every precaution to prevent access to classified information by unauthorized persons. Among the precautions to be followed are:

(a) Classified documents, when removed from storage for working purposes shall be kept under constant surveillance and face down or covered when not in use.

(b) Preliminary drafts, carbon sheets, plates, stencils, stenographic notes, worksheets, and all similar items containing classified information shall be either (1) destroyed by the person responsible for their preparation immediately after they have served their purposes, or (2) shall be given the same classification and safeguarded in the same manner as the classified material produced from them.

(c) Typewriter ribbons used in typing classified material shall be protected in all respects in the same manner as the highest level of classification for which they have been so used. When destruction is necessary, it shall be accomplished in the manner prescribed for classified working papers, of the same classification. After the upper and lower sections have been cycled through the machine five times in the course of regular typing all fabric ribbons will be treated as unclassified. Carbon, plastic, typewriter ribbons and carbon paper which have been used in the production of classified information shall be destroyed in the manner prescribed for working papers of the same classification after initial usage. As an exception to the foregoing, any typewriter ribbon which remains substantially stationary in the typewriter until it has received at least five consecutive impressions shall be treated as unclassified.

§ 159.501–2 Care after working hours.

All heads of activities shall require a system of security checks at the close of each working day to insure that the classified material held by the activity is properly protected. They shall require the custodians of the classified material to make an inspection which shall insure, as a minimum, that:

(a) All classified material is stored in the manner prescribed.

(b) Burn bags are properly stored or destroyed.

(c) The contents of wastebaskets which contain classified material have been properly stored or destroyed.

(d) Classified shorthand notes, carbon paper, carbon paper typewriter ribbons, rough drafts, and similar papers have been properly stored or destroyed. As a matter of routine during the day, such items shall be placed in burn bags immediately after they have served their purpose.

§ 159.501–3 Care of working spaces.

The following precautions shall be taken to provide protection of classified information.

(a) Necessary safeguards shall be afforded to buildings and areas in which classified material is kept.

(b) Precautions shall be taken to minimize any danger of inadvertent disclosure of classified information in conversations. Classified information shall not be discussed in public places.

(c) Conference rooms and areas designated for classified discussions are places where extraordinary precautions are necessary; they shall be subject to frequent and thorough inspections, within the capability of the activity, for unauthorized wiring and possible concealment of listening devices in such places as behind pictures, radiators, under desks, etc.

§ 159.501–4 Emergency planning.

(a) Plans shall be developed for the protection, removal, or destruction of classified material in case of natural disaster, civil disturbance, or enemy action. Such plans shall establish detailed procedures and responsibilities for the protection of classified material so that it does not fall into unauthorized hands in event of an emergency; and shall indicate what material is to be guarded, removed, or destroyed. An adequate emergency plan should provide for: Guarding the material; removing the classified material from the area; complete destruction of the classified material on a phased, priority basis; or appropriate combinations of those actions.

(b) Emergency plans shall provide for the protection of classified information in a manner which will minimize the risk of loss of life or injury to personnel. The immediate placement of a perimeter guard force around the affected area, preinstructed and trained to prevent the removal of classified material by unauthorized personnel, is an acceptable means of protecting classified material and reducing casualty risk.

§ 159.501–5 Telecommunications conversations.

Classified information shall not be discussed in telephone conversations except as may be authorized over approved secure communication circuits.

Subpart—Compromise of Classified Information

§ 159.600 Policy.

The compromise of classified information presents a threat to the national security. The seriousness of that threat must be determined and appropriate measures taken to negate or minimize the adverse effect of such a compromise. Simultaneously, action must be taken to regain custody of the material and to identify and correct the cause of the compromise.

§ 159.600–1 Cryptographic Information.

The procedures for handling compromise of cryptographic information are set forth in National Security Agency KAG–ID. [reference § 159.100(w)]

§ 159.600–2 Responsibility of discoverer.

Any person who has knowledge of the actual or possible compromise of classified information shall immediately report the circumstances to a designated responsible official.

§ 159.600–3 Preliminary inquiry.

The designated responsible official will initiate a preliminary inquiry to determine the circumstances surrounding the actual or possible compromise. The preliminary inquiry should establish either:

(a) That a loss of classified information or material did not occur or that the circumstances indicate the possibility that classified information was compromised as being remote. Expenditure of time and effort on unproductive investigation should be avoided. If the responsible official determines that the probability of compromise is remote, and that no significant activity security weakness is found and disciplinary action is not appropriate, the report of initial inquiry will suffice, or

(b) That an actual compromise did occur or that the possibility of compromise cannot be discounted. Upon this determination, the responsible official will:

(1) Report the circumstances to appropriate authority as specified in component instructions.

(2) If the responsible official is the originator, he shall take the action prescribed in § 159.600–6, below.

(3) If other than the originator, notify the originator of the known details of the compromise to include identification of the classified information or material involved. In the event the originator is unknown, notification will be sent to the office specified in component instructions.

§ 159.600–4 Investigation.

If it is determined that further investigation is warranted, such investigation will include the following:

(a) Complete identification of each item of classified information involved.

(b) A thorough search for the classified material.

(c) Fixing responsibility for the compromise.

(d) A statement that compromise or that compromise is probable, or

(e) Statement that compromise did not occur or that possibility of compromise is considered remote.

§ 159.600–5 Responsibility of authority ordering investigation.

(a) The report of investigation shall be reviewed to insure compliance with this part and instructions issued by component.

(b) The adequacy of recommendations contained in the report of investigation shall be reviewed for remedial, administrative or disciplinary action and the report of investigation forwarded with recommendations through supervisory channels.

§ 159.600–6 Responsibility of originator.

The originator or an official higher in the originator's supervisory chain will, upon receipt of notification of loss or possible compromise of classified information, take action as prescribed in § 159.202–13.

§ 159.600–7 Espionage and deliberate compromise.

Cases of espionage and deliberate compromise shall be reported in accordance with DOD Instruction 5200.22 reference § 159.100(f), DOD Directive 5210.50 reference § 159.100(g), and implementing issuances.

§ 159.600–8 Unauthorized absentees.

When an individual who has had access to classified material is on unauthorized absence, appropriate inquiry, depending upon the length of absence and the degree of sensitivity of the classified information involved, shall be conducted to determine if there are any indications that his activities, behavior, or associations may be inimical to the interests of national security. In those cases where there are such indications a report shall be made to the component counterintelligence organization.

Subpart—Access, Dissemination and Accountability

Access

§ 159.700 Policy.

The dissemination of classified information orally, in writing, or by any other means, shall be limited to those persons whose official duties require knowledge or possession thereof. No one has a right to have access to classified information solely by virtue of rank or position. The final responsibility for determining whether a person's official duties require that he possess or have access to any element or item of classified information, and whether he has been granted the appropriate security clearance by proper authority, rests upon each individual who has authorized possession, knowledge, or control of the information involved and not upon the prospective recipient. These principles are equally applicable if the prospective recipient is an organizational entity, including commands, other Federal agencies, defense contractors, foreign governments, and others.

§ 159.700–1 Determination of trustworthiness.

Except as provided in § 159.700–6 below, no person shall be given access to classified information or material unless a determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, will be based on a background or full field investigation for Top Secret and on a National Agency Check or Entrance NAC for Secret and Confidential, and in accordance with the standards and criteria of DOD Directives 5210.8 reference § 159.100(h) and 5220.6 reference § 159.100(t), as appropriate. Interim clearances may be granted in accordance with the provisions of DOD Directive 5210.8. However, United States citizen employees of contractors with classified Government contracts may be granted Confidential clearances by the contractor under policies established by the Assistant Secretary of Defense (comptroller) and published by the Defense Supply Agency (DSA) under the Industrial Security Program, except that such limited clearances are not valid for Restricted Data, cryptographic information, communications intelligence, or NATO, SEATO, and CENTO information classified Confidential.

§ 159.700–2 Continuous evaluation of eligibility.

All DOD elements shall initiate a program for a periodic evaluation of clearance for classified information with special emphasis directed to the clearance criteria cited in DOD Directives 5210.8 and 5220.6. This program should include close coordination with security, personnel, medical, legal, and other supervisory officials to assure that all pertinent information available within a command is evaluated when an individual is cleared or is being considered for clearance.

§ 159.700–3 Determination of need-to-know.

In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of that need shall be made as provided in § 159.700, above.

§ 159.700–4 Administrative withdrawal of security clearance.

Each component and the DSA for the Industrial Security Program, shall make provision for administratively withdrawing the security clearance of any persons for whom there is no foreseeable need for access to classified information or material in connection with the performance of their official duties or contractual obligations of contractors. Likewise, when a person no longer needs access to a particular security classifica-

tion category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action will be without prejudice to the person's eligibility for a future security clearance.

§ 159.700–5 Revocation of security clearance for cause.

Security clearances may be revoked for cause when it is determined in consonance with due process of law that any person holding such clearance is no longer reliable or trustworthy.

§ 159.700–6 Access by persons outside the executive branch.

Classified information may be made available to persons or agencies outside the executive branch provided that such classified information is necessary for their performance of a function from which the Government will derive a benefit or advantage, and that such release is not prohibited by the originating department or agency. Heads of DOD components shall designate appropriate officials who shall determine, prior to the release of classified information under this provision, the propriety of such action in the interest of national security and assurance of the recipient's trustworthiness and need-to-know.

(a) *Congress.* Access to classified information or material by Congress, its committees, Members, and staff representatives shall be in accordance with DOD Directive 5400.4 reference § 159.100 (i). Additionally, any DOD individual testifying before a congressional committee in executive session in relation to a classified matter, shall obtain the assurance of committee representatives that everyone present has a security clearance commensurate with the highest classification of the information that may possibly come up for discussion. Members of Congress, by virtue of their elected positions, are not investigated or cleared by the Department of Defense.

(b) *Government Printing Office (GPO).* In order to utilize efficiently the most appropriate Government facilities for large scale reproduction of DOD printed materials, material of all classifications may be processed by the GPO, which protects the information in accordance with Department of Defense-Government Printing Office Agreement, dated June 26, 1956.

(c) *Representatives of the General Accounting Office (GAO).* Representatives of the GAO may be granted access to classified information originated by and in possession of the DOD when such information is relevant to the performance of the statutory responsibilities of that office, as set forth in DOD Directive 7650.1 reference § 159.100(j). Officials of the GAO, as designated in Appendix C (§ 159.1500–2), are authorized to certify security clearances, and the bases therefor. (The GAO has adopted DOD standards for granting personnel security clearances.) Certifications will be made by these officials pursuant to arrangements with the DOD component concerned. Personal recognition or presentation of the official credential cards issued by the GAO to its personnel are acceptable for identification purposes.

(d) *Industrial, Educational and Commercial Entities.* Bidders, contractors, grantees, educational, scientific or industrial organizations, may be determined to be eligible for access to classified information only when it is essential to the accomplishment of a function which is necessary in the interest of promoting the national security, provided the individuals are appropriately cleared in accordance with the DOD Industrial Security Regulation; DOD 5220.22–R.

(e) *Historical Researchers.* Persons outside the executive branch who are engaged in historical research projects, may be authorized access to classified information or material, provided that:

(1) It is determined that such access is clearly consistent with the interests of national security.

(2) The material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The person agrees to safeguard the information and to authorize a review of his notes and manuscript for determination that no classified information is contained therein by signing a statement entitled "Conditions Governing Access to Official Records for Historical Research Purposes."

(4) An authorization for access shall be valid for a period of 2 years from the date of issuance and may be renewed under regulations of the issuing component.

(f) *Former Presidential Appointees.* Persons who previously occupied policy-making positions to which they were appointed by the President, may be authorized access to classified information or material which they originated, reviewed, signed, or received, or which was addressed to them while in public office. DOD components may authorize access to such material if it is determined to be consistent with the interests of national security and the person agrees to safeguard the information and to authorize a review of his notes for determination that no classified information is contained therein, and that no classified information will be further disseminated or published. The former Government officials referred to herein do not include the White House Staff, or Presidential special committees or commissions.

(g) *Foreign Nationals, Foreign Governments and International Organizations.* Classified information may be released:

(1) To foreign nationals, foreign governments and international organizations, only when specifically authorized under the provisions of the National Disclosure Policy and reference § 159.100(l), and

(2) To immigrant aliens who reside and intend to reside permanently in the United States, only at the Confidential and Secret level, in the performance of official duties: *Provided,* That they have been granted a security clearance of the required level based upon a favorable background investigation.

With regard to Top Secret information, immigrant aliens may be granted a Limited Access authorization for a specific contract or program based upon the personal and written determination by the Head of the DOD component concerned that such access is essential to meet Government requirements and that the individual is reliable and trustworthy in accordance with reference § 159.100(t). A report of each such determination shall be furnished currently to the Assistant Secretary of Defense (Comptroller). As an exception to the foregoing, those immigrant aliens who hold Top Secret clearances as of June 1, 1972, remain eligible to hold such clearances until July 1, 1974.

§ 159.700–7 Emergency situations.

Where time is of the essence and it is in the interest of national security to do so, Heads of DOD components may authorize persons outside the Federal Government other than those enumerated in § 159.700–6, to have access to classified information or material on a finding that the person to receive the information is trustworthy for the purpose of accomplishing the national security objective and that the intended recipient can and will safeguard the information from unauthorized disclosure sufficiently to accomplish the purposes for which it was given him.

§ 159.700–8 Access required by other executive branch investigative and law enforcement agents.

(a) Under normal procedures investigative agents of other departments or agencies obtain access to DOD information, whether classified or not, through established liaison or investigative channels.

(b) In special cases when the urgent or delicate nature of a Federal Bureau of Investigation or Secret Service investigation precludes advance coordination with and obtaining prior approval of the Head of the DOD installation or activity, such photographs or other records as are required for the instant investigative case may be made by the FBI or Secret Service agents involved. However, these photographs or other records must be protected as required for the classification of the material concerned, and copies provided to the Head of the installation or activity or higher authority for review pursuant to 18 U.S.C. section 795, to determine security classification or the need to sanitize for open publication.

DISSEMINATION

§ 159.701 Policy.

Components shall establish procedures for the dissemination of classified material originated or received by that organization, subject to specific rules established by higher authority and by this part. As a further limit on dissemination, the originating official or activity may prescribe specific restrictions on a classified document or in its text when security considerations make it necessary.

§ 159.701–1 Restraints on special access requirements.

Special requirements with respect to access, distribution and protection of classified information shall require prior specific approval in accordance with §§ 159.1200–159.1200–3.

§ 159.701–2 Material originating in a non-DOD department or agency.

Except under rules established by the Secretary of Defense, classified material originating in a non-DOD Department or Agency shall not be disseminated outside the DOD without the consent of the originating Department or Agency, except as otherwise provided by section 102 of the National Security Act, 61 Stat. 495, 50 U.S.C. section 403 which authorizes the Director of Central Intelligence to correlate and disseminate intelligence within the Government.

§ 159.701–3 Intelligence material.

Dissemination of intelligence material shall be in accordance with the provisions of DOD Directive 5200.15, reference § 159.100(m). Material bearing the notation "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED," shall not be disseminated in any manner outside authorized channels without the permission of the originating Department or Agency and an assessment by the appropriate intelligence office as to the risk to the national security and to the intelligence sources and methods involved.

§ 159.701–4 Restricted data and formerly restricted data.

Material bearing the warning notices prescribed in §§ 159.400—159.400–4 shall not be disseminated outside authorized channels without the permission of the originator. The policy and procedures governing access to and dissemination of Restricted Data by DOD personnel are specified in DOD Directive 5210.2, reference § 159.100(n).

§ 159.701–5 NATO, CENTO, SEATO information.

Classified information originated by NATO, CENTO, or SEATO shall be safeguarded in accordance with DOD Instructions C–5210.21, C–5210.35, and C–5210.54 (references § 159.100 (o), (p), and (q), respectively).

§ 159.701–6 Cryptographic information.

Cryptographic information shall be disseminated in accordance with NSA KAG I D (reference § 159.100(w)).

§ 159.701–7 Dissemination of top secret material.

(a) Top Secret material, originated within DOD, may not be disseminated outside the DOD, without the consent of the originating Department or Agency, or higher authority.

(b) Top Secret material, whenever severable from lower classified portions, shall be accorded separate distribution on a more selective basis than the balance of the information.

§ 159.701–8 Dissemination of secret and confidential material.

Classified material other than Top Secret, originating within DOD, may be disseminated within the executive branch, unless specifically prohibited by the originator.

§ 159.701–9 Restraint on reproduction.

Those portions of documents and material which contain Top Secret information shall not be reproduced without the consent of the originating activity or higher authority. All other classified material shall be reproduced sparingly, in the minimum number of copies, and any stated prohibition against reproduction shall be strictly observed. The following restrictive measures apply to reproduction equipment and to the reproduction of classified material:

(a) The number of copies of documents containing classified information shall be kept to a minimum to decrease the risk of compromise and reduce storage costs.

(b) Officials, by position title, authorized to approve the reproduction of Top Secret and Secret material shall be designated. These designated officials will carefully review the need for reproductions with a view toward minimizing classified reproductions consistent with operational requirements and reproduction prohibitions imposed by the material originator or higher authority.

(c) Specific reproduction equipment shall be designated for the reproduction of classified material. Reproduction of classified material shall be restricted to equipment so designated. Rules to minimize human error, inherent in the reproduction of classified material, will be posted on or near the designated equipment.

(d) Appropriate warning notices prohibiting reproduction of classified material shall be posted on equipment used only for the reproduction of unclassified material.

(e) If the designated equipment involves reproduction processes using extremely sensitive reproduction paper, such paper shall be used and stored in a manner to preclude image transfer of classified information.

§ 159.701–10 Code words, nicknames and exercise terms.

The DOD policy and procedures governing the use of code words, nicknames and exercise terms are set forth in Appendix E (§ 159.1500–4).

§ 159.701–11 Scientific and technical meetings.

Security measures for use of classified information in scientific and technical meetings are prescribed in DOD Directive 5200.12, reference § 159.100(z).

ACCOUNTABILITY AND CONTROL

§ 159.702 Top Secret.

All elements of the DOD shall establish the following procedures:

(a) Inventories: Top Secret documents shall be physically sighted, or accounted for by examination of written evidence of proper disposition, such as, certificate of destruction, transfer receipt, etc., at least once annually, and more frequently where circumstances warrant. At the same time, each Top Secret document account shall be audited to determine completeness and accuracy. As an exception, repositories, libraries, or activities which store large volumes of classified material, may limit their annual inventory to all documents and material to which access has been given in the past 12 months, and 10 percent of the remaining inventory.

(b) Accountability: Top Secret accountability registers shall be maintained within offices. In addition, the originating and any subsequent offices shall keep records on each document copy that contain the document title, name, and date, of all individuals, including stenographic and clerical personnel, who, during such originator's or holder's period of custody, are afforded access to information contained in the documents. This does not include individuals within an activity who may have had access to containers in which Top Secret information is stored, or who regularly administratively handle a large volume of such information. Such personnel are considered identifiable by roster as having had access to such type information on any given date.

(c) Control officers: Top Secret control officers, and alternates, shall be designated within offices to be responsible for receiving, maintaining accountability registers of, and dispatching Top Secret documents. Such individuals shall be selected on the basis of experience and reliability, and shall have appropriate security clearances.

(d) Reproduction and retention: Top Secret documents shall be kept to the minimum consistent with current requirements. In this connection, provision shall be made for responsible custodians to destroy nonrecord Top Secret documents, as soon as their intended purpose has been served. Top Secret record documents which cannot be destroyed shall be reevaluated and, when appropriate, downgraded, declassified, or retired to designated records centers.

(e) Receipts: Top Secret material will be accounted for by a continuous chain of receipts.

(f) Each copy of a Top Secret document will be numbered serially for accounting purposes.

§ 159.702–1 Secret.

Administrative procedures shall be established for controlling Secret material (a) originated or received by an element; (b) distributed or routed to components of, or activities within, the element; and (c) disposed of by the element by transfer or custody or destruction. The control system for Secret must be determined by the practical balance of security and operating efficiency.

§ 159.702–2 Confidential.

Administrative provisions shall be established which will provide protection

for Confidential information received, originated, transmitted or stored by an element.

§ 159.702–3 Receipt of classified material.

Procedures shall be developed within DOD activities to insure that all incoming mail, bulk shipments, and material delivered by messenger are adequately protected until a determination is made as to whether classified material is contained therein. Screening points, determined by the activity mail handling procedures, shall be established to insure that incoming classified material is properly controlled and that access to classified material is limited to cleared personnel.

§ 159.702–4 Working papers.

Working papers are documents, including drafts, photographs, etc., accumulated or created to assist in the formulation and preparation of a finished document. Working papers containing classified information will be:

(a) Dated when created.

(b) Marked with the highest classification of any information contained in the document.

(c) Protected in accordance with the classification assigned.

(d) Destroyed when they have served their purpose.

(e) Accounted for or controlled in the same manner prescribed for a finished document of comparable classification when:

(1) Released by the originator to an agency or activity outside a headquarters or when transmitted through message center channels within a headquarters.

(2) Placed permanently in a file system.

(3) Retained more than 180 days from date of origin.

(f) All working papers shall be marked with downgrading or exemption instruction when placed in permanent files.

§ 159.702–5 Data index system.

The NSC Directive, reference § 159.100 (c), requires each Department to undertake to establish a data index system covering classified information and material in selected categories as having sufficient historical or other value appropriate for preservation. The DOD is considering the identification of such categories of information and material and the feasibility of various systems for the reporting and indexing such information.

Subpart—Transmission

METHODS OF TRANSMISSION OR TRANSPORTATION

§ 159.800 Policy.

When classified material must be physically moved, any means of transportation may be used, with the following exceptions:

(a) Classified material may not be carried or shipped on commercial passenger aircraft moving to or from the area encompassed by the 48 contiguous States and the District of Columbia, Alaska, and Canada, or from place to place outside such area; as an exception to the above rule, commercial passenger aircraft are authorized for carriage or shipment of classified material on flights between such area and Hawaii and Puerto Rico or wholly within Hawaii and Puerto Rico.

(b) Foreign carriers may not be utilized unless the U.S. escort has physical control of the classified material.

(c) Classified material shall not be carried across national borders unless the responsible official concerned determines that customs, postal, or other inspections will not be made.

§ 159.800–1 Top Secret.

Transmission of Top Secret material shall be effected by only:

(a) Military personnel and U.S. Government civilian employees who have been cleared for access to Top Secret information. Personnel whose primary duties involve the transmitting or escorting of Top Secret material shall be specifically designated in writing.

(b) Within U.S. boundaries only, Department of Defense contractor employees who have been specifically designated and approved in accordance with the Department of Defense Industrial Security Manual.

(c) Armed Forces Courier Service (ARFCOS).

(d) Accompanied State Department diplomatic pouch.

(e) Electrical means when encrypted in a cryptosystem approved for encryption of Top Secret information.

(f) Electrical means in unencrypted form over protected wireline distribution systems.

§ 159.800–2 Secret.

Transmission of Secret material may be effected by:

(a) Any of the means approved for the transmission of Top Secret, except that Secret material other than that containing Cryptological information may be introduced into the ARFCOS only when the control of such material cannot otherwise be maintained in U.S. custody.

(b) Appropriately cleared military and civilian personnel.

(c) Appropriately cleared contractor employees for transmission within the 48 contiguous States and the District of Columbia or wholly within Alaska, Hawaii, and Puerto Rico. In other areas, contractor employees may transmit Secret material, within national borders only, when it is necessary for the contractor employee in the performance of the contract, project, or mission to remove the classified information from a U.S. Government activity. The material must remain in the employee's physical possession and custody at all times and not be stored outside of a U.S. Government activity.

(d) U.S. registered mail, provided the material does not at any time pass through a foreign postal system (except Canadian as noted in paragraph (e) of this section). Registered mail in the custody of a transporting agency of the U.S. Army, Navy, Air Force or civilian postal system is considered within U.S. Government control unless the transporting agent is foreign controlled or operated.

(e) U.S. registered mail (registered by a U.S. postal facility) with registered mail receipt between U.S. Government and/or Canadian Government installations in the United States and Canada.

(f) Within U.S. boundaries only, qualified carriers authorized to transport Secret material via a protective security service (PSS) under the Department of Defense industrial security program. This method is authorized only when the size, bulk, weight, nature of the shipment, or escort considerations make the use of other methods impractical.

(g) Government carriers under escort of appropriately cleared personnel. Carriers included are Government vehicles, aircraft, ships of the U.S. Fleet or civil service manned U.S. Naval ships. Appropriately cleared operators of vehicles, officers of ships or pilots of aircraft who are U.S. citizens may be designated as escorts provided the control and surveillance of the carrier is maintained on a 24-hour basis. The escort shall protect the shipment at all times, through personal observation or authorized storage to prevent inspection, tampering, pilferage, or unauthorized access until delivery to the consignee. However, observation of the shipment is not required during the period it is stored in an aircraft or ship in connection with flight or sea transit, provided the shipment is loaded into a compartment which is not accessible to any unauthorized persons aboard, or loaded in specialized shipping containers, including closed cargo containers.

(h) Electrical means over approved communication circuits.

§ 159.800–3 Confidential.

Transmission of Confidential material may be effected by:

(a) Any means approved for the transmission of Secret material. However, U.S. registered mail shall be used for Confidential only where indicated in paragraph (b) of this section.

(b) U.S. certified or first-class mail within U.S. boundaries. U.S. registered mail shall be used for (1) Confidential material of NATO, SEATO, and CENTO; (2) FPO or APO addressees; and (3) other addressees when the originator is uncertain that their location is within the U.S. boundaries. Use of return postal receipts on a case-by-case basis is authorized.

(c) Within U.S. boundaries, commercial carriers which provide a security signature service (SSS), under the Department of Defense industrial security program. This method is authorized only when the size, bulk, weight, nature of the shipment, or escort considerations make the use of other methods impractical.

(d) In the custody of commanders or masters of ships of U.S. registry who are U.S. citizens. Confidential material shipped on ships of U.S. registry may not pass out of U.S. Government control. The commanders or masters must receipt for the cargo and agree to: (1) Deny access

to the Confidential material by unauthorized persons, including customs inspectors, with the understanding that Confidential cargo which would be subject to customs inspection will not be unloaded; and (2) maintain control of the cargo until a receipt is obtained from an authorized representative of the consignee.

(e) Alternative transmission of Confidential. The head of any component having authority to originally classify information or material as "Confidential" may, by rule or regulation provide alternate or additional methods affording at least an equal degree of security for the transmission of such material outside the department.

§ 159.800–4 Transmission of classified material to foreign governments.

(a) Subsequent to a determination by competent authority that classified material may be released to a foreign government, it shall be transmitted only:

(1) To an Embassy or other official agency of the recipient government which has extraterritorial status, or

(2) For on-loading aboard a ship, aircraft, or other carrier designated by the recipient government at the point of departure from the United States, its territories, or possessions, provided that at the time of delivery a duly authorized representative of the recipient government is present at the point of departure to accept delivery, to insure immediate loading, and to assume security responsibility for the classified material.

(b) U.S. classified material shall be transferred on a government-to-government basis by duly authorized representatives of each government, and shall not pass to a foreign government until a delivery receipt, to include a U.S. postal receipt where applicable, has been executed by a duly authorized representative of the recipient foreign government.

(c) Each contract, agreement, or arrangement which contemplates transfer of U.S. classified material to a foreign government within the United States, its territories, and possessions, shall designate a point of delivery in accordance with paragraphs (a)(1) or (a)(2) of this section. If delivery is to be made at a point described in paragraph (a)(2) of this section, the contract, agreement, or arrangement shall provide for U.S. Government storage, or storage by a cleared or certified forwarder or transshipper at or near the delivery point, so that the U.S. classified material may be temporarily stored in the event the carrier designated by the recipient foreign government is not available for loading. Any storage facility used or designated for this purpose must afford to the U.S. classified material the protection required by this part.

(d) If U.S. classified material is to be delivered to a foreign government within the recipient country, it shall be transmitted in accordance with this subpart. Unless the material is accompanied by a designated or approved courier or escort, it shall, on arrival in the recipient country, be delivered to a U.S. Government representative who shall arrange for transfer to a duly authorized representative of the recipient foreign government.

§ 159.800–5 Consignor-consignee responsibility for shipment of bulky material.

The consignor of a bulk shipment shall:

(a) Normally, select a carrier which will provide a single line service from the point of origin to destination, when such service is available.

(b) Ship packages weighing less than 200 pounds gross only in closed vehicles.

(c) Notify the consignee, and military transshipping activities, of the nature of the shipment (including level of classification), the means of shipment, the numbers of seals if used, and the anticipated time and date of arrival by separate communication at least 24 hours in advance of arrival of the shipment. (In the absence of other classified information, stating the level of classification of the shipment would not require classification of the advance notice). Advise the first military transshipping activity that, in the event the material does not move on the conveyance originally anticipated, the transshipping activity should so advise the consignee with information of firm transshipping date and estimated time of arrival. Upon receipt of the advance notice of a shipment of classified material, consignees and transshipping activities shall take appropriate steps to receive the classified shipment and to protect it upon arrival.

(d) Annotate the bills of lading to require the carrier to notify the consignor immediately, by the fastest means, if the shipment is unduly delayed en route. Such annotations shall not, under any circumstances, disclose the classified nature of the commodity.

(e) Require the consignee to advise the consignor of any shipment not received more than 48 hours after the estimated time of arrival furnished by the consignor or transshipping activity. Upon receipt of such notice, the consignor shall immediately trace the shipment. If there is evidence that the classified material was subjected to compromise, the procedures set forth in §§ 159.600–159.600–8 of this part for reporting compromises shall apply.

§ 159.800–6 Transmission of communications security (COMSEC) material.

Communications Security (COMSEC) material shall be transmitted in accordance with National Security Agency KAG–ID.

§ 159.800–7 Transmission of restricted data.

Restricted Data documents shall be transmitted in the same manner as other material of the same security classification. The transporting and handling of nuclear weapons or nuclear components shall be in accordance with applicable component directives.

Restrictions on Classified Material

§ 159.801 Personnel in a travel status.

Responsible officials shall permit personnel in a travel status to carry classified material only in exceptional situations and where hand carrying is not otherwise specifically prohibited. A determination shall be made in each instance that it is absolutely necessary for a traveler, in the performance of his official duties, to have classified information at his destination. When it is necessary in the performance of official travel duties, the following procedures shall apply:

(a) A determination shall be made to ascertain whether the necessary classified material is available at the destination of the traveler. If the material is available, no additional transmission shall be authorized.

(b) If the needed classified material is not available at the destination of the traveler, responsible officials shall, whenever possible, have the classified material transmitted to the activity being visited by authorized means.

(c) If it is impossible to comply with either paragraph (a) or (b) of this section, responsible officials may authorize appropriately cleared personnel to carry or transmit classified material on their persons between their duty station and the activity to be visited subject to the following conditions:

(1) The classified material shall be in the physical possession of the individual at all times if proper storage at a U.S. Government activity or appropriately cleared contractor facility (continental United States only) is not available. Classified material shall not be left in such places as locked automobiles, hotel rooms, hotel safes, train compartments, private residences, public lockers, etc.

(2) Classified material shall not be read, studied, displayed, or used in any manner in public conveyances or places.

(3) When classified material is carried in a private, public or Government conveyance, it shall not be stored in any detachable storage compartment such as automobile trailers, luggage racks, aircraft travel pods, or drop tanks.

(4) Written statements authorizing the transmission or carrying of classified material shall be provided by responsible officials to all individuals traveling outside the United States. This authorization statement, together with official travel orders, should ordinarily permit the individual to pass through any customs without the need for subjecting the classified material to inspection. If difficulty is encountered, the individual should refuse to disclose the classified material to customs inspection and should insist upon the assistance of the local U.S. military or State Department representatives at the port of entry or departure.

(5) A list of all classified material carried or transmitted by individuals traveling will be maintained by the command to which the individual is attached. Up-

on return of the traveler, all classified material shall be accounted for.

(6) All individuals authorized to carry or transmit classified material while in a travel status shall be fully informed of the provisions of these requirements prior to departure from their duty station.

§ 159.801–1 Travel on commercial passenger aircraft susceptible to hijacking.

(a) As a result of hijackings, close attention must be given to the necessity for travel by commercial passenger aircraft of personnel hand-carrying classified material and of personnel having knowledge of sensitive information.

(b) In the event that an individual is a passenger aboard a commercial passenger aircraft which is hijacked and landed in a foreign country, he shall conduct himself as follows:

(1) If identification is required and an individual is in uniform, he shall show his Armed Forces Identification Card. If in civilian clothes, he should show civilian identification initially; however, if asked directly if he is in the Armed Forces, he should not attempt to deny military affiliation.

(2) If questioned or interrogated in a foreign country, commonsense judgment shall be used in making any response, but personnel shall not under any circumstances reveal classified information.

(3) Upon return to U.S. control, official U.S. investigators may want to debrief detainees. Personnel should, therefore, observe and mentally note the methods and procedures used by the detainer during their stay in the foreign country.

(c) If, as the result of hijacking of an aircraft to a foreign country, classified material is compromised or subjected to compromise, or there are indications of attempts at foreign intelligence exploitation of personnel or material, appropriate security officials shall be notified immediately.

PREPARATION OF MATERIAL FOR TRANSMISSION OR SHIPMENT

§ 159.802 Envelopes or containers.

(a) Whenever classified information is transmitted, it shall be enclosed in two opaque sealed envelopes or similar wrappings where size permits, except as provided below.

(b) Whenever classified material is transmitted of a size not making it suitable for transmission as in paragraph (a) of this section, it shall be enclosed in two opaque sealed containers, such as boxes or heavy wrappings. So long as this requirement is observed, the materials may be wrapped, boxed, or crated, or a combination thereof.

(1) If the classified material is an internal component of a packageable item of equipment, the outside shell or body may be considered as the inner enclosure.

(2) If the classified material is an inaccessible internal component of a bulky item of equipment that is not reasonably packageable, such as a missile, the outside shell or body of the item may be considered as the outer enclosure provided the shell or body is not classified.

(3) If the classified material is an item of equipment that is not reasonably packageable and the shell or body is classified it shall be draped with an opaque covering that will conceal all classified features. Such coverings must be capable of being secured so as to prevent inadvertent exposure of the item.

(4) Specialized shipping containers including closed cargo transporters, may be used in lieu of the above packaging requirements. In such cases, the container may be considered the outer wrapping or cover.

(c) Material used for packaging shall be of such strength and durability as to provide security protection while in transit, to prevent items from breaking out of the container, and to facilitate the detection of any tampering with the container. The wrappings shall conceal all classified characteristics.

(d) Closed and locked compartments, vehicles, or cars shall be used for shipments of classified material except when another method is authorized by the consignor. In any event, individual packages weighing less than 200 pounds gross shall be shipped only in a closed vehicle.

(e) To minimize the possibility of compromise of classified material caused by improper or inadequate packaging thereof, responsible officials shall ensure that proper wrappings are used for mailable bulky packages. Activities should provide for the stocking of several sizes of cardboard containers, and corrugated paper. Bulky packages shall be sealed with kraft tape laminated with asphalt and containing rayon fibers (snake tape) or nylon sensitive tape. Responsible officials shall require the inspection of bulky packages to determine whether the material is suitable for mailing or whether it should be transmitted by other approved means.

§ 159.802–1 Addressing.

(a) Classified material shall be addressed to an official government activity or DOD contractor with a facility clearance and not to an individual. This is not intended, however, to prevent use of office code numbers or such phrases in the address as "Attention: Research Department," or similar aids in expediting internal routing, in addition to the organization address.

(b) Classified written material shall be folded or packed in such a manner that the text will not be in direct contact with the inner envelope or container. A receipt form shall be attached to or enclosed in the inner envelope or container for all Secret and Top Secret material. Confidential material will require a receipt only if the originator deems it necessary. The mailing of written materials of different classifications in a single package should be avoided, particularly the inclusion of Confidential and Unclassified with Secret material. However, when written materials of different classifications are transmitted in one package, they shall be wrapped in a single inner envelope or container and a receipt listing all classified material contained therein shall be attached or enclosed. The inner envelope or container shall be marked with the highest classification of the contents.

(c) The inner envelope or container shall show the address of the receiving activity, classification, including where appropriate the "Restricted Data" marking, and any applicable special instructions. It shall be carefully sealed to minimize the possibility of access without leaving evidence of tampering.

(d) An outer or single envelope or container shall show the complete and correct address and the return address of the sender. However, the address may be omitted from the outer enclosures for shipment in full truckload or carload lots.

(e) An outer cover or single envelope or container shall not bear a classification marking, a listing of the contents divulging classified information, or any other unusual data or marks which might invite special attention to the fact that the contents are classified.

(f) Care must be taken to ensure that classified material intended only for the United States elements of international staffs or other organizations is addressed specifically to those elements.

§ 159.802–2 Receipt systems.

(a) Top Secret material shall be transmitted under a continuous chain of receipts.

(b) Secret material shall be covered by a receipt between commands and other authorized addresses.

(c) Receipts for Confidential material are not required.

(d) Receipts shall be provided by the transmittor of the material and the forms shall be attached to the inner cover.

(1) Postcard receipt forms may be used.

(2) Receipt forms shall be unclassified and contain only such information as is necessary to identify the material being transmitted.

(3) Receipts shall be retained for at least 2 years.

(e) In those instances where a fly-leaf (page check) form is used with classified publications the postcard receipt will not be required.

§ 159.802–3 Exceptions.

Exceptions may be authorized to the requirements contained in this subpart by the head of the component concerned or his designee, provided the exception affords equal protection and accountability to that provided above.

Subpart—Disposal and Destruction

§ 159.900 Policy.

Documentary record material made or received by a DOD component in connection with the transaction of public business, and preserved as evidence of the organization, functions, policies, operations, decisions, procedures, or other activities of any department or agency of the Government, or because of the informational value of the data contained therein, may be disposed of or destroyed

only in accordance with DOD component record management regulations which conform to the Act of July 7, 1943, controlling the disposition of such material; c. 192, 57 Stat. 380, as amended (44 U.S.C. 366–380). Nonrecord classified material and other material of similar temporary nature, shall be destroyed as soon as their intended purpose has been served under procedures establishd by the head of the DOD component consistent with the following requirements.

§ 159.900–1 Methods of destruction.

Classified material shall be destroyed in the presence of an appropriate official by burning, melting, or chemical decomposition, pulping, pulverizing, shredding, or multilation sufficient to preclude recognition or reconstruction of the classified information, provided the head of the DOD component concerned, or his designee, has approved the method of destruction, except burning, as one which will preclude reconstruction of the material. The GSA Federal Supply Schedule lists some of the approved destruction devices.

§ 159.900–2 Records of destruction.

Records of destruction are required for Top Secret and Secret material and shall be dated and signed by two officials witnessing actual destruction unless the classified material has been placed in burn bags for central disposal. In that case, the destruction record shall be signed by the witnessing officials at the time the material is placed in the burn bags.

§ 159.900–3 Classified waste.

Waste material such as handwritten notes, carbon paper, typewriter ribbons, et cetera, which contains classified information must be protected in a manner to prevent unauthorized disclosure of the information. Classified waste material shall be destroyed as soon as it has served its intended purpose by one of the methods described in § 159.900–1, above, but a record of destruction and a witnessing official are not required.

Subpart—Security Education

§ 159.1000 Responsibility and purpose.

Heads of DOD components are responsible for establishing security education programs for their personnel, designed to carry out the purposes of Executive Order 11652 and its implementing National Security Council Directive. Such programs shall, among other things, stress the objective of classifying less information, declassifying more information, and protecting better that which requires protection, and shall stress appropriate balance between the need to release the maximum information appropriate under the Freedom of Information Act with the interest of the Government in protecting the national security.

§ 159.1000–1 Scope and principles.

The security education program shall include all personnel entrusted with classified information regardless of their position, rank, or grade. Each activity shall design its program to fit the particular requirements of the different groups of personnel who have access to classified information. Care must be exercised to assure that the program does not evolve into a perfunctory compliance with formal requirements without achieving the real goals of the program. The program shall be designed to:

(a) Advise personnel of the need for protecting classified information and the adverse effects to the national security resulting from compromise.

(b) Indoctrinate personnel fully in the principles, criteria, and procedures for the classification, downgrading, and declassification, including marking, of information as prescribed in §§ 159.100—159.405–4 and alert them to the strict prohibitions on improper use and abuses of the classification and declassification exemption systems.

(c) Familiarize personnel with the specific security requirements of their particular assignment.

(d) Inform personnel of the techniques employed by foreign intelligence activities in attempting to obtain classified information and of their responsibility for reporting such attempts.

(e) Advise personnel of the hazards involved and the strict prohibition against discussing classified information over the telephone or in such manner as to be intercepted by unauthorized persons.

(f) Advise personnel of the disciplinary actions that may result from violations of this part.

§ 159.1000–2 Indoctrination briefing.

Persons being assigned to duties requiring access to classified information shall be indoctrinated. This indoctrination shall as a minimum cover the elements outlined in § 159.1000–1.

§ 159.1000–3 Refresher briefings.

Positive programs shall be established to provide periodic security training for personnel having continued access to classified information. The elements outlined in § 159.1000–1 above, shall be updated and designed to fit the needs of experienced personnel.

§ 159.1000–4 Foreign travel briefings.

Personnel who have had access to classified material shall be given a foreign travel briefing as a defensive measure prior to travel to alert them of their possible exploitation under the following conditions:

(a) Travel to or through communist controlled countries for any purpose.

(b) Attendance at international, scientific, technical, engineering, or other professsional meetings in the United States or in any country outside the United States where it can be anticipated that representatives of communist-controlled countries will participate or be in attendance.

§ 159.1000–5 Debriefings.

Upon termination of employment or contemplated temporary separation for a 60 day period or more, employees shall be debriefed, return all classified material and be required to execute a security termination statement. A copy of the statement shall become a part of the individual's permanent file. This statement shall include the following:

(a) An acknowledgment that the individual executing the statement has read the appropriate provisions of the Espionage Act, other criminal statutes and DOD regulations applicable to the level of classified information to which he has had access and understands the implications thereof.

(b) A recital that the individual no longer has any material containing classified defense information in his possession.

(c) A recital that the individual shall not communicate or transmit classified information orally or in writing to any unauthorized person or agency.

(d) A recital that the individual will report to the FBI or the DOD component concerned, as appropriate, without delay any incident wherein an attempt is made by any unauthorized person to solicit classified information.

Subpart—Foreign Origin Material

Classification

§ 159.1100 Classifying foreign material.

Classified information or material furnished by a foreign government or international organization shall either retain its original assigned classification or be assigned a U.S. classification that assures equivalent protection. The origin of all material bearing foreign classifications, including material extracted and placed in Department of Defense documents or material, shall be clearly indicated on or in the body of the material to assure, among other things, that the information is not released to nationals of a third country without consent of the originator.

§ 159.1100–1 Equivalent U.S. classifications.

Foreign security classifications generally parallel U.S. classifications. A table of equivalents is contained in Appendix B (§ 159.1500–1).

§ 159.1100–2 Foreign restricted.

As shown in Appendix B (§ 159.1500–1), a fourth foreign designation, "Restricted," is frequently used. Foreign Restricted information usually does not warrant U.S. security classification under Executive Order 11652, but it shall be marked as prescribed in § 159.1101–1.

Marking

§ 159.1101 NATO, CENTO, and SEATO.

Classified information or material originated by NATO, CENTO, or SEATO, if not already marked with the appropriate classification in English, shall be so marked. The exemption marking under § 159.403–1(c) and the special warning notice under § 159.405–3 shall not be entered. In addition, the following notation shall be entered in all cases: "To be

safeguarded in accordance with _____ _____." In the blank space insert:

For NATO: "USSAN Instruction 1-69" (Promulgated by DOD Instruction C-5210.21)
For CENTO: "USSAC Instruction 1-68" (Promulgated by DOD Instruction C-5210.35)
For SEATO: "USSAS Instruction 1-67" (Promulgated by DOD Instruction 5210.54)

§ 159.1101-1 Other foreign material.

Foreign security classifications generally parallel U.S. classifications. See § 159.100, Appendix B.) If the foreign classification is shown in English, no additional classification marking is required. If the foreign classification is not in English, the equivalent English classification, including Restricted when appropriate, shall be entered as prescribed for U.S. documents. The exemption marking under § 159.403-1(c) and the warning notice under § 159.405-3 shall not be entered.

PROTECTIVE MEASURES

§ 159.1102 NATO, CENTO, and SEATO classified information.

NATO, CENTO, and SEATO classified information shall be safeguarded in accordance with the respective provisions of DOD Instruction C-5210.21, DOD Instruction C-5210.35 and DOD Instruction 5210.54.

§ 159.1102-1 Classified material of foreign origin.

Classified material of foreign origin shall be protected in accordance with the requirements prescribed for U.S. classified information of a comparable category. Foreign Restricted material shall be protected in all respects in the same manner as United States Confidential, except that Restricted material may be stored in locked filing cabinets, desks, or other similar closed spaces which will prevent access to unauthorized persons.

§ 159.1102-2 Downgrading or regrading.

Action will be taken by all U.S. authorities holding foreign classified information to downgrade or regrade such information on receipt of notice of such action by the originating foreign government or international organization.

Subpart—Special Access Programs

§ 159.1200 Policy.

It is the policy of the Department of Defense to utilize the standard classification categories and the applicable sections of Executive Order 11652 and its implementing National Security Council Directive (NSCD) to limit access to classified information on a "need-to-know" basis to personnel who have been determined to be trustworthy pursuant to such order and directive. It is the further policy to apply the "need-to-know" principle in the regular system so that there will be no need to resort to formal Special Access Programs requiring extraordinary procedures, and controls, such as formal access determinations, special briefings, reporting procedures, and recorded formal access lists.

§ 159.1200-1 Definition.

A Special Access Program is any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program includes, but is not limited to, special clearance, adjudication, or investigative requirements, special designation of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know."

§ 159.1200-2 Existing programs.

All Special Access Programs, as defined above, which are in existence and which were originated by any Department of Defense Component or element of a Component, shall be reported to the Assistant Secretary of Defense (Comptroller) within thirty (30) days from the date of promulgation of this part. Such report shall include the following information:

(a) The full name of the program, and its code name, if applicable.

(b) The date the program was established and the title of the authorizing official.

(c) The number of persons on the Special Access list.

(d) The rationale for the selection of the Special Access Program.

(e) A full statement of the rules governing the program, including the determination of eligibility of individuals on the Special Access list.

§ 159.1200-3 Future programs.

(a) All Special Access Programs, as above defined, which are desired to be established in the Departments of the Army, Navy, and Air Force after promulgation date of this Part, shall be submitted to the Secretary of the respective Department, with the information referred to in § 159.1200-2, above, for prior approval. If the Secretary of the Military Department approves the establishment of such program, he shall advise the Assistant Secretary of Defense (Comptroller) and furnish a copy of the information and rationale submitted to him on which he based his approval.

(b) All Special Access Programs, as defined above, which are desired to be established in any Department of Defense Component or Agency other than the three Military Departments shall be submitted to the Assistant Secretary of Defense (Comptroller), with the information referred to in § 159.1200-2, above, for prior approval.

Subpart—Program Management

EXECUTIVE OFFICE OF THE PRESIDENT

§ 159.1300 National Security Council (NSC).

The National Security Council is charged under Executive Order 11652, reference § 159.100(b) with monitoring implementation of the order. The NSC is also charged with issuing and maintaining Presidential directives to implement the order reference § 159.100(c).

§ 159.1300-1 Interagency Classification Review Committee (ICRC).

To assist the National Security Council, an Interagency Classification Review Committee has been established.

(a) *Composition.* The Chairman of the ICRC is designated by the President. Its membership is comprised of representatives of the Departments of Defense, State, and Justice, the Atomic Energy Commission, the Central Intelligence Agency, and the National Security Council Staff. The General Counsel is the Department of Defense representative. Representatives of other Departments in the Executive Branch may be invited to meet with the Committee on matters of particular interest to those Departments.

(b) *Meetings and staff.* The ICRC meets regularly, but no less frequently than monthly. The Chairman appoints an Executive Director and permanent staff.

(c) *Functions.* The ICRC is charged with the following functions:

(1) Oversee Department actions to insure compliance with the provisions of the order and the implementing NSC directives with particular emphasis on Departmental programs established to implement the order and such directives.

(2) Receive, consider and take action on suggestions and complaints from persons within or without the Government with respect to the general administration of the order including appeals from denials by Departmental Committees or the Archivist of declassification requests. In consultation with the affected Department or Departments, the Committee will assure that appropriate action is taken on such suggestions and complaints.

(3) Seek to develop means to (i) prevent overclassification, (ii) ensure prompt declassification in accord with the provisions of the Order, (iii) facilitate access to declassified material, and (iv) eliminate unauthorized disclosure of classified information.

(d) *Information requests.* The Committee Chairman is authorized to request information or material concerning the Department of Defense, including its components, and needed by the Committee in carrying out its functions.

DEPARTMENT OF DEFENSE

§ 159.1301 Management responsibility.

The Assistant Secretary of Defense (Comptroller) is the senior DOD official having authority and responsibility to insure effective and uniform compliance with and implementation of Executive Order 11652 and NSC implementing directives, references § 159.100 (b) and (c). Under the Assistant Secretary of Defense (Comptroller), the Deputy Assistant Secretary of Defense (Security Policy) is responsible for the development of policies, standards, criteria, and procedures governing the Department of Defense Information Security Program and for its effective and uniform implementation.

§ 159.1301–1 DOD Classification Review Committee (DCRC).

The Department of Defense Classification Review Committee (DCRC) is comprised of the Assistant Secretary of Defense (Comptroller), Chairman, the Assistant Secretary of Defense (Public Affairs), and the General Counsel of the Department of Defense, as permanent members. Representatives from DOD components may be invited by the Chairman to meet with the Committee on matters of particular interest to those components. Its functions are:

(a) Receive, consider, and take action upon all suggestions and complaints with respect to the administration of the Department of Defense Information Security Program, including, without limitation, those regarding overclassification, unnecessary classification, failure to declassify, or delay in declassifying, not otherwise resolved at the component level.

(b) Review all appeals of requests for records under Section 552 of Title 5, U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under this Part.

(c) Receive, consider and take action upon appeals from the departmental Classification Review Committees of the Military Departments specified in § 159.-1302–1.

(d) Recommend to the Secretary of Defense appropriate administrative action to correct abuse or violation of any provision of references § 159.100 (b) or (c) or this part, including notification, warning letters, formal reprimand, and to the extent permitted by law, suspension without pay, forfeiture of pay, and removal.

§ 159.1301–2 DOD Information Security Advisory Board (DISAB).

To advise and assist the Assistant Secretary of Defense (Comptroller), there is established a DOD Information Security Advisory Board. The Board shall be comprised of the Deputy Assistant Secretary of Defense (Security Policy), Chairman, and senior representatives designated by the Secretaries of the Military Departments, the Chairman, Joint Chiefs of Staff, the Director, Defense Research and Engineering, the Assistant Secretary of Defense (Intelligence), the Assistant Secretary of Defense (Public Affairs), the General Counsel of the Department of Defense, and the Director, Defense Supply Agency, as permanent members. Representatives of other components may be invited by the Chairman to participate in matters of specific interest. The Board shall review and evaluate the effectiveness of the administration of the program by DOD components, developing and recommending new or revised uniform policies, standards, criteria or procedures necessary to meet changing conditions or to correct deficiencies in the program.

DOD Components

§ 159.1302 Overall program responsibility.

The head of each DOD component is responsible for the establishment and maintenance of an Information Security Program, with adequate funding and sufficient experienced staff at all levels, designed to ensure effective compliance with the provisions of this part throughout his component.

§ 159.1302–1 Military departments.

The Secretary of each Military Department shall designate a senior official who shall be responsible for the effective compliance with and implementation of this part within his Department. Each such official shall also serve as chairman of a departmental Classification Review Committee of his Department which shall have authority and responsibility to perform functions for his Department similar to those described in § 159.1301–1.

§ 159.1302–2 Other components.

The head of each other DOD component shall designate a senior official who shall be responsible for the effective compliance with and implementation of this part within his component.

§ 159.1302–3 Program monitorship.

The senior officials designated under §§ 159.1302–1 and 159.1302–2, above, are responsible within their respective jurisdictions for monitoring, inspecting and reporting on the status of administration of the DOD Information Security Program at all levels of activity under their cognizance.

§ 159.13024 Field program management.

Each activity throughout the DOD shall assign (as a sole, principal or additional duty, depending upon operational responsibilities as dictated by the level and quantity of classified information involved in operations) an official to serve as security manager for the activity. He shall be responsible for administration of an effective Information Security Program in that activity with particular emphasis on (a) the assignment of proper classifications; (b) effective prevention of unauthorized disclosures of classified information; (c) progressive downgrading and declassification; and (d) systematic reviews to eliminate by destruction, transfer or retirement all unneeded classified material on the fastest basis consistent with operational requirements. Security managers should have sufficient staff assistance and authority to carry out an effective program.

Reports Requirements

§ 159.1303 Reports requirements.

In addition to the reports required by § 159.105–3 (classification authorities), the DOD and Military Department Classification Review Committees (§§ 159.-1301–1 and 159.1302–1) shall submit through appropriate channels to the senior DOD official named in § 159.1301, quarterly reports covering committee actions on classification review requests, classification abuses and unauthorized disclosures, and provide such other reports as the senior DOD official may require. Such reports are covered by the Reports Control Symbol specified in § 159.105–3.

Subpart—Administrative and Judicial Action

§ 159.1400 Individual responsibility.

Every officer or employee, military or civilian, is responsible for complying with the provisions of this Part in all respects.

§ 159.1400–1 Administrative actions.

With the view of emphasizing the importance and necessity of carrying out both the letter and the spirit of Executive Order 11652, the implementing National Security Council directives, and this part, violations of these instruments shall be the subject of administrative action as follows:

(a) Repeated abuse by an officer or employee of the classification process, or repeated failure, neglect, or disregard by an officer or employee of established requirements with respect to safeguarding classified information or material, shall be grounds for adverse administrative action. Such action may include a warning notice, formal reprimand, suspension without pay or forfeiture of pay, or discharge, as appropriate in the particular case, in accordance with applicable policies and procedures.

(b) An officer or employee, regardless of office or level of employment, who is responsible for any unauthorized release or disclosure of classified information or material shall be notified that his action is in violation of the executive order, the implementing National Security Council directives, and this part, and, in addition, shall be subject to prompt and stringent action including, as appropriate in the particular case, a warning notice, formal reprimand, suspension without pay, forfeiture of pay, or discharge, in accordance with applicable policies and procedures.

§ 159.1400–2 Judicial action.

Any action resulting in unauthorized disclosure of classified information which constitutes a violation of the criminal statutes shall be the subject of a report processed in accordance with DOD Directive 5210.50, reference § 159.100(g) and DOD Instruction 5200.22, reference § 159.100(f).

§ 159.1500 Appendix A—Original Classification Authorities (See § 159.105).

Part 1—*Top secret original classification authorities.* Under the provisions of Executive Order 11652, reference (b), only the Secretary of Defense and the Secretaries of the Military Departments may designate officials to exercise Top Secret original classification authority. Designations may be made from the following groups of officials:

1. Senior principal deputies and assistants to the Secretaries.

2. Heads of major elements of the Department of Defense and their senior principal deputies and assistants.

Attached is a listing of officials designated by the Secretary of Defense to exercise Top Secret original classification authority.

Part 2—*Secret original classification authorities.* Secret original classification authority may be exercised by designated Top Secret original classification authorities and by such subordinate officials as are designated in writing by:

1. The Secretary of Defense or the Secretaries of the Military Departments.

2. Senior principal deputies and assistants to the Secretaries who themselves have been designated Top Secret original classification authorities.

Such designations shall be made in accordance with § 159.105 of the part and shall be limited further to those officials whose duties and responsibilites are such as to involve the origination and evaluation of official information warranting Secret classification.

Part 3—*Confidential original classification authorities.* Confidential original classification authority may be exercised by officials designated to exercise Top Secret or Secret original classification authority and by such subordinate officials as they may designate in writing. Such designations shall be made in accordance with § 159.105 of the part and shall be limited further to those officials whose duties and responsibilities are such as to involve the origination and evaluation of official information warranting Confidential classification.

TOP SECRET CLASSIFICATION AUTHORITIES

OFFICE, SECRETARY OF DEFENSE

(21)

Secretary of Defense	1
Deputy Secretary of Defense	1
Director of Defense Research and Engineering	1
Principal Deputy Director	1
Special Assistant (net technical assessment)	1
Assistant Secretaries of Defense	9
General counsel of the Department of Defense	1
Special Assistant and Assistant to the Secretary and Deputy Secretary of Defense	2
Assistant to the Secretary of Defense (Atomic Energy)	1
Chairman, Military Liaison Committee (AEC)	1
Defense Advisor, U.S. Mission to NATO	1
Director, Weapons Systems Evaluation Group	1

ORGANIZATION, JOINT CHIEFS OF STAFF

(32)

Chairman, Joint Chiefs of Staff	1
Assistant to the Chairman, Joint Chiefs of Staff	1
Assistant to the Chairman, Joint Chiefs of Staff for Strategic Arms Negotiations	1
Director, Joint Staff	1
Secretary, Joint Staff	1
Director for Personnel, J-1	1
Director for Operations, J-3	1
Vice Director for Operations, J-3	1
Deputy Directors for Operations, J-3	7
Director for Logistics, J-4	1
Director for Plans and Policy, J-5	1
Deputy Directors for Plans and Policy, J-5	3
Director for Communications-Electronics, J-6	1
Chief, Studies, Analysis and Gaming Agency	1
Director, Joint Continental Defense Systems, Integration Planning Staff	1

ORGANIZATION, JOINT CHIEFS OF STAFF—cont.

U.S. Representative to Military Committee, NATO	1
U.S. Representative to Permanent Military Deputies Group, CENTO (Chief, US Element CENTO)	1
Chairman, U.S. Delegation, United Nations Military Staff Committee	1
Chairman, U.S. Delegation, Inter-American Defense Board	1
Chairman, U.S. Delegation, Joint Brazil-United States Defense Commission	1
Chairman, U.S. Delegation, Joint Brazil-United States Military Commission	1
Chairman, U.S. section, Joint Mexico-United States Defense Commission	1
Chairman, U.S. section, Canada-United States Military Cooperation Committee	1
Commander in Chief, United Nations Command	1

UNIFIED AND SPECIFIED COMMANDS

(36)

U.S. European Command (EUCOM)	2
Commander in Chief	1
Chief of Staff	1
U.S. Pacific Command (PACOM)	6
Commander in Chief	1
Chief of Staff	1
Deputy Chief of Staff, Plans and Operations	1
Deputy Chief of Staff for Security Assistance, Logistics and Administration	1
Commander, U.S. Military Assistance Command, Vietnam	1
Commander, U.S. Military Assistance Command, Thailand	1
Continental Air Defense (CONAD)	10
Commander in Chief	1
Chief of Staff	1
Commander in Chief, North American Defense Command (NORAD)	1
Commanders, CONAD/NORAD Regions (Exc. 22d)	6
Deputy Commander, 22d NORAD Region	1
Alaskan Command (ALCOM)	2
Commander in Chief	1
Chief of Staff	1
Southern Command (USSOUTHCOM)	1
Commander in Chief	1
Atlantic (LANTCOM)	2
Commander in Chief	1
Chief of Staff	1
Readiness Command (CINCRED)	2
Commander in Chief	1
Deputy Commander	1
Strategic Air Command (SAC)	11
Commander in Chief	1
Vice Commander in Chief	1
Chief of Staff	1
Commanders, Air Forces (2, 8, 15)	3
Commander, 1st Strategic Aerospace Division	1
Commander, 544 Aerospace Reconnaissance Technical Wing	1
Senior SAC X-Ray Representative	1
Director, Strategic Target Planning	1
Deputy Director	1

DEFENSE AGENCIES

(213)

Defense Advanced Research Projects Agency (DARPA)	2
Director	1
Deputy Director	1
Defense Civil Preparedness Agency (DCPA)	1
Director	1
Defense Communications Agency (DCA)	7
Director	1
Vice Director	1
Chief of Staff	1
Deputy Directors	4
Defense Contract Audit Agency (DCAA)	1
Director	1
Defense Intelligence Agency (DIA)	90
Director	1
Deputy Director	1
Chief of Staff	1
Deputy Directors	7
Assistant Deputy Director for CI and Security	1
Chief, Operations/Coordination Division	1
Chief, Operational Intelligence Division	1
Defense Attaches	83
Defense Mapping Agency (DMA)	8
Director	1
Deputy Director	1
Deputy Director for Plans, Requirements and Training	1
Deputy Director for Programs, Production and Operations	1
Director, DMA Topographic Center	1
Director, DMA Hydrographic Center	1
Director, DMA Aerospace Center	1
Director, Inter-American Geodetic Survey	1
Defense Nuclear Agency (DNA)	4
Director	1
Deputy Director, Operations and Administration	1
Deputy Director, Science and Technology	1
Commander, Field Command	1
Defense Security Assistance Agency (DSAA)	2
Director	1
Deputy Director	1
Defense Supply Agency (DSA)	1
Director	1
National Security Agency (NSA)	89
Director, NSA/CSS	1
Deputy Director, NSA	1
Deputy Chief, CSS	1
Executive Assistant to the Director, NSA	1
Assistant Directors	6
Deputy Assistant Directors	6
Chief, Policy Coordination Staff	1
Chief of Operations Research	1
Chief of Telecommunications	1
Chief, Installations and Logistics	1
Inspector General	1
Chiefs of Production Groups	5

DEFENSE AGENCIES—continued

National Security Agency—Continued

Chiefs of NSA Offices	41
Chief of Division, Policy Coordination Staff	1
Chiefs of NSA Field Elements	12
Senior U.S. Liaison Officers	3
U.S. Liaison Officer, Cheltenham	1
NSA Classification Advisory Officers	5
Defense Investigative Service (DIS)	2
Director	1
Deputy Director	1

DEPARTMENT OF THE ARMY

(61)

Secretary, Under Secretary and Assistant Secretaries of the Army	6
General Counsel, Office of the Secretary of the Army	1
Chief of Staff, Vice Chief of Staff, Assistant Vice Chief of Staff, Secretary of the General Staff	4
Deputy Chiefs of Staff	3
Assistant Chiefs of Staff	3
Chief of Research and Development	1
Chief, Office of Reserve Components	1
Chief, National Guard Bureau	1
Chief, Army Reserve	1
Chief of Engineers	1
Comptroller of the Army	1
The Inspector General	1
Commanding Generals:	
U.S. Continental Army Command (CONARC)	1
CONUS Armies	4
U.S. Army Military District of Washington	1
Army Components of Unified Commands	7
Seventh Army	1
Eighth Army	1
US. Armies: Hawaii Japan, Vietnam	
U.S. Army Base Command, Okinawa	
U.S. Army Theater Support Command, Europe	
U.S. Army Southern European Task Force	
U.S. Army Materiel Command	
U.S. Army Aviation Systems Command	
U.S. Army Electronics Command	
U.S. Army Missile Command	
U.S. Army Mobility Equipment Command	
U.S. Army Munitions Command	
U.S. Army Tank-Automotive Command	
U.S. Army Test and Evaluation Command	
U.S. Army Weapons Command	
U.S. Army Combat Developments Command	
U.S. Army Strategic Communications Command	
U.S. Army Security Agency	
U.S. Army Intelligence Command	
Safeguard System Manager	
Commanding General, Safeguard System Command	
Commander, Safeguard System Evaluation Agency	

DEPARTMENT OF THE NAVY

(119)

Secretary of the Navy, Under Secretary and Assistant Secretaries of the Navy	6
General Counsel of the Navy	1
Chief of Naval Research	1
Director, Naval Research Laboratory	1

DEPARTMENT OF THE NAVY—Continued

Chief and Vice Chief of Naval Operations	2
Assistant Vice Chief of Naval Operations/Director of Naval Administration (Op-09B)	1
Director of Naval History (Op-09BH)	1
Navy Inspector General (Op-008)	1
Director, Office of Navy Program Planning (Op-090)	
Director, General Planning and Programming Division (Op-90)	1
Director, Systems Analysis Division (Op-96)	
Director, Office of Tactical Electromagnetic Programs (Op-093)	
Director, Office of Command Support Programs (Op-094)	
Director, Naval Communications Division (Op-941)/Commander Naval Communications Command	1
Director, Naval Intelligence Division (Op-942)/Commander, Naval Intelligence Command	1
Head, Security of Military Information Branch (Op-942D)	1
Director, Fleet Readiness Liaison and Command Information Support Division (Op-943)	1
Director, Signals Exploitation and Security Division (Op-944)/Commander, Naval Security Group Command	
Director, Meteorology Division (Op-945)/Commander Naval Weather Service	
Director, Reconnaissance Ocean Surveillance Division (Op-946)	
Director, Office of Antisubmarine Warfare Program (Op-095)	
Director, Office of Research, Development (Op-098)	
Director, Research and Development Programing Division (Op-980)	
Director, Undersea and Strategic Warfare Development Division (Op-981)	
Director, Tactical Air, Surface, and Electronic Warfare Division (Op-982)	
Director, Test and Evaluation Division (Op-983)	
Director, Research and Development Support Division (Op-984)	
Director, Atomic Energy Division (Op-985)	
Director, Navy Space and Command Support Division (Op-986)	
Deputy Chief of Naval Operations (Manpower and Naval Reserve) (Op-01)/Chief of Naval Personnel	1
Deputy Chief of Naval Operations (Submarine Warfare) (Op-02)	1
Director, Submarine Systems and Support Division (Op-20)	
Director, Strategic Submarine Division and TRIDENT Program Coordinator (Op-21)	
Director, Attack Submarine Division and SSN Program Coordinator (Op-22)	
Director, Deep Submergence Systems Division and Deep Submergence Program Coordinator (Op-23)	
Deputy Chief of Naval Operations (Surface Warfare) (Op-03)	1
Director, Surface Warfare Division (Op-32)	
Director, Combat Systems Division (Op-35)	
Director, Ship Acquisition and Improvement Division (Op-36)	

DEPARTMENT OF THE NAVY—Continued

Deputy Chief of Naval Operations (Logistics) (Op-04)	1
Director, Logistics Plans Division (Op-40)	1
Director, Material Division (Op-41)	1
Director, Ship Material Readiness Division (Op-43)	1
Director, Shore Installation Division (Op-44)	1
Deputy Chief of Naval Operations (Air Warfare) (Op-05)	1
Director, Aviation Plans and Requirements Division (Op-50)	1
Director, Aviation Programs Division (Op-51)	1
Director, Air Warfare Division (Op-55)	1
Deputy Chief of Naval Operations (Plans and Policy) (Op-06)	1
Director, Strategic Plans and Policy Division (Op-60)	1
Director, Politico-Military Policy Division (Op-61)	1
Director, Strategic Offensive and Defensive Systems Division (Op-62)	1
Director, Foreign-Military Assistance and Sales Division (Op-63)	1
Commander Military Sealift Command	1
Chief and Vice Chief of Naval Material	2
Director of Navy Laboratories	1
Commander, Naval Air Systems Command	1
Commander, Naval Electronics Systems Command	1
Commander, Naval Facilities Engineering Command	1
Commander, Naval Ordnance System Command	1
Commander, Naval Ship Systems Command	1
Commander, Naval Supply Systems Command	1
Commander, Naval Weapons Center, China Lake, Calif	1
Commander in Chief:	
U.S. Pacific Fleet	1
U.S. Atlantic Fleet	1
U.S. Naval Forces Europe	1
Commanders:	
1st, 2d, 6th, and 7th Fleets	4
Commanders, U.S. Naval Forces:	
Azores, Japan, Iceland, Marianas, Philippines, Korea, Vietnam	7
Commander, Middle East Force	1
Commander, South Atlantic Force, U.S. Atlantic Fleet	1
Commander, Key West Force	1
U.S. Commander, Eastern Atlantic	1
Oceanographer of the Navy	1
Commander, U.S. Taiwan Defense Command, Pacific Fleet	1
Commander, U.S. Antisubmarine Warfare Force:	
U.S. Atlantic Fleet	1
U.S. Sixth Fleet	1
U.S. Pacific Fleet	1
Commander, Naval Air Force:	
U.S. Atlantic Fleet	1
U.S. Pacific Fleet	1
Commander, Amphibious Force:	
U.S. Atlantic Fleet	1
U.S. Pacific Fleet	1
Commander, Cruiser-Destroyer Force:	
U.S. Atlantic Fleet	1
U.S. Pacific Fleet	1
Commander, Submarine Force:	
U.S. Atlantic Fleet	1
U.S. Pacific Fleet	1
Commander, Service Force:	
U.S. Atlantic Fleet	1
U.S. Pacific Fleet	1

DEPARTMENT OF THE NAVY—Continued	
Commander, Mine Warfare Force, U.S. Navy	1
Commandant and Assistant Commandant of the Marine Corps	2
Chief of Staff Marine Corps	1
Deputy Chiefs of Staff Marine Corps:	
Manpower	1
Plans and Programs	1
Research, Development, and Studies	1
Air	1
Assistant Chiefs of Staff Marine Corps	4
Quartermaster General, Marine Corps	1
Commanding General, Marine Corps Education and Development Command, Quantico, Va	1
Commanding Generals:	
Fleet Marine Force, Atlantic	1
Fleet Marine Force, Pacific	1
DEPARTMENT OF THE AIR FORCE (110)	
Secretary and Under Secretary	2
Assistant Secretaries	4
General Counsel	1
Director of Space Systems	1
Chief and Vice Chief of Staff	2
Assistant Vice Chief of Staff	1
Deputy Chiefs of Staff:	
Personnel	1
Programs and Resources	1
Plans and Operations	1
Assistant, Plans and Operations	1
Research and Development	1
Assistant, Research and Development	1
Systems and Logistics	1
Assistant, Systems and Logistics	1
The Inspector General	1
Assistant Chiefs of Staff:	
Intelligence	1
Studies and Analysis	1
Aerospace Defense Command:	
Commander and Vice Commander	2
Chief of Staff	1
Commanders, Air Divisions	6

DEPARTMENT OF THE AIR FORCE—Continued	
Aerospace Defense Command—Continued	
Commander, 14 Aerospace Force	1
Commander, Air Defense Weapons Center	1
U.S. Air Forces in Europe:	
Commander in Chief, Vice Commander in Chief	2
Chief of Staff	1
Commanders, Air Forces (3, 16, 17)	3
U.S. Air Force Southern Command:	
Commander and Vice Commander	2
Chief of Staff	1
Commander, 24th Operations Wing	1
Pacific Air Force:	
Commander in Chief	1
Vice Commander in Chief	1
Chief of Staff	1
Commanders, Air Forces (5, 7, 13)	3
Commander, 326 Air Division	1
Commander, 6486 Air Base Wing	1
Alaskan Air Command:	
Commander and Vice Commander	2
Chief of Staff	1
Military Airlift Command:	
Commander and Vice Commander	2
Tactical Air Command:	
Commander and Vice Commander	2
Chief of Staff	1
Commanders, Air Forces (9, 12, 19)	3
Commander, USAF Special Operations Force	1
Commander, Tactical Air Warfare Center	1
Commander, Tactical Fighter Weapons Center	1
Air Force Systems Command:	
Commander and Vice Commander	2
Chief of Staff	1
Commanders:	
Air Force Special Weapons Center	1
Vice Commander	1
Foreign Technology Division	1
Vice Commander	1

DEPARTMENT OF THE AIR FORCE—Continued	
Air Force Systems Command—Continued	
Commanders—Continued	
Rome Air Development Center	1
Vice Commander	1
Space and Missile Systems Organization	1
Vice Commander	1
Deputy for Satellite Programs	1
Electronic Systems Division	1
Vice Commander	1
Aeronautical Systems Division	1
Vice Commander	1
Air Force Avionics Laboratory	1
Aero Propulsion Laboratory	1
Flight Dynamics Laboratory	1
Materiel Laboratory	1
Aerospace Research Laboratory	1
Weapons Laboratory	1
Vice Commander	1
Cambridge Research Laboratory	1
Commander, Air Force Reserve	1
Air Force Communications Service:	
Commander and Vice Commander	2
Commanders, Communications Areas:	
European	1
Pacific	1
Tactical	1
Southern	1
Northern	1
Commander, Alaskan Communications Region	1
Commander, 1978 Communications Group	1
Commander, 3 Mobile Communications Group	1
Air Force Logistics Command:	
Commander and Vice Commander	2
Chief of Staff	1
Commanders, Air Materiel Areas (Oklahoma, Ogden, San Antonio, Sacramento, Warner Robins)	5
U.S. Air Force Security Service:	
Commander and Vice Commander	2

§ 159.1500–1—Appendix B—Equivalent Foreign Security Classifications.

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Argentina	ESTRICTAMENTE SECRETO	SECRETO	CONFIDENCIAL	
Australia	TOP SECRET	SECRET	CONFIDENTIAL	
Austria	STRENG GEHEIM	GEHEIM	VERSCHLUSS	NUR FÜR DEN DIENSTGEBRAUCH
Belgium (French)	TRES SECRET	SECRET	CONFIDENTIEL	DIFFUSION RESTREINTE
(Flemish)	ZEER GEHEIM	GEHEIM	VERTROUWELIJK	BEPERKTE VERSPREIDING
Bolivia	SUPERSECRETO or MUY SECRETO	SECRETO	CONFIDENCIAL	
Brazil	ULTRA SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Cambodia	TRES SECRET	SECRET	SECRET/CONFIDENTIEL	
Canada	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Chile	SECRETO	SECRETO	RESERVADO	RESERVADO
Columbia (two systems)	MUY SECRETO ESTRICTAMENTE RESERVADO	SECRETO SECRETO	CONFIDENCIAL RESERVADO	CONFIDENCIAL RESERVADO
Costa Rica	ALTO SECRETO	SECRETO	CONFIDENCIAL	
Denmark	YDERST HEMMELIGT	HEMMELIGT	FORTROLIGT	TIL TJENESTE BRUG
Ecuador	SECRETISIMO	SECRETO	CONFIDENCIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
El Salvador	SECRETISIMO	SECRETO	CONFIDENCIAL	RESERVADO
Ethiopia	YEMIAZ BIRTOU MISTIR	MISTIR	KILKIL	
Finland	ERITTAIN SALAINEN	SALAINEN	LUOTTAMUKSELLINEN	VAIN VIRKAPAI-VELUKSISSAKÄYTETTÄVÄKSI
France (eff 5/1/67)	SECRET/DEFENSE**		CONFIDENTIEL/DEFENSE	DIFFUSION RESTREINTE
Germany	STRENG GEHEIM	GEHEIM	VERTRAULICH	VS-NUR FÜR DEN DIENSTGEBRAUCH
Greece	ΕΠΙΣΗ ΑΚΡΩΣ ΑΠΟΡΡΗΤΟΝ	ΑΚΡΩΣ ΑΠΟΡΡΗΤΟΝ	ΑΠΟΡΡΗΤΟΝ ΕΠΙΤΕΤΡΑΜΜΕΝΗΣ	ΠΕΡΙΟΡΙΣΜΕΝΗΣ ΧΡΗΣΕΩΣ
Guatemala	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Haiti		SECRET	CONFIDENTIAL	
Honduras	SUPER SCERETO	SECRETO	CONFIDENCIAL	RESERVADO
Hong Kong	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Hungary	SZIGORUAN TITKOS	TITKOS	BIZALMAS	
India	TOP SECRET	SECRET CONFIDENTIAL	CONFIDENTIAL	RESTRICTED
Indonesia	SANGAT RAHASIA	RAHASIA	KEPERT JAJAAN	TERBATAS
Iran	BEKOLI SERRI بکلی سری	SERRI سری	KHEILI MAHRAMANEH خیلی محرمانه	MAHRAMANEH محرمانه
Iraq	سري بالقوة (Absolutely secret)	سري (Secret)	مكتوم	محدود (Limited)

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Ireland Gaelic	TOP SECRET AN-SICREIDEACH	SECRET SICREIDEACH	CONFIDENTIAL RUNDA	RESTRICTED SRIANTA
Israel	SODI BEYOTER סודי ביותר	SODI סודי	SHATUR שתור	MUGBAL מוגבל
Italy	SEGRETISSIMO	SEGRETO	RISERVATISSIMO	RISERVATO
Japan	KIMITSU 機密	GOKUHI 極密	HI 秘	TORIATSUKAICHUI 取扱注意 BUGAIHI部外秘
Jordan	بكتوم جدًا	سري	مكتوم	محدود
Korea	I급 비밀 IKUP PIMIL	II급 비밀 IKUP PIMIL	III급 비밀 SAM KUP PIMIL	
Laos	TRES SECRET	SECRET	SECRET/CONFIDENTIEL	DIFFUSION RESTREINTE
Lebanon	TRES SECRET	SECRET	CONFIDENTIEL	
Mexico	SECRETO	SECRETO	CONFIDENCIAL	
Netherlands	ZEER GEHEIM	GEHEIM	CONFIDENTIEEL or VERTROUWELIJK	DIENSTGEHEIM
New Zealand	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Nicaragua	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Norway	STRENGT HEMMELIG	HEMMELIG	FORTROLIG	
Pakistan	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Paraguay	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Peru	ESTRICTAMENTE SECRETO	SECRETO	RESERVADO	CONFIDENCIAL
Philippines	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Portugal	MUITO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Spain	MAXIMO SECRETO	SECRETO	CONFIDENCIAL	DIFFUSION LIMITADA
Sweden (Red Borders)	HEMLIG	HEMLIG	HEMLIG	
Switzerland	(Three languages. TOP SECRET has a registration number to distinguish from SECRET and CONFIDENTIAL.)			
French	SECRET	SECRET	SECRET	RESERVE A L'USAGE EXCLUSIVE DU SERVICE
German	STRENG GEHEIM	GEHEIM	VERTRAULICH	NUR FÜR DIENSTLICHEN GEBRAUCH
Italian	SEGRETO	SEGRETO	SEGRETO	AD ESCLUSIVO USO DI SERVIZIO
Taiwan	絕對機密	極機密	機密	密
Thailand	LUB TI SOOD ลับที่สุด	LUB MAAK ลับมาก	LUB ลับ	POK PID ปกปิด
Turkey	ÇOK GİZLİ	GİZLİ	ÖZEL	HIZMETE ÖZEL
Union of South Africa				
English	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Afrikaans	UITERS GEHEIM	GEHEIM	VERTROULIK	BEPERK
United Arab Republic (Egypt)	سري للغاية TOP SECRET	سري جدًا VERY SECRET	سري SECRET	محصور OFFICIAL

Country	TOP SECRET	SECRET	CONFIDENTIAL	
United Kingdom	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Uraguay	SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
USSR	СОВЕРШЕННО СЕКРЕТНО	СЕКРЕТНО	НЕ ПОДЛЕЖАЩИЙ ОГЛАШЕНИЮ	ДЛЯ СЛУЖЕБНОГО ПОЛЬЗОВАНИЯ
Viet Nam				
French	TRES SECRET	SECRET	CONFIDENTIEL	CONFIDENTIEL
Vietnamese	TỐI-MẬT	MẬT	KIN	TU MẬT

NOTE: In all instances foreign security classification systems are not exactly parallel to the United States system and exact equivalent classifications cannot be stated. The classifications given above represent the nearest comparable designations which are used to signify degrees of protection and control similar to those prescribed for the equivalent United States classifications.

**Pursuant to advice received from the French Government, effective May 1, 1967, all French material marked "SECRET-DEFENSE" is to be treated in the manner normally applied to material classified at the TOP SECRET level. The French classification "SECRET-DEFENSE" is stated to be "equivalent to 'TOP SECRET' and 'SECRET'" and is to be afforded the protection equal to that provided by the "highest security classification used by foreign and allied systems." There will be no French classification equivalent to US SECRET for material created after May 1, 1967. No changes are necessary with respect to currently held French material marked TRES SECRET or SECRET.

§ 159.1500–2 Appendix C—General Accounting Office Officials Authorized To Certify Security Clearances (see § 159.700–6(c)).

The Comptroller General, his Deputy, and Assistants.

The General Counsel and Deputy General Counsel.

The Director and Deputy Director, Office of Personnel Management.

The Director and Deputy Director, Office of Policy.

The Directors, Deputy Directors, Associate Directors, and Assistant Directors of the following Divisions:

General Government Resources and Economic Development.
Resources and Economic Development.
Manpower and Welfare.
International.
Transportation and Claims.
Procurement and Systems Acquisition.
Federal Personnel and Compensation.
Logistics and Communications.
Financial and General Management Studies.

Regional Managers:

Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; Cincinnati, Ohio; Dallas, Tex.; Denver, Colo.; Detroit, Mich.; Kansas City, Mo.; Los Angeles, Calif.; New York, N.Y.; Philadelphia, Pa.; San Francisco, Calif.; and Washington, D.C.

§ 159.1500–3 Appendix D—Instructions Governing Use of Code Words, Nicknames, and Exercise Terms (see 159.701–10).

1. *Definitions.*

a. *Using component.* The DOD component to which a code word is allocated for use, and which assigns to the word a classified meaning, or which originates nicknames and exercise terms using the procedure established by the Joint Chiefs of Staff.

b. *Code word.* Word selected from those listed in Joint Army, Navy, Air Force Publication (JANAP) 299 and subsequent volumes, and assigned a classified meaning by appropriate authority to insure proper security concerning intentions, and to safeguard information pertaining to actual, real world military plans or operations classified as Confidential or higher. A code word shall not be assigned to test, drill or exercise activities. A code word is placed in one of three categories:

(1) *Available*—Allocated to the using component. Available code words individually will be unclassified until placed in the active category.

(2) *Active*—Assigned a classified meaning and current.

(3) *Canceled*—Formerly active, but discontinued due to compromise, suspected compromise, cessation or completion of the operation to which the code word pertained. Canceled code words individually will be unclassified and remain so until returned to the active category.

c. *Nickname.* A combination of two separate unclassified words which is assigned an unclassified meaning and is employed only for unclassified administrative, morale, or public information purposes.

d. *Exercise term.* A combination of two unclassified words used exclusively to designate a test, drill, or exercise. An exercise term is employed to preclude the possibility of confusing exercise directions with actual operations directives.

2. *Policy and procedure.*

a. *Code words.* The Joint Chiefs of Staff are responsible for allocating words or blocks of code words from JANAP 299 to DOD components. DOD components may request allocation of such code words as required and may reallocate available code words within their organizations, in accordance with individual policies and procedure, subject to applicable rules set forth herein.

(1) A permanent record of all code words shall be maintained by the Joint Chiefs of Staff.

(2) The using component shall account for available code words and maintain a record of each active code word. Upon being canceled, the using component shall maintain the record for 2 years; thence the record of each code word may be disposed of in accordance with current practices, and the code word returned to the available inventory.

b. *Nicknames.*

(1) Nicknames may be assigned to actual, real world events, projects, movement of forces, or other nonexercise activities involving elements of information of any classification category, but the nickname, the description or meaning its represents, and the relationship of the nickname and its meaning must be unclassified. A nickname is not designed to achieve a security objective.

(2) Nicknames, improperly selected, can be counterproductive. A nickname must be chosen with sufficient care to insure that it does not:

(a) Express a degree of bellicosity inconsistent with traditional American ideals or current foreign policy;

(b) Convey connotations offensive to good taste or derogatory to a particular group, sect, or creed; or,

(c) Convey connotations offensive to our allies or other Free World Nations.

(3) The following shall not be used as nicknames:

(a) Any two-word combination voice call sign found in JANAP 119 or Allied Communications Publication (ACP) 119. (However, single words in JANAP 119 or ACP 119 may be used as part of a nickname if the first word of the nickname does not appear in JANAP 299 and subsequent volumes.)

(b) Combination of words including word "project," "exercise," or "operation."

(c) Words which may be used correctly either as a single word or as two words, such as "moonlight."

(d) Exotic words, trite expressions, or well-known commercial trademarks.

(4) The Joint Chiefs of Staff shall:

(a) Establish a procedure by which nicknames may be authorized for use by DOD components.

(b) Prescribe a method for the using components to report nicknames used.

(5) The Heads of DOD components shall:

(a) Establish controls within their organizations for the assignment of nicknames authorized under subparagraph (4)(a) above.

(b) Under the procedures established, advise the Joint Chiefs of Staff of nicknames as they are assigned.

c. *Exercise term.*

(1) Exercise terms may be assigned only to tests, drills, or exercises for the purpose of emphasizing that the event is a test, drill, or exercise and not an actual real world operation. The exercise term, the description or meaning it represents, and the relationship of the exercise term and its meaning can be classified or unclassified: A classified exercise term is designed to simulate actual use of DOD code words and must be employed using identical security procedures throughout the planning, preparation and execution of the test, drill, or exercise to insure realism.

(2) Selection of exercise terms will follow the same guidance as contained in paragraphs 2.b (2) and (3) above.

(3) The Joint Chiefs of Staff shall:

(a) Establish a procedure by which exercise terms may be authorized for use by DOD components.

(b) Prescribe a method for the using components to report exercise terms used.

(4) The heads of DOD components shall:

(a) Establish controls within their organizations for the assignment of exercise terms authorized under subparagraph (3) above.

(b) Under the procedures established, advise the Joint Chiefs of Staff of exercise terms as they are assigned.

3. *Assignment of classified meanings to code words.*

a. The DOD component responsible for the development of a plan or the execution of an operation shall be responsible for determining whether to assign a code word.

b. Code words shall be activated for the following purposes only:

(1) To designate a classified military plan or operation;

(2) To designate classified geographic locations in conjunction with plans or operations referred to in (1) above; or,

(3) To conceal intentions in discussions and messages or other documents pertaining to plans, operations, or geographic locations referred to in (1) and (2) above.

c. The using component shall assign to a code word a specific meaning classified Top Secret, Secret, or Confidential, commensurate with military security requirements. Code words shall not be used to cover unclassified meanings. The assigned meaning need not in all cases be classified as high as the classification assigned to the plan or operation as a whole.

d. Code words shall be selected by each using component in such manner that the word used does not suggest the nature of its meaning.

e. A code word shall not be used repeatedly for similar purposes; i.e., if the initial phase of an operation is designated "Meaning," succeeding phases should not be designated "Meaning II" and "Meaning III," but should have different code words.

f. Each DOD component shall establish policies and procedures for the control and assignment of classified meanings to code words, subject to applicable rules set forth herein.

4. *Notice of assignment, dissemination, and cancellation of code words and meanings.*

a. The using component shall promptly notify the Joint Chiefs of Staff when a code word is made active, indicating the word, and its classification. Similar notice shall be made when any changes occur, such as the substitution of a new word for one previously placed in use.

b. The using component is responsible for further dissemination of active code words and meanings to all concerned activities, to include classification of each.

c. The using component is responsible for notifying the Joint Chiefs of Staff of canceled code words. This cancellation report is considered final action, and no further reporting or accounting of the status of the canceled code word will be required.

5. *Classification and downgrading instructions.*

a. During the development of a plan, or the planning of an operation by the headquarters of the using component, the code word and its meaning shall have the same classification. When dissemination of the plan to other DOD components or to subordinate echelons of the using component is required, the using component may downgrade the code words assigned below the classification assigned to their meanings in order to facilitate additional planning, implementation, and execution by such other components or echelons. To facilitate this planning code words shall not be downgraded below Confidential.

b. A code word which is replaced by another code word due to a compromise or suspected compromise, or for any other reason, shall be canceled, and classified Confidential for a period of 2 years, after which the code word will become Unclassified.

c. When a plan or operation is discontinued or completed, and is not replaced by a similar plan or operation but the meaning cannot be declassified, the code word assigned thereto shall be cancelled and classified Confidential for a period of 2 years, or until the meaning is declassified, whichever is sooner, after which the code word will become Unclassified.

d. In every case, whenever a code word is referred to in documents, the security classification of the code word shall be placed in parentheses immediately following the code word, i.e., "Label (C)."

e. When the meaning of a code word no longer requires a classification, the using component shall declassify the meaning and the code word and return the code word to the available inventory.

6. *Security practices.*

a. The meaning of a code word may be used in a message or other document, together with the code word, only when it is essential to do so. Active code words may be used in correspondence or other documents forwarded to addressees who may or may not have knowledge of the meaning. If the context of a document contains detailed instructions or similar information which indicates the purpose or nature of the related meaning, the active code word shall not be used.

b. In handling correspondence pertaining to active code words, care shall be used to avoid bringing the code words and their meanings together. They should be handled in separate card files, catalogs, indexes, or lists, enveloped separately and dispatched at different times so that they do not travel through mail or courier channels together.

c. Code words shall not be used for addresses, return addresses, shipping designators, file indicators, call signs, identification signals, or for other similar purposes.

7. All code words formerly categorized as "inactive" or "obsolete" shall be placed in the current canceled category and classified Confidential. Unless otherwise restricted, all code words formerly categorized as "canceled" or "available" shall be individually declassified. All records associated with such code words may be disposed of in accordance with current practices, provided such records have been retained at least 2 years after the code words were placed in the former categories of "inactive," "obsolete," or "canceled."

[FR Doc.72-12016 Filed 8-2-72;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter XIX—Central Intelligence Agency

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

The Central Intelligence Agency adopts the following rules of procedure for public access to the records of the Central Intelligence Agency and requests for classification review of classified information and material. This regulation implements requirements of the Freedom of Information Act, Executive Order 11652, and the National Security Council Directive of May 17, 1972.

Therefore, pursuant to the authority of the National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 11652, title 32 is amended by establishing a new Chapter XIX and adding a new Part 1900, as set forth below.

GENERAL

Sec.
1900.1 Purpose.
1900.3 Organization and requests for information.
1900.5 Requests for documents or classification review.
1900.7 Processing requests.

REQUESTS INVOLVING CLASSIFIED DOCUMENTS

1900.11 Action on requests involving classified documents.

REQUESTS NOT INVOLVING CLASSIFIED DOCUMENTS

1900.21 Action on requests which do not involve classified documents.

APPEALS

1900.31 Appeal to CIA Information Review Committee.
1900.33 Appeal to Interagency Classification Review Committee.

SUGGESTIONS AND COMPLAINTS

1900.41 Suggestions and complaints.

FEES

1900.51 Fees.

AUTHORITY: This Part 1900 is issued under the authority of the National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 11652.

GENERAL

§ 1900.1 Purpose.

This part implements the requirements of the Freedom of Information Act and Executive Order 11652, and establishes the rules of procedure with respect to public access to the records of the Central Intelligence Agency and requests for classification review of classified information and material.

§ 1900.3 Organization and requests for information.

The headquarters of the Central Intelligence Agency is located in Fairfax County, Va. Functions are channeled and determined by regular chain-of-command procedures. Other than this part, there are no formal or informal procedural requirements regarding public access to Agency records. Requests for information and decisions and other submittals may be addressed to the Assistant to the Director, Central Intelligence Agency, Washington, D.C. 20505.

§ 1900.5 Requests for documents or classification review.

(a) Any person may request that any identifiable records or documents be made available.

(b) Any person may request a classification review of records or documents which are classified under Executive Order 11652, or any predecessor Executive order, and are more than ten (10) years old.

(c) Requests may be addressed to the Assistant to the Director, Central Intelligence Agency, Washington, D.C. 20505. Requests need not be made on any special form but may be by letter or other written communication setting forth the pertinent facts with sufficient particularity that the requested document or record can be located or identified with a reasonable amount of effort.

§ 1900.7 Processing requests.

(a) The Assistant to the Director shall promptly acknowledge receipt, in writing, and refer the request to the Agency component having responsibility for the records or matter involved (the responsible component).

(b) The responsible component shall undertake to locate or identify the document. If the request does not describe the document with sufficient particularity to permit it to be located or identified with reasonable effort, the responsible component shall so inform the Assistant to the Director. The Assistant to the Director will advise the requester that unless additional identifying information is furnished the request cannot be processed further. The requester may then resubmit his request, furnishing additional identifying information. Any resubmitted request also shall be processed in accordance with this regulation. If the responsible component determines that the request is unduly burdensome, it shall so inform the Assistant to the Director who thereupon shall ask the requester to limit his request to records that are reasonably obtainable.

(c) Upon locating a requested document or upon identifying it sufficiently to permit the making of the appropriate determinations under this section and § 1900.11, the responsible component shall determine the date of origin of the document and whether the document is classified under Executive Order 11652 or any predecessor Executive order. If the component determines that the document is unclassified, the request shall be further processed as provided for in § 1900.21. Otherwise, it shall be processed as provided for in § 1900.11.

(d) If possible, action on each request referred to a responsible component under paragraph (a) of this section shall be completed within thirty (30) days of receipt of the request by the Assistant to the Director. If action cannot be completed within thirty (30) days, the component shall so inform the Assistant to the Director and shall explain the reasons for further delay. The Assistant to the Director shall so advise the requester. If the requester does not receive a decision on his request within sixty (60) days, he may apply to the Central Intelligence Agency Information Review Committee, established pursuant to section 7(B)(2) of Executive Order 11652. Any such application shall be processed as an appeal as provided for in § 1900.31.

REQUESTS INVOLVING CLASSIFIED DOCUMENTS

§ 1900.11 Action on requests involving classified documents.

(a) If the document is less than ten (10) years old, the component shall so inform the Assistant to the Director, who thereupon shall deny the request.

(b) If the document is between ten (10) and thirty (30) years old, the component shall review the classification and

continue, modify, or remove the classification based on the criteria set forth in section 5(B) of Executive Order 11652.

(1) If the component classifies the document, at the original level of classification, or at another level, it shall so advise the Assistant to the Director and, unless it is not possible to do so, set a date on which the document shall be declassified automatically. Also, if it is possible to furnish the requester with a brief statement as to why the document cannot be declassified, the component shall furnish such a statement to the Assistant to the Director. The Assistant to the Director thereupon shall deny the request and transmit to the requester the statement furnished him.

(2) If the component declassifies the document, the request shall be further processed as provided for in § 1900.21.

(c) If the document is at least thirty (30) years old, the component shall forward the request, together with its recommendation for continuing, modifying, or removing the classification, to the Director of Central Intelligence for his personal action under section 5(E) of Executive Order 11652. The Director may continue, modify, or remove the classification. If the Director classifies the document at the original level of classification, or at another level, he also shall specify the reasons for continued classification and the period of time in which the document shall continue to be classified. The Director's decision shall be made known to the requester.

REQUESTS NOT INVOLVING CLASSIFIED DOCUMENTS

§ 1900.21 Action on requests which do not involve classified documents.

When a responsible component determines that a request refers to a document which is unclassified § 1900.7(c)), or when the component declassifies a document under § 1900.11(b)(2), the component thereupon shall determine whether the document is exempt from public disclosure under any of clauses (2) through (9) of subsection 552(b), title 5, United States Code. If the component determines that the document is exempt under any of such clauses, it shall also determine, on the basis of applicable law, regulations and policy, whether the document nevertheless shall be made available to the requester.

(a) If the component determines that the document is exempt and should not be made available, it shall so advise the Assistant to the Director, who thereupon shall deny the request.

(b) If the component determines that the document is not exempt or that it is exempt but nevertheless should be made available, it shall so advise the Assistant to the Director, who shall furnish the requester with a copy of the document or give him access to it.

APPEALS

§ 1900.31 Appeal to CIA Information Review Committee.

(a) *Notification of right to appeal.* When the Assistant to the Director advises a requester that a request does not describe a document with sufficient particularity to permit it to be located with reasonable effort (§ 1900.7(b)), or when he denies a request pursuant to § 1900.11(b)(1) or § 1900.21(a), he shall also advise the reqester that he may appeal that decision to the Central Intelligence Agency Information Review Committee, established pursuant to section 7(B)(2) of Executive Order 11652.

(b) *Proccdures.* Any requester, by letter or other written communication, may appeal to the Central Intelligence Agency Information Review Committee any decision conveyed to him under §§ 1900.7(b), 1900.11(b)(1), or 1900.21(a), or apply to the Committee in accordance with § 1900.7(d). The communication should (1) indicate the decision being appealed or, in the case of § 1900.7(d) applications, the action sought, and (2) present any information or justification the requester may wish to submit. It should be addressed to that Committee, c/o the Assistant to the Director, Central Intelligence Agency, Washington, D.C. 20505. The Assistant to the Director shall forward the communication to the Committee for appropriate action under paragraph (c) of this section.

(c) *Committee action on appeals.* Within thirty (30) days the Committee shall consider any appeals forwarded to it under paragraph (b) of this section and take such action thereon as it may deem appropriate, based on the criteria set forth in section 5(B) of Executive Order 11652 and on other applicable provisions of that order and of applicable statutes and regulations. The Committee may affirm, overrule, or modify the appealed decision. The Assistant to the Director shall advise the requester of the decision of the Committee.

§ 1900.33 Appeal to Interagency Classification Review Committee.

Any request denied by the Director under § 1900.11(c) and any appeal denied by the CIA Information Review Committee under § 1900.31(c), other than a request originally denied under § 1900.21(a), may be appealed to the Interagency Classification Review Committee, established pursuant to section 7(A) of Executive Order 11652. Whenever the Assistant to the Director informs a requester that his request or appeal has been so denied, he also shall advise the requester of his right to appeal to the Interagency Classification Review Committee.

SUGGESTIONS AND COMPLAINTS

§ 1900.41 Suggestions and complaints.

Any person may direct any suggestion or complaint with respect to the Agency administration of the Executive order and the implementing regulations, including those regarding overclassification, failure to declassify, or delay in declassifying, to the CIA Information Review Committee. The Committee shall consider and resolve all such suggestions and complaints.

FEES

§ 1900.51 Fees.

In accordance with section 483a of title 31 of the United States Code, fair and equitable fees may be charged in connection with any Agency action or service in response to a request under this regulation. Fees shall be based on the cost to the Government to conduct the necessary research and on the other standards prescribed in section 483a. If a fee is to be charged, the requester shall be so informed by the Assistant to the Director and payment, or satisfactory assurances of payment, obtained from the requester before the action or service is undertaken. Payment shall be by check or postal money order made payable to the Treasurer of the United States.

Revocation. The CIA notice of July 21, 1967 (32 F.R. 140, July 21, 1967) is hereby revoked.

Effective date. This amendment shall become effective on publication in the FEDERAL REGISTER (8-3-72).

Approved on July 31, 1972.

Dated: July 31, 1972.

W. E. COLBY,
Executive Director,
Central Intelligence Agency.

[FR Doc.72-12018 Filed 8-2-72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Declassification and Public Access

NATIONAL SECURITY INFORMATION IN CUSTODY OF NATIONAL ARCHIVES AND RECORDS SERVICE

Title 41 of the Code of Federal Regulations is amended to inform the public and Federal agencies of the procedures to be followed by GSA in handling requests for mandatory review for declassification and public access of national security information in the custody of the National Archives and Records Service and to provide for necessary liaison between GSA and agencies that originate national security information.

Chapter 101—Federal Property Management Regulations

SUBCHAPTER B—ARCHIVES AND RECORDS

PART 101-11—RECORDS MANAGEMENT

Part 101-11 is amended by the addition of new Subpart 101-11.3a as follows:

Subpart 101-11.3a—Declassification of and Public Access to National Security Information

Sec.

101-11.320	General provisions.
101-11.321	Public requests for review of classified material.
101-11.322	Mandatory review procedures.
101-11.322-1	Records 10 through 30 years old.
101-11.322-2	Records more than 30 years old.

Sec.
101–11.322–3 White House classified material.
101–11.323 Access to materials that remain classified.
101–11.324 Liaison.

AUTHORITY: The provisions of this Subpart 101–11.3a issued under 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–11.3a—Declassification of and Public Access to National Security Information

§ 101–11.320 General provisions.

Declassification of and public access to national security information and materials is governed by Executive Order 11652 of March 8, 1972 (37 F.R. 5209, March 10, 1972), and by the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 101–11.321 Public requests for review of classified material.

Members of the public wishing to request review of classified material more than 10 years old in the custody of NARS under the mandatory review procedures of section 5 of Executive Order 11652 should identify the record or information desired and apply in writing to the appropriate NARS depository listed in 41 CFR 105–61.4801.

§ 101–11.322 Mandatory review procedures.

§ 101–11.322–1 Records 10 through 30 years old.

(a) *NARS action.* Within 3 workdays, NARS will forward each request for review of classified material to the originating Federal agency and will inform the requester to which office the request was forwarded.

(b) *Federal agency action.* Upon receipt of a request forwarded by NARS, the originating agency shall:

(1) Acknowledge receipt of the request in writing;

(2) Review the request and determine within 30 calendar days whether the material may be declassified; and

(3) Notify the requester and NARS of the determination made or of the reason why further time is necessary to make the determination. If the request is denied, the agency must also furnish the requester and NARS with a brief statement of the reasons the requested material cannot be declassified.

(c) *Action by requester.* (1) After the request is approved and the material is declassified, members of the public may use or order reproductions of the materials in accordance with 41 CFR 105–61, Records, Donated Historical Materials, and Facilities in the National Archives and Records Service.

(2) If the request is denied or no answer is received after 60 calendar days, the requester may appeal to the Departmental Committee of the originating agency as provided in section 7(B) of Executive Order 11652 and Part III of the National Security Council Directive. The Departmental Committee shall act on the appeal and reply to the requester and to NARS within 30 calendar days. The requester may further appeal a denial to the Interagency Classification Review Committee.

§ 101–11.322–2 Records more than 30 years old.

If the material requested has not been automatically declassified under section 5(E) of Executive Order 11652, NARS will review the material and either declassify it or request a determination by the head of the originating agency as to whether the material requires continued protection. In either case, NARS will reply to the requester within 30 calendar days. If the material is declassified, it will become available subject to the provisions of 41 CFR 105–61 or the regulations of the agency having custody. If declassification is denied, NARS will so notify the requester and inform him of his right to appeal to the Interagency Classification Review Committee.

§ 101–11.322–3 White House classified material.

Except when donor restrictions preclude granting access, NARS will review the material requested, consult with the agencies having primary subject-matter interest, determine whether the material may be declassified, and notify the requester within 30 calendar days. If the request is approved, the material will become available subject to the provisions of 41 CFR 105–61. If the request is denied, NARS will inform the requester of his right to appeal to the Interagency Classification Review Committee.

§ 101–11.323 Access to materials that remain classified.

(a) Any person desiring permission to examine such materials shall, sufficiently in advance, submit to the Archivist of the United States a completed application, a set of his fingerprints, and personal history data on forms that will be furnished. Applications will be referred by the Archivist to agencies having responsibility for the related programs. Records can be made available for examination only after each appropriate agency has authorized the Archivist of the United States to make them available.

(b) The requirement for submission of a fingerprint set or of personal history data may be waived for an applicant who has previously furnished those items.

(c) To guard against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided for in 41 CFR 105–61.103.

§ 101–11.324 Liaison.

To insure that NARS will be able to respond promptly to requests from the public, each Federal agency originating classified materials in the custody of NARS shall forward to the Deputy Archivist of the United States (Mailing address: General Services Administration (ND), Washington, D.C. 20408) the name, mailing address, and telephone number of the office responsible for handling mandatory review requests under Part III of the National Security Council Directive; the name, title, mailing address, and telephone number of the senior staff member who serves as chairman of the Departmental Committee under section 7(B)(2) of Executive Order 11652; and 18 copies of any regulations or other instructions implementing Executive Order 11652.

Chapter 105—General Services Administration

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Subpart 105–61.1—Public Use of Archives and FRC Records

The table of contents for Part 105–61 is amended as follows:

Sec.
105–61.104 Access to national security information.
105–61.104–1 Public requests for review of classified material.
105–61.104–2 Mandatory review of records 10 through 30 years old.
105–61.104–3 Mandatory review of records more than 30 years old.
105–61.104–4 Mandatory review of White House classified materials.
105–61.104–5 Access to materials that remain classified.

Section 105–61.104 is revised to read as follows:

§ 105–61.104 Access to national security information.

Public access to national security information and materials is governed by Executive Order 11652 of March 8, 1972 (37 F.R. 5209, March 10, 1972) and by the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 105–61.104–1 Public requests for review of classified material.

Members of the public wishing to request review of classified material more than 10 years old in the custody of NARS under the mandatory review procedures of section 5 of Executive Order 11652 should identify the record or information desired and apply in writing to the appropriate NARS depository listed in § 105–61.4801.

§ 105–61.104–2 Mandatory review of records 10 through 30 years old.

(a) Within 3 workdays, NARS will forward each request for review of classified material to the originating Federal agency and will inform the requester to which office the request was forwarded.

(b) Upon receipt of a request forwarded by NARS, the originating agency will:

(1) Acknowledge receipt of the request in writing.

(2) Review the request and determine within 30 calendar days whether the material may be declassified; and

(3) Notify the requester and NARS of the determination made or of the reason why further time is necessary to make the determination. If the request

is denied, the agency must also furnish the requester and NARS with a brief statement of the reasons the requested material cannot be declassified.

(c) If the request is approved and the material is declassified, members of the public may use or order reproductions of the materials in accordance with this Part 105–61. If the request is denied or no answer is received after 60 calendar days, the requester may appeal to the Departmental Committee of the originating agency as provided in section 7(B) of Executive Order 11652 and Part III of the National Security Council Directive. The Departmental Committee will act on the appeal and reply to the requester and to NARS within 30 calendar days. The requester may further appeal a denial to the Interagency Classification Review Committee.

§ 105–61.104–3 Mandatory review of records more than 30 years old.

If the material requested has not been automatically declassified under section 5(B) of Executive Order 11652, NARS will review the material and either declassify it or request a determination by the head of the originating agency as to whether the material requires continued protection. In either case, NARS will reply to the requester within 30 calendar days. If the material is declassified, it will become available subject to the provisions of this part 105–61 or the regulations of the agency having custody. If declassification is denied, NARS will so notify the requester and inform him of his right to appeal to the Interagency Classification Review Committee.

§ 105–61.104–4 Mandatory review of White House classified materials.

Except when donor restrictions preclude granting access, NARS will review the material requested, consult with the agencies having primary subject-matter interest, determine whether the material may be declassified, and notify the requester within 30 calendar days. If the request is approved, the material will become available subject to the provisions of this Part 105–61. If the request is denied, NARS will inform the requester of his right to appeal to the Interagency Classification Review Committee.

§ 105–61.104–5 Access to materials that remain classified.

(a) Any person desiring permission to examine such materials shall, sufficiently in advance, submit to the Archivist of the United States a completed application, a set of his fingerprints, and personal history data on forms that will be furnished. Applications will be referred by the Archivist to agencies having responsibility for the related programs. Records can be made available for examination only after each appropriate agency has authorized the Archivist to make them available.

(b) The requirement for submission of a fingerprint set or of personal history data may be waived for an applicant who has previously furnished those items.

(c) To guard against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided in § 105–61.103.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (8–3–72).

Dated: August 1, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72–12210 Filed 8–2–72;8:53 am]