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EXECUTIVE ORDER 11767

Designating the Organization of African Unity as a Public International Organization Entitled to Enjoy Certain Privileges, Exemptions, and Immunities

By virtue of the authority vested in me by sections 1 and 12 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288), as amended by Public Law 93-161 (87 Stat. 635), I hereby designate the Organization of African Unity (OAU) as a public international organization entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act.

Richard Nixon

THE WHITE HOUSE,
February 19, 1974.

[FR Doc.74-4235 Filed 2-19-74;3:05 pm]

Rules and Regulations

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

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

Title 7—Agriculture

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

[Orange Reg. 72, Amdt. 6; Grapefruit Reg. 74, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Grade and Size Regulations

These amendments lower the minimum diameter requirements to 2-4/16 inches for domestic shipments of Murcott Honey oranges and to 3-12/16 inches in diameter for seeded grapefruit. The specification of such lower minimum sizes for Florida Murcott Honey oranges is necessary to satisfy the current and prospective demand for such oranges. The amended regulations recognize the quality of much of the Murcott Honey oranges currently available for fresh shipments. The lower minimum diameter requirement for seeded grapefruit conforms the minimum diameter requirement of size 40 grapefruit to that set forth in the regulation of the Florida Citrus Commission.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Murcott Honey oranges, and of seeded grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The lower minimum diameter requirement for seeded grapefruit conforms the minimum diameter requirement of size 40 grapefruit to that set forth in the regulations of the Florida Citrus Commission.

(3) Less restrictive size limitations on domestic shipments of Murcott Honey oranges are consistent with the available supply of such oranges in the production area and the current and prospective demand for such fruit by fresh market outlets.

(4) 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 these amendments until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which these amendments are based became available and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; and these amendments relieve restrictions on the handling of Murcott Honey oranges and seeded grapefruit grown in Florida.

Order. 1. The provisions of paragraph (b)(8) of § 905.550 (Orange Regulation 72; 38 FR 25665, 28063, 31414, 34454, 34986; 39 FR 3812) are amended to read as follows:

§ 905.550 Orange Regulation 72.

* * * * *

(b) * * *

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2-4/16 inches in diameter, except that a tolerance for undersize Murcott Honey oranges shall be permitted as specified in § 51.1818 of the United States Standards for Florida Tangerines;

* * * * *

2. The provisions of paragraph (b)(2) of § 905.551 (Grapefruit Regulation 74; 38 FR 25665, 28063, 31414, 34454, 34986) are amended to read as follows:

§ 905.551 Grapefruit Regulation 74.

* * * * *

(b) * * *

(2) Any seeded grapefruit, grown in the production area, which are of a size smaller than 3-12/16 inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit.

* * * * *

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

Dated February 15, 1974, to become effective February 18, 1974.

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

[FR Doc.74-4127 Filed 2-20-74;8:45 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; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Release of Area Quarantined

This amendment releases Bailey County in Texas, from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, in paragraph (a) relating to the State of Texas, paragraph (1) relating to Bailey County is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective February 15, 1974.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking 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 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 15th day of February 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-4128 Filed 2-20-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-GL-53]

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

Alteration of Federal Airways

On December 14, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 34475) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign segments of VOR Federal Airways V-6S, V-14, V-133, and V-435 and rescind a segment of V-232 in the vicinity of Sandusky, Ohio.

Interested persons were afforded an opportunity to participate in the proposed rulemaking 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., April 25, 1974, as hereinafter set forth.

Section 71.123 (39 FR 307; 38 FR 33393) is amended as follows:

a. In V-6 "INT Waterville 108° and Cleveland 258° radials;" is deleted and "INT Waterville 108° and Cleveland 252° radials;" is substituted therefor.

b. In V-14 "INT Findlay 095° and Cleveland, Ohio, 241° radials; Cleveland;" is deleted, and "Cleveland, Ohio;" is substituted therefor.

c. In V-133 "Sandusky, Ohio; INT Sandusky 342° and Salem, Mich., 139° radials;" is deleted and "INT Mansfield 346° and Salem, Mich., 139° radials;" is substituted therefor.

d. V-232 is amended to read as follows: "From INT of the Cleveland, Ohio, 024° and the Chardon, Ohio, 281° radials, via Chardon; Franklin, Pa.; Keating, Pa.; Milton, Pa.; to INT Milton 099 and Stillwater, N.J., 172° radials."

e. V-435 is amended to read as follows: "From Rosewood, Ohio, via INT Rosewood 041° and Cleveland, Ohio, 252° radials; to Cleveland."

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

Issued in Washington, D.C., on February 14, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-4037 Filed 2-20-74;8:45 am]

[Docket No. 13544; Amdt. No. 904]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective April 4, 1974.

Camden, Ark.—Harrell Field, VOR/DME Rwy 36, Orig.
Crossville, Tenn.—Crossville Memorial Arpt., VOR/DME-A, Amdt. 5.
Findlay, Ohio—Findlay Arpt., VOR Rwy 25, Amdt. 1.
Findlay, Ohio—Findlay Arpt., VOR Rwy 36, Amdt. 1.
Mattoon-Charleston, Ill.—Coles County Memorial Arpt., VOR Rwy 6, Amdt. 6.
Mattoon-Charleston, Ill.—Coles County Memorial Arpt., VOR Rwy 24, Amdt. 5.
Mayaguez, P.R.—Mayaguez Arpt., VOR Rwy 8, Amdt. 3.
Pontiac, Mich.—Oakland-Pontiac Arpt., VOR Rwy 9R, Amdt. 15.
Pontiac, Mich.—Oakland-Pontiac Arpt., VOR Rwy 27L, Amdt. 8.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAP's, effective April 4, 1974.

Toledo, Ohio—Toledo Express Arpt., LOC (BC) Rwy 25, Amdt. 11.

* * * effective March 28, 1974

Fairbanks, Alaska—Fairbanks Int'l. Arpt., LOC (BC) Rwy 1L, Amdt. 10.

* * * effective February 28, 1974

Glens Falls, N.Y.—Warren County Arpt., LOC Rwy 1, Orig., canceled.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective April 4, 1974.

Birmingham, Mich.—Grand Prix Arpt., NDB-A, Amdt. 3.
Camden, Ark.—Harrell Field, NDB Rwy 18, Amdt. 3.
Findlay, Ohio—Findlay Arpt., NDB Rwy 36, Amdt. 6.
Mattoon-Charleston, Ill.—Coles County Memorial Arpt., NDB Rwy 6, Amdt. 7.
Omaha, Neb.—Millard Municipal Arpt., NDB Rwy 12, Amdt. 3.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective April 4, 1974.

Crossville, Tenn.—Crossville Memorial Arpt., ILS Rwy 25, Amdt. 1.
Miami, Fla.—Miami Int'l. Arpt., ILS Rwy 27R, Amdt. 2.
Pontiac, Mich.—Oakland-Pontiac Arpt., ILS Rwy 9R, Amdt. 3.

* * * effective March 28, 1974.

Fairbanks, Alaska—Fairbanks, Int'l. Arpt., ILS Rwy 19R, Amdt. 15.
Pago Pago, Tutuila Island American Samoa—Pago Pago Int'l. Arpt., ILS/DME Rwy 5, Amdt. 2.

* * * effective February 28, 1974

Glens Falls, N.Y.—Warren County Arpt., ILS Rwy 1, Orig.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAP's, effective April 4, 1974.

Jacksonville, Fla.—Craig Municipal Arpt., RADAR-1, Amdt. 1.

* * * effective March 7, 1974

Flint, Mich.—Bishop Arpt., RADAR-1, Orig.
Lansing, Mich.—Capital City Arpt., RADAR-1, Orig.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's, effective April 4, 1974.

Miami, Fla.—Miami Int'l. Arpt., RNAV Rwy 27R, Amdt. 1.
Pontiac, Mich.—Oakland-Pontiac Arpt., RNAV Rwy 27L, Amdt. 2.

* * * effective March 28, 1974

Aurora, Ill.—Aurora Municipal Arpt., RNAV Rwy 9, Amdt. 1.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))).

Issued in Washington, D.C., on February 14, 1974.

JAMES M. VINES,
Chief Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.74-4036 Filed 2-20-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-836; Amdt. 10]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Reporting Requirements for Form 41, Schedules B-46, G-42, and G-43

Correction

In the document appearing on page 5756, in the issue for Friday, February 15, 1974, make the following corrections:

1. At the end of the document add a file line reading "[FR Doc.74-3781 Filed 2-14-74;8:45 am]".

2. In Section 33, Schedule G-42, paragraph (h), in the 7th line, the word "referred" should be changed to read "deferred".

Title 24—Housing and Urban Development

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

[Docket No. R-74-109]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

PART 1934—CLASSIFICATION OF TERRITORIES

Revision of Rate Territory Classification of Tampa-St. Petersburg SMSA

The ratings of Standard Metropolitan Statistical Areas which govern the rates charged for Federal crime insurance are based on statistics issued by the Federal Bureau of Investigation. Recent FBI statistics indicate that the rate territory classification for the Tampa-St. Petersburg (Florida) SMSA has changed. Under the authority contained in section 306(g), 82 Stat. 540; 12 U.S.C. section 1721, an amendment is now being published to reflect that change.

Since this rating change is based on statistics over which the Administrator has no control, notice and public procedure are impracticable and unnecessary. Inasmuch as Florida entered the Federal Crime Insurance Program on February 1, 1974, and the statistics on which the rating territory classification is based reflect a change in the crime rate in the Tampa-St. Petersburg SMSA which occurred prior to February 1, 1974, good cause exists for making this amendment effective February 1, 1974.

Accordingly, § 1934.2 of 24 CFR, Part 1934 is amended by changing the rate territory for the Tampa-St. Petersburg SMSA from "2" to "3".

Effective date. This amendment shall be effective February 1, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-4063 Filed 2-20-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

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

CFR Correction

The following change should be made in Title 26 CFR, Part 1, §§ 1.501 to 1.640, revised as of April 1, 1973: On page 153, the last line of subparagraph (2)(i)(b) (§ 1.514(b)-1(c)(2)(i)(b)), should refer to "paragraph (1)(4) of § 1.512(b)-1", rather than to "paragraph (e)(4) of § 1.512(b)-1".

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 694—MINIMUM WAGE RATES IN INDUSTRIES IN THE VIRGIN ISLANDS

Wage Order

Pursuant to sections 5, 6 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 628 (38 FR 34742) the Secretary of Labor appointed and convened Industry Committee No. 14 for the Hotel and Motel Classification and the Restaurant and Food Service Classification of Industries in the Virgin Islands, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matter referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 14 are hereby published, amending § 694.1(b)(2) and (b)(4) of Title 29, Code of Federal Regulations.

As amended § 694.1 reads as follows:

§ 694.1 Wage rates.

* * * * *

(b) * * *

(2) *Hotel and motel classification.* (i) The minimum wage for this classification is $1.55 an hour.

* * * * *

(4) *Restaurant and food service classification.* (i) The minimum wage for this classification is $1.55 an hour.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)).

Effective date. This amendment shall become effective March 8, 1974.

Signed at Washington, D.C., this 14th day of February, 1974.

FREDERICK J. GLASGOW,
Special Assistant to the Administrator.

[FR Doc.74-4042 Filed 2-20-74;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 888—ENLISTMENT IN THE REGULAR AIR FORCE

Miscellaneous Amendments

This revision removes the authorized requirement of only one retest for the Armed Services Vocational Aptitude Battery (ASVAB), deletes the educational requirement that a WAF applicant be a high school graduate and corrects an editorial error.

Part 888, Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 888.5 is amended by correcting the word "enlistment" in the last sentence to read "residence".

2. Section 888.6(a)(4)(i) is amended by deleting the second sentence which reads "Only one retest is authorized."

3. Section 888.6(d)(3) is herewith deleted in its entirety and § 888.6(d)(4) is redesignated to § 888.6(d)(3).

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74-4059 Filed 2-20-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-37]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Back Bay of Biloxi, Miss.

This amendment revises regulations for the Back Bay of Biloxi swing bridge, mile 2.8, to permit the draw to remain closed to the passage of vessels from 7 a.m. to 9 a.m., Monday through Friday, except holidays, from February 15, 1974 through August 13, 1974. This amendment is made to allow the continuance of extensive repair and replacement work on mechanical and electrical equipment and wiring.

This rule is issued without notice of proposed rulemaking. The Coast Guard has found that good cause exists for taking this action on the basis that it would be contrary to the public interest to delay this work.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising of paragraph (i)(20–a) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(20–a) Back Bay of Biloxi, mile 2.8, Mississippi. The draw need not open for the passage of vessels from 7:00 a.m. to 9:00 a.m., Monday through Friday except holidays, from February 15, 1974 through August 13, 1974.

* * * * *

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

Effective date. This revision shall be in effect from February 15, 1974 through August 13, 1974.

Dated: February 13, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74–4077 Filed 2–20–74;8:45 am]

[CGD 5–74–01 R]

PART 127—SECURITY ZONES

Establishment of Security Zones, Baltimore Harbor and Approaches, Maryland

This amendment to the Coast Guard's Security Zone Regulations, establishes Baltimore Harbor and its approach channels above the Chesapeake Bay Bridge as a security zone. This security zone is established to facilitate the transit of the semi-submersible drilling platform OCEAN SCOUT from the Bethlehem Steel Corporation, Fort McHenry Shipyard to a temporary anchorage south of the Chesapeake Bay Bridge and east of the shipping lane.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from date of publication because good cause exists and public procedures on this amendment are impracticable because there is insufficient time for completing public procedures.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.502, to read as follows:

§ 127.502 Baltimore Harbor and Approaches, Maryland.

The waters within the following boundary are a security zone: The water with 500 yards on either side of a line beginning at 38°58′40″ N., 76°23′21″ W., thence 39°00′56″ N., 76°22′26″ W., thence 39°04′10″ N., 76°23′41″ W., thence 39°07′32″ N., 76°23′41″ W., thence 39°10′41″ N., 76°26′03″ W. thence 39°12′05″ N., 76°30′45″ W., thence 39°15′38″ N., 76°34′26″ W., thence 39°16′04″ N., 76°34′30″ W., thence 39°16′14″ N., 76°34′51″ W.

(40 Stat. 220, as amended, section 6(b), 80 Stat. 937 (50 U.S.C. section 191, 49 U.S.C. section 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Effective date. This amendment becomes effective at 5 a.m., e.d.t., 19 February 1974 and will remain in effect until the OCEAN SCOUT clears the shipping lane south of the Chesapeake Bay Bridge, as announced by a Broadcast Notice to Mariners. In the event inclement weather precludes movement of the OCEAN SCOUT on 19 February 1974, this amendment will become effective at 0500 hours Eastern Daylight Time, 20 February 1974. Notice of this delay, if necessary, will be announced by a Broadcast Notice to Mariners.

Dated: February 14, 1974.

G. H. PATRICK BURSLEY,
Captain, United States Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc.74–4145 Filed 2–20–74;8:45 am]

[CCD 5–74–01 R]

PART 127—SECURITY ZONES

Establishment of Security Zones, Baltimore Harbor and Approaches, Maryland

In a document issued on February 14, 1974 Part 127 of Title 33 of the Code of Federal Regulations was amended by adding 127.502. This document amends the effective date of the amendment to read as follows:

Effective date. This amendment becomes effective at 5 a.m. hours e.d.t., 20 February 1974 and will remain in effect until the OCEAN SCOUT clears the shipping lane south of the Chesapeake Bay Bridge, as announced by a Broadcast Notice to Mariners. In the event inclement weather precludes movement of the OCEAN SCOUT on 20 February 1974, this amendment will become effective 0500 hours Eastern Daylight Time, 21 February 1974. Notice of this delay, if necessary, will be announced by a Broadcast Notice to Mariners.

Dated: February 15, 1974.

G. H. PATRICK BURSLEY,
Captain, United States Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc.74–4146 Filed 2–20–74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDES PROGRAMS

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

Carbofuran

A petition was filed by FMC Corp., Middleport, NY 14105, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-benzofuranyl-N-methylcarbamate) and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate in or on the raw agricultural commodity potatoes at 0.1 part per million. Subsequently, the petition was revised to request tolerances for combined residues of carbofuran, its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate, and its phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on potatoes at 1 part per million (of which no more than 0.1 part per million is carbamates), in the fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 part per million (of which no more than 0.02 part per million (negligible residue) is carbamates).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.
2. The established tolerance for residues in milk is adequate to cover any additional residues from the proposed use.
3. There is no reasonable expectation of residues in eggs or poultry and § 180.6(a)(3) applies.
4. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(3), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), Part 180 is amended by adding the new § 180.254a as follows:

§ 180.254a Carbofuran and its metabolites (including phenolic metabolites); tolerances for residues.

Tolerances are established for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-benzofuranyl-N-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate, and its phenolic

metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the following raw agricultural commodities:

One part per million in or on potatoes (of which no more than 0.1 part per million is carbamates).

0.05 part per million in the fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep (of which no more than 0.02 part per million (negligible residue) is carbamates).

Any person who will be adversely affected by the foregoing order may at any time on or before March 25, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective February 21, 1970.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 15, 1974.

E. L. JOHNSON,
Acting Deputy Assistant,
Administrator for Pesticide Programs.

[FR Doc.74-4142 Filed 2-20-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 33—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-3—PROCUREMENT BY NEGOTIATION

Cost-sharing Contract

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The titles of various organizations listed in § 3-3.405-3, Cost-sharing contracts, are obsolete. The purpose of these amendments is to update the organizational titles set forth therein.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to participate in the rule making process. However, the amendments herein concern administrative matters. Therefore, the public rule making process is deemed unnecessary in this instance.

§ 3-3.405-3 Cost-sharing contract [Amended]

1. That part of the third sentence of paragraph (c)(2) of § 3-3.405-3 reading "* * * negotiating cost-sharing is that of the Office of Grants Management Services, Health Services and Mental Health Administration" is hereby changed to read "* * * negotiating cost-sharing is that of the Office of the Assistant Secretary for Health."

2. The following changes are made in paragraph (f)(3) of § 3-3.405-3.

a. Item (f)(3)(i) is hereby deleted and the following is substituted in lieu thereof:

(i) The Office of the Assistant Secretary for Health shall be responsible for negotiating all HEW institutional cost-sharing agreements. Such agreements, when negotiated, will be binding upon all HEW agencies. Eligible contractors wishing to negotiate institutional cost-sharing agreements should contact the Chief, Cost and Audit Management Branch, Division of Grants and Contracts, ORM-OAM, Office of the Assistant Secretary for Health, Room 18 A 30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852. Institutional cost-sharing agreements already in existence at the effective date of this subpart (and therefore applicable only to grants) must be amended to include subsequently awarded contracts.

b. Item (f)(3)(ii) is hereby deleted and the following is substituted in lieu thereof:

(ii) All necessary implementing instructions to cover such matters as content of proposals, format of agreements, documentation, etc., shall be issued by the Office of the Assistant Secretary for Health subject to the prior approval of the Office of Grants and Procurement Management, OS.

c. That part of the first sentence of item (f)(3)(iii) reading "The Health Services and Mental Health Administration shall provide the Office of Procurement and Materiel Management * * *" is hereby changed to read:

"The Office of the Assistant Secretary for Health shall provide the Office of Grants and Procurement Management, OS * * *"

3. That part of the first sentence of paragraph (f)(4) of § 3-3.405-3 reading "* * * issued by the Office of Grants Management, HSMHA." is hereby changed to read:

"issued by the Cost and Audit Management Branch, Division of Grants and Contracts, ORM-OAM, Office of the Assistant Secretary for Health."

Authority: (5 U.S.C. 301; 40 U.S.C. 486(c))

Effective Date: These amendments become effective February 21, 1974.

Dated: February 14, 1974.

THOMAS S. MCFEE,
Acting Assistant Secretary
for Administration and Management.

[FR Doc.74-4083 Filed 2-20-74;8:45 am]

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

PART 5A-10—BONDS AND INSURANCE

The following instructions concerning bonds and insurance are added to Chapter 5A, GSPR.

Chapter 5A is amended by adding new Part 5A-10 as follows:

Subpart 5A-10.1—Bonds

Sec.
5A-10.103 Bid guarantees.

Subpart 5A-10.2—Sureties on Bonds

5A-10.202 Corporate sureties.
5A-10.204 Options in lieu of sureties.
5A-10.205 Consent of surety.
5A-10.250 Determination of surety's acceptability.

Subpart 5A-10.3—Insurance—General

5A-10.301 General.

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

Subpart 5A-10.1—Bonds

§ 5A-10.103 Bid guarantees.

Bid guarantees, other than bid bonds, shall be placed in the custody of a bonded collection officer immediately after the opening of bids. The contracting officer shall arrange for the return of such guarantees, or their equivalent, to unsuccessful bidders as soon as award is made, and to the successful bidder upon execution of such further contractual documents and bonds as may be required by the bid as accepted.

Subpart 5A-10.2—Sureties on Bonds

§ 5A-10.202 Corporate sureties.

The current edition of Treasury Department Circular 570 shall be prominently displayed in bid opening rooms, in GSA Business Service Centers, and in all places where bid forms and information are regularly available. Copies should be made available to officials having a need therefor.

§ 5A-10.204 Options in lieu of sureties.

Security deposited in lieu of corporate of individual sureties on bonds shall be placed in the custody of a bonded collection officer immediately after receipt, except that United States bonds or notes received in the District of Columbia shall be deposited with the Treasurer of the United States as provided in § 1-10.204-1 of this title. The contracting officer shall arrange for the return of such security, or its equivalent, to the contractor when he has fulfilled all of the obligations secured by the bond in connection with which the security was deposited.

§ 5A-10.205 Consent of surety.

Consent of surety shall be substantially in the following form:

CONSENT OF SURETY

Date _____ Amendment or Supplemental Agreement
Contract No.____ No _____

Consent of surety is hereby given to the foregoing contract modification and the surety agrees that its bond or bonds shall apply to the contract as so modified. The principal and surety further agree that on and after the execution of this consent, the penalty of the aforementioned performance bond or bonds is hereby increased by $_____, and the penalty of the aforementioned payment bond or bonds is increased by $_____.

(Name and address of principal)

(Affix seal, if corporation)
Attest: ----------
By: ----------

(Name and address of surety)

(Affix seal, if corporation)
Attest: ----------
By: ----------

§ 5A–10.250 Determination of surety's acceptability.

(a) Upon receipt of a required bond, the contracting officer shall determine whether the bond and the surety are acceptable (see § 1–10.103–4 of this title regarding failure to submit proper bid guarantee). If the acceptability of a bond involves a question as to its validity, the contracting officer shall refer the matter to appropriate legal counsel. For any question other than validity, the contracting officer shall refer the bond and such questions to the appropriate financial management office for necessary action. The office to which the bond is referred shall take such action as is necessary and promptly return the bond to the contracting officer with advice as to its acceptability.

(b) When a contracting officer has verified the acceptability of the surety on a bond, he shall so certify by placing the words "Acceptability of Bond Verified," with his signature immediately thereunder, on the bond or on a properly identified attachment. The bond shall be retained with the original of the contract.

(c) When the bond or surety is not acceptable, the contracting officer shall return the bond to the bidder notifying him that the bond or surety is not acceptable.

Subpart 5A–10.3—Insurance—General

§ 5A–10.301 General.

(a) The policy stated in § 1–10.301 of this title is based on the theory that the quantity of the Government's transactions, together with the magnitude of its resources, makes it more advantageous for the Government to carry its own risks than to have them assumed by private insurers, whose rates are based on recovery of possible losses, estimated operating expenses, and anticipated profit. Exceptions to this principle exist where Government property is not under the direct control and custody of the Government, and other special circumstances are present as indicated in § 1–10.301 of this title. However, where a contractor is responsible for Government property, there is not objection to requiring or permitting the contractor to carry insurance against loss of, or damage to the property provided the contractor does not pass on the cost of the insurance to the Government, and the Government's interests in any payments under the policy are protected. The need for such coverage and the extent of protection required shall be based on the circumstances in each case.

(b) Insurance requirements should be adequate, but at the same time just and reasonable. Generally, such requirements will be predicated on potential loss or damage and not necessarily on the value of the contract. When it is determined that insurance coverage should be required, the invitation and resultant contract shall contain a suitable provision requiring the contractor to carry insurance of a type, and in an amount necessary to provide adequate protection to the Government. Determination as to type of insurance, amount, and any related insurance requirements for inclusion in invitations and resultant contracts shall be made jointly by the contracting officer and the appropriate financial management office, after clearance with the appropriate legal counsel. All premiums or costs incident to compliance with an insurance requirement shall be paid by the contractor.

(c) Insurance policies, or endorsements thereto, submitted by successful bidders shall be referred to the appropriate financial management office for examination, approval, and servicing.

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

Dated: February 4, 1974.

M. J. TIMBERS,
Commissioner, FSS.

[FR Doc.74–4073 Filed 2–20–74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 74–56]

PART 73—RADIO BROADCAST SERVICES

Emergency Broadcast System (EBS)

Correction

In FR Doc.74–2210 for the issue of Wednesday, January 30, 1974, on page 3903 make the following change:

In § 73.931(a)(3) add the following after the words "and TV broadcast stations": "by AM and FM, and TV broadcast Stations."

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1147, Amdt. 1]

PART 1033—CAR SERVICE

Norfolk and Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of February 1974.

Upon further consideration of Service Order No. 1147 (38 FR 21638), and good cause appearing therefor:

It is ordered, That:

Section 1033.1147 Service Order No. 1147. (Norfolk and Western Railway Company authorized to operate over joint tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Chicago, Rock Island and Pacific Railroad Company and over tracks of the Kansas City Southern Railway Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 15, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., February 15, 1974.

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

It is further ordered, That a copy of 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 agrement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–4116 Filed 2–20–74;8:45 am]

[S.O. 1173]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 14th day of February 1974.

It appearing, that an acute shortage of mechanical refrigerator cars exists in the primary fruit and vegetable growing and shipping areas of the country; that shippers of these and other products requiring protection from heat or cold are being deprived of adequate supplies of such cars, creating great economic loss; that mechanical refrigerator cars are being diverted to the handling of other types of freight not requiring such protection and are not being returned promptly to such fruit and vegetable growing areas; that present rules, regulations, and practices with respect to the use, supply, control, movement, exchange, interchange, and return of such mechanical refrigerator cars to such growing and shipping areas are ineffective; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and

contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1173 Service Order No. 1173.

(a) *Distribution of Refrigerator Cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service.

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all mechanical refrigerator cars listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 390, issued by W. J. Trezize, or reissues thereof as having mechanical designation "RP", "RPB", "RPL" or "RPM", except cars listed as bearing reporting marks assigned to the Atchison, Topeka and Santa Fe Railway Company.

(2) *Distribution.* (i) Withdraw from distribution and return to owners empty all mechanical refrigerator cars described in paragraph (a) (1) (ii) of this section. (See paragraph (a) (2) (ii), (iii), and (iv) of this section.)

(ii) Exception: Mechanical refrigerator cars bearing reporting marks ARMN will be returned to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the Missouri Pacific Railroad Company, or the Norfolk and Western Railway Company in accordance with instructions issued by the American Refrigerator Transit Company.

(iii) Exception: Mechanical refrigerator cars owned by the Bangor and Aroostock Railroad Company and bearing reporting marks BAR will be returned to the car owner or will be handled in common with PFE, SPFE, and UPFE cars as directed by the car owner.

(iv) Exception: Empty mechanical refrigerator cars bearing reporting marks PFE, UPFE, or SPFE and empty mechanical refrigerator cars bearing reporting marks BAR which are assigned by the car owner to use by the Pacific Fruit Express Company shall be returned to either the Southern Pacific Transportation Company or to the Union Pacific Railroad Company in accordance with instructions issued by their jointly-owned subsidiary, the Pacific Fruit Express Company.

(3) *Restriction on loading.* (i) Mechanical refrigerator cars described in paragraph (a) (1) (ii) of this section, located on the lines of the car owner, may be loaded only with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto or reissues thereof. (See paragraph (a) (3) (iii) of this section.)

(ii) Mechanical refrigerator cars described in paragraph (a) (1) (ii) of this section, located on lines other than the car owner, may be loaded with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 87, issued by H. R. Brandl, supplements thereto or reissues thereof, only if destined to a station on the lines of the car owner. (See paragraph (a) (3) (iii) and (v) of this section.)

(iii) Note: In the application of paragraph (a) (3) (i) and (ii) of this section, the SP and the UP shall each be deemed to be the owners of cars marked PFE, SPFE, and UPFE and of those BAR cars assigned by the owner to the PFE Company for distribution; and the Milw., the MP, and the Norfolk and Western shall each be deemed to be the owner of cars marked ARMN.

(iv) Mechanical refrigerator cars described in this order shall not be loaded with freight requiring top or body ice unless the shipment is also subject to a mechanical Protective Service Charge as provided in Rule 700 of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto or reissues thereof. (See Exception (v).)

(v) Exception: Cars wih defective mechanical refrigerator units which the car owner certifies cannot be placed in operating condition within thirty days. Such certification must be furnished by the car owner to the railroad at the point at which the bill of lading and the waybill covering the loaded movement of the car is to be prepared and shall be endorsed on the waybill accompanying the car to destination. The engine compartment door on such cars must be sealed before the cars are forwarded from the point of origin.

(vi) Mechanical refrigerator cars described in this order must not be backhauled or held empty more than twenty-four (24) hours awaiting placement for loading authorized in part (ii) of this paragraph.

(4) *General exception.* Exceptions to this order may be authorized to carriers by R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, upon receipt of written or telegraphic request from the car owner. All such requests must state the origin, destination, commodity, and full route of the proposed traffic and the reason for the requested exception.

(b) *Effective date.* This order shall become effective at 11:59 p.m., February 18, 1974.

(c) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

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

It is further ordered, That a copy of this order and direction 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.74-4117 Filed 2-20-74;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

PART 152—PHASE IV PAY REGULATIONS

Exemption of the Postcard Manufacturing Industry

The purpose of these amendments is to add an exemption under the Phase IV price regulations applicable to the prices charged for postcards and related products and to add a parallel exemption under the Phase IV pay regulations.

The postcard manufacturing industry is small, well defined, and highly competitive. Annual sales for the entire industry amount to about $25 million and 85 percent of the production is accounted for by eleven major firms.

The very small size of the industry indicates that any price increases for postcards would have an insignificant overall impact on the economy. Furthermore, uncertain future demand resulting from the scheduled postal rate increase and energy-related travel limitations should moderate price adjustments.

Under §§ 150.11(e) and 150.161(b), a firm remains subject to the profit margin constraints and reporting provisions of the Phase IV controls program unless in its most recent fiscal year it derived both less than $50 million in annual sales or revenues from the sale or lease of nonexempt items and 90 percent or more of its sales and revenues from the sale of exempt items or exempt sales.

As a complementary action to the exemption from price controls, the Council is also exempting pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the postcard manufacturing industry. The exemption is set forth in new § 152.40k.

The exemption is inapplicable to any such employee who receives an item of incentive compensation, or who is a member of an executive control group. The exemption is also inapplicable to any such employee whose duties and responsibilities are not of a type exclusively performed in or related to the postcard manufacturing industry and whose pay adjustments are historically related to the pay adjustments of employees performing such duties outside the industry and are not related to the pay adjustments of other employees that are within the exemption.

The exemption is further inapplicable to employees who are part of an appro-

priate employee unit where 25 percent or more of the members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the postcard manufacturing industry or in support thereof. In cases of uncertainty of application, inquiries concerning the scope or coverage of the exemption should be addressed to the Administrator, Office of Wage Stabilization, P.O. Box 672, Washington, D.C. 20044.

The Council retains the authority to reestablish price and wage controls over any of the industries exempted by these amendments if price or wage behavior is inconsistent with the policies of the Economic Stabilization Program. The Council also has the power, under §§ 150.162 and 152.6, to require firms to file special or separate reports setting forth information relating to the Economic Stabilization Program in addition to any other reports which may be required under the Phase IV controls program.

Because the purpose of these amendments is to grant an immediate exemption from the Phase IV price and pay regulations, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding this amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Parts 150 and 152 of Title 6 of the Code of Federal Regulations are amended as set forth herein, effective February 19, 1974.

Issued in Washington, D.C., on February 19, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

1. In 6 CFR Part 150, § 150.54 is amended to add a new paragraph (mm) to read as follows:

§ 150.54 Certain price adjustments.

* * * * *

(mm) *Postcard manufacturing industry.* The prices which manufacturers of postcards, postcard albums, postcard folders containing pictures of tourist attractions, and souvenir pictorial books developed from postcards charge for those products are exempt.

2. In 6 CFR Part 152, Subpart D is amended by adding thereto a new § 152.40k to read as follows:

§ 152.40k Postcard manufacturing industry.

(a) *Exemption.* Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the postcard manufacturing industry or in support of such operation are exempt from and not limited by the provisions of this title.

(b) *Establishment in the postcard manufacturing industry.* For purposes of this section, "Establishment in the postcard manufacturing industry" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Group Number 275 (Commercial Printing) and primarily engaged in the manufacture of postcards.

(c) *Covered employees.* For purposes of this section, an employee is considered to be engaged on a regular and continuing basis in the operation of an establishment in the postcard manufacturing industry or in support of such operation only if such employee is employed at an establishment in the postcard manufacturing industry and only if such employee is employed by the firm which operates such establishment.

(d) *Limitation.* The exemption provided in paragraph (a) of this section shall not be applicable to—

(1) An employee who receives an item of incentive compensation subject to the provisions of § 152.124, § 152.125, or § 152.126.

(2) An employee who is a member of an executive control group (determined pursuant to § 152.130).

(3) Employees whose occupational duties and responsibilities are of a type not exclusively performed in or related to the postcard manufacturing industry and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the postcard manufacturing industry; and

(ii) Not related to pay adjustments or another unit of employees engaged on a regular and continuing basis in the operation of an establishment in the postcard manufacturing industry or in support of such operation within the meaning of paragraph (c) of this section.

(4) Employees who are members of an appropriate employee unit if 25 percent or more of the employees who are members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the postcard manufacturing industry or in support of such operation.

(e) *Effective date.* The exemption provided in this section shall be applicable to pay adjustments with respect to work performed on and after February 19, 1974.

[FR Doc.74-4261 Filed 2-19-74;4:33 pm]

PART 150—PHASE IV—PRICE REGULATIONS

PART 152—PHASE IV PAY REGULATIONS

Ferrous Castings Industry Exemption

The purpose of these amendments is to exempt the prices charged for ferrous castings by manufacturers of those products and to add a parallel exemption under the Phase IV pay regulations.

In accordance with the Council's objective of removing controls selectively, where conditions permit, the Council has decided to exempt the prices charged for ferrous castings and forgings by manufacturers of those products. The affected products are listed in the Standard Industrial Classification Manual, 1972 edition, under Group No. 332. Products in that group include items produced by gray iron foundries, malleable iron foundries, steel investment foundries and other steel foundries. Products listed in Group No. 332 which are produced by forging are also subject to this exemption. These additional products are generally manufactured by firms listed in Industry No. 3462 or Group No. 331.

Approximately 40 percent of the industry's production is accounted for by captive foundries which are controlled by manufacturers using the foundries' products. These foundries' sales are generally intra firm transfers and are not subject to direct price controls. Many of the users of the industry's products, such as auto and truck manufacturers and railroads, are engaged in selling exempt products and services. The primary raw material for the industry, ferrous scrap and ferroalloy scrap, is now exempt from price controls. Thus, this exemption of the ferrous castings industry places manufacturers of ferrous castings in the same exempt status as firms selling the industry much of its raw material and as firms purchasing its products and completes a series of related exemptions. The exemption also grants noncaptive foundries a flexibility in pricing which is effectively similar to that enjoyed by the captive foundries prior to this exemption.

Costs in this industry are rising because of the severe increases in the price for ferrous scrap and ferroalloy scrap since the beginning of 1974. Additional high costs have been imposed on many firms by the requirements of occupational health and safety and pollution control legislation. Exemption at this time will permit firms to acquire the revenues necessary to finance compliance with those requirements.

In developing the list of items the sales of which are exempt under these amendments, the Council relied on the SIC Manual system. Only the sale by the manufacturer of the specific items listed in the amendment to § 150.54 is exempt. Other items which may be generically similar but are not listed do not come within the scope of these amendments.

Under §§ 150.11(e) and 150.161(b), a firm with revenues in its most recent fiscal year from the sale of exempt items remains subject to the profit margin constraints and reporting provisions of the Phase IV program unless it derived both less than $50 million in annual sales or revenues from the sale or lease of nonexempt items and 90 percent or more of its sales or revenues from the sale of exempt items or exempt sales.

As with all exemptions from Phase IV controls, firms subject to this amendment remain subject to review for compliance with appropriate regulations in effect prior to this exemption. A firm affected by this amendment will be held responsible for its pre-exemption com-

pliance under all phases of the Economic Stabilization Program. A firm affected by this exemption alleged to be in violation of stabilization rules in effect prior to this exemption is subject to the same compliance actions as a non-exempt firm. These compliance actions include investigations, issuance of notices of probable violation, issuance of remedial orders requiring rollbacks or refunds and possible penalty of $2,500 for each stabilization violation.

As a complementary action to the exemption from price controls, the Council has also exempted pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the ferrous castings manufacturing industry. The exemption is set forth in new § 152.40o. The exemption is inapplicable to any such employee who receives an item of incentive compensation, or who is a member of an executive control group. The exemption is also inapplicable to any such employee whose duties and responsibilities are not of a type exclusively performed in or related to the ferrous castings manufacturing industry and whose pay adjustments are historically related to the pay adjustments of employees performing such duties outside the industry and are not related to the pay adjustments of other employees that are within the exemption. The exemption is further inapplicable to employees who are part of an appropriate employee unit where 25% or more of the members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the ferrous castings manufacturing industry or in support thereof. In cases of uncertainty of application, inquiries concerning the scope or coverage of the wage exemption should be addressed to the Administrator, Office of Wage Stabilization, P.O. Box 672, Washington, D.C. 20044.

The Council retains the authority to reestablish price and wage controls over any of the industries exempt by these amendments if price or wage behavior is inconsistent with the policies of the Economic Stabilization Program. The Council also has the power, under §§ 150.162 and 152.6, to require firms to file special or separate reports setting forth information relating to the Economic Stabilization Program in addition to any other reports which may be required under the Phase IV controls program.

Because the purpose of these amendments is to grant an immediate exemption from the Phase IV price and pay regulations, the Council finds that publication in accordance with normal rulemaking procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding this amendment. Communications should be addressed to the Office of the General Council, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489).

In consideration of the foregoing, Parts 150 and 152 of Title 6 of the Code of Federal Regulations are amended as set forth herein, effective February 20, 1974.

Issued in Washington, D.C. on February 20, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

1. In 6 CFR Part 150, § 150.54 is amended by adding a new paragraph (oo) to read as follows:

§ 150.54 Certain price adjustments.

* * * * *

(oo) *Ferrous castings.* The prices which manufacturers of the following products-charge for those products are exempt: ferrous castings and other items listed in the SIC Manual, 1972 edition, under Group No. 332, when produced by either a casting or forging process.

2. In 6 CFR Part 152, Subpart D is amended by adding thereto a new § 152.40o to read as follows:

§ 152.40o Ferrous castings manufacturing industry.

(a) *Exemption.* Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the ferrous castings manufacturing industry or in support of such operation are exempt from and not limited by the provisions of this title.

(b) *Establishment in the ferrous castings manufacturing industry.* For purposes of this section, "Establishment in the ferrous castings manufacturing industry" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Group Number 332 and primarily engaged in the manufacture of ferrous castings.

(c) *Covered employees.* For purposes of this section, an employee is considered to be engaged on a regular and continuing basis in the operation of an establishment in the ferrous castings manufacturing industry or in support of such operation only if such employee is employed at an establishment in the ferrous castings manufacturing industry and only if such employee is employed by the firm which operates such establishment.

(d) *Limitation.* The exemption provided in paragraph (a) of this section shall not be applicable to—

(1) An employee who receives an item of incentive compensation subject to the provisions of § 152.124, 152.125, or 152.126.

(2) An employee who is a member of an executive control group (determined pursuant to § 152.130).

(3) Employees whose occupational duties and responsibilities are of a type not exclusively performed in or related to the ferrous castings manufacturing industry and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the ferrous castings manufacturing industry; and

(ii) Not related to pay adjustments of another unit of employees engaged on a regular and continuing basis in the operation of an establishment in the ferrous castings manufacturing industry or in support of such operation within the meaning of paragraph (c) of this section.

(4) Employees who are members of an appropriate employee unit if 25 percent or more of the employees who are members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the ferrous castings manufacturing industry or in support of such operation.

(e) *Effective date.* The exemption provided in this section shall be applicable to pay adjustments with respect to work performed on and after February 20, 1974.

[FR Doc.74-4290 Filed 2-20-74;11:00 am]

Proposed Rules

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

ALLOCATION AND APPORTIONMENT OF INCOME TAX DEDUCTIONS

Public Hearing on Proposed Regulations

Proposed regulations under sections 861, 863 and 905 of the Internal Revenue Code of 1954, relating to allocation and apportionment of deductions, appear in the FEDERAL REGISTER for June 18, 1973 (38 FR 15840).

Written comments or suggestions were required to be submitted by August 17, 1973. The time for submission of written comments or suggestions pertaining to such proposed regulations was extended to October 17, 1973 (38 FR 19417) and to November 15, 1973 (38 FR 28682).

A public hearing on the provisions of such proposed regulations will be held on March 26, 1974, beginning at 10 a.m., e.d.s.t., in the George S. Boutwell Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224. If necessary, the hearing will continue on March 27, 1974.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3) persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making, and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by March 15, 1974. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601 (a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by March 19, 1974. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is ten cents ($0.10) per page, subject to a minimum charge of $1.00.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing, and information with respect to its contents may be obtained on March 25, 1974, by telephoning (Washington, D.C.) 202-964-3935.

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

[FR Doc.74-4274 Filed 2-20-74;9:31 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1098]

[Docket No. AO-184-A34]

MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Nashville, Tennessee, marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before March 8, 1974. The exceptions should be filed in quadruplicate. 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 above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Nashville, Tennessee, on November 19, 1973, pursuant to notice thereof which was issued November 7, 1973 (38 FR 31179).

The material issues on the record of the hearing relate to:

1. Pool plant qualifications.
2. Point of pricing diverted milk.
3. Conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications*—(a) *Balancing plant.* A balancing plant operated by a cooperative association and approved by a duly constituted regulatory authority to handle milk for fluid consumption in the marketing area, at the cooperative association's request, should be accorded pool plant status in any month in which not less than two-thirds of the total volume of milk received at such plant (including diversion to other plants) and of the producer milk of the cooperative's other producer members received at other plants, in combination, is physically received at pool distributing plants directly from the producers' farms or by transfer from such pool balancing plant of the cooperative association.

Provision whereby its balancing plant could qualify as a pool plant was proposed by the principal cooperative in the market. There was no opposition to the proposal at the hearing. An essentially identical pooling provision, included in the order continuously from November 1960 through August 1971, was suspended September 1, 1971.

A suspension order was issued on May 28, 1971 (to be effective on June 15) and applicable to the Nashville and several other orders, to deter the possible dilution of pool proceeds by milk normally associated with other markets (pool riding). With respect to the Nashville order, the suspension (1) removed the provision whereby a cooperative could designate pool status for a plant operated by such cooperative, and (2) implemented the pricing of diverted milk at the plant to which diverted (instead of at the plant from which diverted).

Subsequently (June 11), that part of the suspension action which removed the provision for pooling the cooperative's plant was deferred until September 1. In explanation, the Department noted that the suspension action that changed the point of pricing "* * * should be sufficient to remove the monetary incentive which has existed heretofore in these markets for the introduction into their pools, directly or indirectly, of substantial quantities of unneeded distant milk".

Nevertheless, in consummating the action it was noted further that the provisions of the order by which a cooperative may obtain pool status for its plant should be further reviewed at a later date.

Prior to September 1, 1971, a plant in Nashville now operated by proponent cooperative as a nonpool plant was a pool plant under the suspended pooling provision. The plant now could qualify for pooling only by receiving milk directly from producers' farms and shipping a required percentage of such receipts to pool distributing plants.

It is obviously more economical to move milk directly from the farm to handlers' bottling plants than to receive it at the cooperative's plant for reload and delivery to such bottling plants. Since the cooperative's plant is located in Nashville, where a major portion of the milk for the market is processed and bottled, there is but limited need to move milk through such plant to fill the requirements of Nashville handlers. Thus, its basic function is as an assembly point for producer milk not needed by handlers and, to a limited degree as a storage facility.

The cooperative's plant in its present capacity as a nonpool plant continues to assist the market in the balancing of receipts to bottling needs. However, the cooperative does not now have the needed flexibility to maximize operating efficiency since milk cannot move from the cooperative plant to pool handlers, as pool milk, as it formerly did to supply unanticipated emergency requests for additional milk.

Prior to September 1971, when the cooperative's plant retained pool plant status, pool distributing plants were in a position to supplement their direct producer deliveries, as needed, through transfers from the cooperative's (pool) plant. In the 12 months prior to the September 1, 1971 suspension action, 3.65 million pounds of milk were transferred from the cooperative's plant to pool distributing plants. In this period, the largest monthly transfer (in January) was 542 thousand pounds; the lowest (in August) was 42 thousand pounds.

As might be expected, the quantities of milk pooled by the cooperative's plant were highest during those months of the year when production for the market was highest relative to Class I sales. Conversely, the quantities of milk pooled by the plant were lowest in the months when the Class I needs of the market were highest relative to producer deliveries. During the same 12-month period referred to above (September 1970 through August 1971), 118 million pounds of producer milk were pooled at the cooperative's plant as either a direct delivery from producers to the plant or as diverted milk from that plant to nonpool plants. The largest monthly quantity thus pooled, in August, was 18.3 million pounds; and the lowest, in November, was 5.9 million pounds.

The cooperative's plant has continued to receive the market's surplus milk for disposition to available outside outlets. The milk of member producers that is received there and which the cooperative wishes to continue to pool is received as diverted milk from pool plants. However, much of the milk received there is not reported as a receipt of diverted milk. When the milk is not pooled and is shipped to outside unregulated markets (primarily for Class I use), the Nashville pool does not share in such Class I sales. In the 12 months ending September 1973, an average of 7.5 million pounds of milk monthly were thus received at the cooperative's Nashville plant and a monthly average of 6.6 million pounds, or 86 percent of that quantity, were sold for Class I use. Reinstating pool plant status for the cooperative plant does not provide assurance that all such outside sales will now be pooled. However, it is likely that the pooling of the plant will return at least some of the outside Class I sales to the pool.

Elsewhere in this decision, provision is made for basing the pool distributing plant route disposition requirements and supply plant pool shipping requirements on the percentage of a plant's receipts, including milk diverted from the plant. Since diverted milk is not now so used in determining plant qualifications, unlimited quantities of milk could now be associated with a plant and pooled as diverted milk, by either the plant operator or the cooperative association, without affecting a plant's pool status. Without appropriate modification of the order in this regard, the adoption of a provision providing pool status for a plant operated by a cooperative could only accentuate the problem.

The changes provided in this decision, however, will limit the quantity of milk that may be diverted since the volume of diverted milk will be included as a plant receipt for purposes of determining each plant's pooling status.

Requiring that at least two-thirds (66⅔ percent) of a cooperative's producer milk and of any nonmember milk that may be associated with the cooperative's balancing plant be delivered to pool distributing plants during the month, either by direct delivery from producers' farms or as a shipment from the cooperative's balancing plant, is a reasonable basis for qualifying such plant for pooling. All milk diverted by the cooperative plus the producer milk received at its plant(s) and that delivered by its members to other pool plants should be considered in determination of whether the requirement that at least two-thirds of such milk was delivered to pool distributing plants was met. In effect, the maximum quantity of milk that could be diverted by the cooperative and/or moved from its plant to nonpool plants during any month would be limited to one-third of the milk pooled by the cooperative.

The proponent cooperative stated that the pool distributing plants that it supplies are basically Class I operations. As a consequence, the 66⅔ percent requirement approximates the actual Class I utilization of the milk of its producer members. That percentage, which was proposed by the cooperative and was used from November 1960 through August 1971 as a basis for pooling a cooperative plant, also approximates the annual Class I utilization for the total market.

Enabling a cooperative's balancing plant to obtain pool plant status under the conditions here adopted will contribute to the orderly marketing of producer milk under the order. When the milk of dairy farmers regularly supplying the market is not needed at the bottling plant to which it is usually assigned, it can be pooled by delivery to the balancing plant. The plant thus represents an assured outlet for reserve milk without the necessity of involved arrangements under which the producers' milk would have to be diverted from bottling plants in order to maintain pool status.

Proponent proposed that a cooperative be allowed to move a balancing plant from pool to nonpool status and back on a month-to-month basis. As proposed, a cooperative could withdraw a plant from pool status for any month when it could advantageously dispose of milk for Class I use to outside markets, and pool the milk at such plant in only those months when its only use would be for manufacturing purposes. Such a provision would afford the opportunity for "pool-riding," which the 1971 suspension action was taken to deter, and would not be conducive to orderly marketing or in the best interest of all producers supplying the Nashville market.

It is necessary, however, that an appropriate means be provided under the order to enable a cooperative, under certain conditions, to remove a balancing plant from the order pool. Unless such plant during the same month qualified for pooling on the basis of its performance as a distributing plant or a supply plant, a cooperative should be permitted at any time to elect nonpool plant status for a plant that would otherwise qualify as a pool balancing plant. However, if the cooperative elects nonpool status for a balancing plant, such plant should not be reinstated for pooling as a balancing plant in the next 12 months. If a balancing plant were allowed to shift back and forth from pool to nonpool status in shorter periods, it would not be a plant on which the market could depend to perform the function of a balancing plant.

(b) *Distributing plant and supply plant standards.* The pooling percentage qualification for a distributing plant should be based on its total receipts of fluid milk products plus milk diverted from such plant under the diversion limits. Similarly, the quantities of milk on which the pooling percentage qualification of a supply plant is based, should include milk diverted from the plant in addition to its receipts of producer milk. Qualifying percentages (unchanged by this decision) are now based on "total receipts of Grade A milk" for a distributing plant and "receipts of milk from approved dairy farmers" for a supply plant.

The changes here adopted, which were proposed by the principal cooperative in

the market, were unopposed at the hearing.

The present basis for determining the pooling percentage qualifications are inappropriate under current conditions. They provide a means for pooling plants that may have no substantial association with the market and on which the market cannot depend for its fluid needs. The changes proposed, it was suggested by the cooperative, are necessary to avoid possible dilution of returns to producers that would result from attaching milk supplies to the Nashville pool largely predestined for manufacturing.

Whether the milk of producers regularly supplying a pool plant is diverted therefrom by the plant operator or by the cooperative through which the producers' milk is marketed, such milk is essentially an integral part of the plant's supply. It is appropriate, therefore, in determining a plant's pool status, to consider as its total supply all milk diverted from the plant together with the approved fluid milk products physically received at the plant.

Diverted milk may now be pooled without limit and is not included as a part of the supply of the plant from which diverted in determination of such plant's qualifications for pooling. Thus, a distributing plant diverting 50 percent of its total producer milk supply in reality must meet only 50 percent of the route disposition requirement of a distributing plant having an identical volume of producer milk supply but diverting no milk.

Similarly, if 50 percent of producer milk associated with a pool supply plant were pooled by diversion to nonpool manufacturing plants, the supply plant, by shipping half the milk physically received at such plant to pool distributing plants, would remain pooled. In this circumstance, the plant could qualify as a pool plant by shipping as little as 25 percent of its total producer milk supplies to pool distributing plants. On the other hand, a supply plant that diverted no milk would have shipped 50 percent of its actual producer receipts to qualify for pooling.

The requirements herein adopted for both types of plants will provide a more equitable basis for pooling.

In determination of plant pooling status, only those plants and that milk approved for fluid consumption by a "duly constituted regulatory agency" are considered. The term "duly constituted health authority" is now used in the order in referring to such approved milk. The cooperative spokesman suggested that a term such as "duly constituted regulatory agency" would better express the intent of the reference. The agency responsible for approving milk for fluid consumption is not always specifically designated as a health authority. In the State of Tennessee, for example, this function is the responsibility of the State Department of Agriculture.

As proposed by the cooperative, the "approved plant" definition should be replaced with definitions for "distributing plant" and "supply plant." Although commonly referred to in the order, distributing plant and supply plant are not defined. The approved plant definition, in a general manner, encompasses both distributing plants and supply plants, but it otherwise serves no purpose.

"Distributing plant" should be defined to mean a plant in which fluid milk products approved by a duly constituted regulatory agency for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

"Supply plant" should be defined to mean a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is shipped during the month to a pool plant.

The definitions here adopted for distributing plants and supply plants conform with the definitions generally provided in other orders. The specificity provided in these definitions will facilitate the references to such plants throughout the order. Also, their adoption in the Nashville order will facilitate the reference to them in transactions involving other orders.

In conjunction with the revised pool plant definition adopted in this decision, "route disposition" should be defined to mean any delivery (including delivery by a vendor or a sale from a plant store) of any fluid milk product classified as Class I milk other than a delivery to a milk or filled milk processing plant. This is essentially the same language now used in the order to define "route".

The cooperative proposed replacing "route" with "route disposition". A route disposition definition, which is now contained or is in the process of being adopted in most Federal milk orders, is more meaningful than the term "route" in the various contexts in which it is used throughout the order.

2. *Point of pricing diverted milk.* The order should be amended to price producer milk diverted from a pool plant at the location of the nonpool plant to which it is delivered. This is now achieved by means of a suspension action that has been effective since September 1, 1971.

Prior to the suspension, the order priced diverted milk at the location of the pool plant from which diverted. The suspension action was taken to remove the incentive manufacturing plants might have to associate with the order for the purpose of receiving the f.o.b. Nashville price for milk received and utilized at distant locations from the Nashville market.

When producer milk is received as diverted milk at a nonpool plant, its location value is the same as milk delivered by producers to a pool plant at the same location. Pricing milk at the location of the pool plant from which diverted tends to subsidize, at the expense of producers generally, the more distant producers whose milk is diverted to distant manufacturing plants rather than delivered to the market. This is because the distant producers, in that circumstance, receive the f.o.b. market uniform price on milk that is not moved to the market and on which the full cost for the farm to market hauling has not been incurred.

The order's location adjustments recognize the greater value of producer milk f.o.b. plants in or near the principal population center (Nashville) in the marketing area as compared to its value at other locations. In view of this, it would be inconsistent to price milk at the location of the pool plant from which diverted when actually delivered to a nonpool plant where a different price is appropriate, based on the location adjustment that would be applicable to a pool plant at the same location.

A cooperative proposed that milk diverted to a plant within 175 miles of Nashville be priced at the location of the plant from which diverted and that milk diverted to a plant more than 175 miles from Nashville be priced at the plant of actual receipt.

The order provides for no location adjustment at plants located in the State of Tennessee. At plants outside Tennessee and more than 50 miles from Nashville, the location adjustment (which reduces Class I and uniform prices) is 10 cents plus 1.5 cents for each 10 miles or fraction thereof that a plant is more than 70 miles from Nashville. Thus, the location adjustment at a Bowling Green, Kentucky, plant, 61 miles from Nashville is 10 cents; but no location adjustment is applicable at a Greenville, Tennessee, plant, 245 miles from Nashville.

If the cooperative's proposal were adopted, location adjustments at nonpool plants would apply only to those outside Tennessee and at least 175 miles from Nashville when location adjustments apply at pool plants outside Tennessee that are at least 50 miles from Nashville. To adopt such a provision would have different location adjustments apply at pool plants and nonpool plants at the same location. The record evidence, however, provides no basis for pricing any milk pooled under the order at other than the location of the plant where actually received.

The cooperative's proposal suggests that the order's location adjustment provisions may now be inappropriate. However, the issue of whether the location adjustment provisions should be changed was not among the proposals contained in the hearing notice or otherwise open for consideration at the hearing. Accordingly, consideration may not be given on this record to revising the location adjustment provisions.

3. *Conforming changes.* The changes in definitions provided in this decision necessitate some changes in other sections of the order wherein such definitions are involved. For the convenience of parties, a number of the affected provisions have been redrafted to include the new terms. However, except as heretofore noted, these changes do not affect the application or impact of the order.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

A brief and proposed findings and conclusions was filed on behalf of an interested party. The brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested party are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Nashville, Tennessee, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1098.7 is revised as follows:

§ 1098.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant or diverted from the farm directly to a nonpool plant. The term shall not include such person with respect to milk received at a pool plant from an other order plant by diversion if both buyer and seller have requested Class II classification (or its equivalent) in the reports of receipts and utilization filed with the respective market administrators.

2. In § 1098.9, paragraph (a) is revised as follows:

§ 1098.9 Producer-handler.

* * * * *

(a) Produces milk and operates a distributing plant;

* * * * *

3. Section 1098.10 "Approved plant" is revoked and new §§ 1098.10 and 1098.10a are added as follows:

§ 1098.10 Distributing plant.

"Distributing plant" means a plant in which fluid milk products approved by a duly constituted regulatory agency for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1098.10a Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is shipped during the month to a pool plant.

4. Section 1098.11 is revised as follows:

§ 1098.11 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted regulatory agency for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total disposition of fluid milk products, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted regulatory agency or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) A plant that is approved by a duly constituted regulatory agency to handle milk for fluid consumption in the marketing area, that is operated by a cooperative association, for which pool plant status has been requested by the cooperative association, and from which during the month the quantity of fluid milk products (except filled milk) shipped to pool plants qualified pursuant to paragraph (a) of this section plus the milk physically received at such plants by direct delivery from the farms of producer members of the cooperative association is not less than two-thirds of the producer milk received at or diverted from pool plants of the cooperative association plus its members' producer milk received at or diverted from all other pool plants during the same month. If the cooperative association operating a plant qualified as a pool plant pursuant to this paragraph files with the market administrator prior to the first day of any month a written request for nonpool status for such month, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify as a pool plant pursuant to paragraph (a) or (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the marketing area regulated by the other order than as route disposition in the Nashville, Tenn., marketing area: *Provided,* That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order, subject to the proviso of this paragraph: *And provided further,* On the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for

a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Nashville, Tenn., marketing area as route disposition than as route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation, even though such plant has greater route disposition in the marketing area of the Nashville, Tenn., order; and

(4) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to paragraph (b) of this section during the preceding August through January period.

5. In § 1098.13, paragraph (c) is revoked and paragraph (b) is revised as follows:

§ 1098.13 Producer milk.

* * * * *

(b) Diverted from a pool plant to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant; and

(2) Milk diverted to an other order plant shall be producer milk only if a Class II classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

6. In § 1098.18 the title "Route" is changed to "Route disposition" and § 1098.18 is revised as follows:

§ 1098.18 Route disposition.

"Route disposition" means any delivery (including delivery by a vendor or a sale from a plant store) of any fluid milk product classified as Class I milk other than a delivery to a milk or filled milk processing plant.

§ 1098.53 [Amended]

7. In § 1098.53, the word "pool" as it appears in paragraph (a) thereof is deleted.

8. In § 1098.81, a new paragraph (c) is added to read as follows:

§ 1098.81 Payments to market administrator.

* * * * *

(c) On or before the 25th day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class II price) and the Class II price.

9. In § 1098.83, paragraph (b) is revised as follows:

§ 1098.83 Butterfat and location differentials to producers and on nonpool milk.

* * * * *

(b) In making payments to producers pursuant to § 1098.82(b), the uniform price pursuant to § 1098.71 and the uniform base price pursuant to § 1098.72 for producer milk received at a plant shall be reduced according to the location of the plant, each at the rates set forth in § 1098.53; and

* * * * *

10. In § 1098.85, paragraph (c) is revised as follows:

§ 1098.85 Expense of administration.

* * * * *

(c) Class I milk disposed off from a partially regulated distributing plant as route disposition in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1098.91 [Deleted]

11. Section 1098.91 is deleted.

12. In § 1098.92, paragraph (b) (1) and (3) is revised as follows:

§ 1098.92 Obligations of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area;

(2) * * *

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

* * * * *

Signed at Washington, D.C., on February 15, 1974.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.74-4129 Filed 2-20-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 7441]

LITTLE MANATEE RIVER, FLA.

Proposed Drawbridge Operation Regulations

At the request of the Seaboard Coast Line Railroad, the Coast Guard is considering amending the regulations for the Seaboard Coast Line Railroad bridge across the Little Manatee River near Ruskin to require 6 hours notice before the bridge need open. The draw is presently required to open on signal at all times. This change is being considered because of infrequent requests for openings. In 1971 there were 24 openings, in 1972 there were 9 openings and in 1973 there were 5 openings.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District (oan), Room 1018, Federal Building, 51 Southwest 1st Avenue, Miami, Florida 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before March 19, 1974, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new subparagraph (5) immediately after subparagraph (4) of paragraph (i) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draws tenders is not required.

* * * * *

(i) * * *

(5) Little Manatee River, Fla.; Seaboard Coast Line railroad bridge at Ruskin. The draw shall open on signal if at least 6 hours notice is given.

* * * * *

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

Dated: February 14, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-4078 Filed 2-20-74;8:45 am]

[33 CFR Part 117]

[CGD 74 42]

GRAND RIVER, GRAND HAVEN, MICHIGAN

Proposed Operation Regulations for Railroad Drawbridge and Highway Drawbridge

At the request of the Michigan Department of State Highways and the Grand Trunk Western Railroad, the Coast Guard is considering revising the regulations for the highway bridge at mile 2.9 and the railroad bridge at mile 2.8 across the Grand River and the railroad bridge across the Spring Lake Outlet to allow the draws to remain closed from December 15 through March 15. Presently the draw of the highway bridge opens on signal at all times. The railroad bridges open on signal from March 2 through December 31; from January 1 through March 1 at least 24 hours notice is required. These changes are being considered because of greatly reduced marine traffic during the winter months.

Interested persons may participate in this proposed rule making by submitting written data, views or arguments to the Commander, Ninth Coast Guard District (oan), 1240 East 9th Street, Cleveland, Ohio 44199. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District.

The Commander, Ninth Coast Guard District, will forward any comments received before March 19, 1974, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising subparagraphs (3) and (4) of paragraph (f) of § 117.641 to read as follows:

§ 117.641 Great Lakes tributaries; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(3) Grand River, Mich.; Grand Trunk Western Railroad bridge, mile 2.8 and Highway bridge U.S. 31, mile 2.9. The draws shall open on signal from March 16 through December 14. From December 15 through March 15 the draws shall open on signal if at least 24 hours notice is given.

(4) Spring Lake Outlet, Mich.; the Grand Trunk Western Railroad bridge at Ferrysburg. The draw shall open on signal from March 16 through December 14. From December 15 through March 15 the draw shall open on signal if at least 24 hours notice is given.

* * * * *

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

Dated: February 14, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-4079 Filed 2-20-74;8:45 am]

Federal Aviation Administration

[14 CFR Part 129]

[Docket No. 13514; Notice 74-3A]

FOREIGN AIR CARRIERS

Proposed Aviation Security Program Requirements; Extension of Comment Period

The Federal Aviation Administration proposed in Notice 74-3, published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3293), to amend Part 129 of the Federal Aviation Regulations to require the use of security programs by foreign air carriers in scheduled passenger operations conducted with large aircraft to, from and within the United States.

Petitions have been received from 18 interested persons requesting an extension of time for submission of comments. Such an extension will, among other things, allow time for members of the International Air Transport Association to attend a meeting scheduled for March 7 and 8 and attempt to meet security standards such as those contained in regulations applicable to U.S. air carriers.

These petitioners have shown a substantive interest in the proposed amendment and good cause for an extension and I find that a 30-day extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.45), the time within which comments on Notice 74-3 will be received is extended to March 27, 1974.

Issued in Washington, D.C., on February 19, 1974.

JAMES M. YOHE,
Director, Office of Air Transportation Security.

[FR Doc.74-4247 Filed 2-20-74;8:45 am]

Federal Railroad Administration

[49 CFR Part 215]

[Dockets RSCF-1, 2 and 3; Notice 4]

RAILROAD FREIGHT CAR SAFETY STANDARDS

Extension for Time for Filing of Comments

On January 22, 1974, the Federal Railroad Administration published a notice of proposed rulemaking to amend Part 215, Railroad Freight Car Safety Standards (39 FR 3567).

Upon consideration of a petition filed on behalf of the Brotherhood of Railway Carmen of the United States and Canada, the period for filing of comments is hereby extended from February 18 to March 15, 1974.

Because of this extension of time for comments, the due date for filing of instructions for safety inspections prescribed in § 215.23(b) and the date after which these inspections must be made contained in § 215.23(a), will be extended in the final rule to provide sufficient time for filing, approval, and implementation of these instructions.

(Section 202, 84 Stat. 971, 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n))

Issued in Washington, D.C., on February 15, 1974.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.74-4051 Filed 2-20-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 430]

PULP, PAPER, AND PAPERBOARD MANUFACTURING POINT SOURCE CATEGORY

Proposed Guidelines and Standards; Extension of Time for Comments

On January 15, 1974, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking pursuant to sections 301, 304 (b) and (c), and 307(c) of the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, et seq. (39 FR 1908). The proposed regulation establishes effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the pulp, paper, and paperboard manufacturing point source category. The due date for comments provided in the notice was February 14, 1974.

EPA anticipated that the "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Pulp, Paper, and Paperboard Manufacturing Point Source Category," which contains information pertinent to the proposed regulation, would be available to the public throughout the comment period. Production difficulties, however, have delayed the availability of the Development Document until shortly before publication of this notice. The Agency believes that members of the public should have an opportunity to review the Development Document in connection with their review of the proposed regulation. Accordingly, the date for submission of comments is hereby extended to and including March 15, 1974.

ALAN G. KIRK, II,
Assistant Administrator for Enforcement and General Counsel.

[FR Doc.74-4141 Filed 2-20-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 2]

[Docket No. 19905]

DOMESTIC PUBLIC RADIO SERVICES

Order Extending Time for Comments

In the matter of Amendments of Parts 1 and 21 of the Commission's Rules and Regulations applicable to the Domestic Public Radio Services (other than Maritime Mobile), Docket No. 19905.

1. The Commission has before it a Motion for Extension of Time filed February 1, 1974 by the National Association of Radiotelephone Systems (NARS) requesting a one month extension of time (through March 14, 1974) for filing comments in the above entitled rulemaking proceeding, published at 39 FR 1064.

2. NARS, a trade association representing mobile radio and one way signaling service common carriers, requests this extension in order to allow sufficient time to permit consultation within its organization and with others in the land mobile communications field. It appears that this extension of time would promote more thorough and comprehensive comments.

3. *Accordingly, it is hereby ordered,* Pursuant to the authority of § 0.303(c) of the Commission's Rules, that said Motion is granted and comments in Docket No. 19905 will be due on or before March 14, 1974, and reply comments on or before April 15, 1974.

Adopted: February 13, 1974.

Released: February 14, 1974.

[SEAL] WALTER R. HINCHMAN, *Chief, Common Carrier Bureau.*

[FR Doc.74-4068 Filed 2-20-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19907]

VIDEO TELEVISION BROADCAST SIGNALS

Order Extending Time for Filing Comments and Reply Comments

1. On December 19, 1974, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on January 3, 1974, 39 FR 827. The dates for filing comments and reply comments are presently March 1 and April 1, 1974, respectively.

2. On February 11, 1974, Counsel for the National Association of Broadcasters (NAB) requested that the time for filing comments and reply comments be extended to April 15 and May 15, 1974, respectively. Counsel states that the subject of this proceeding will be covered fully during the engineering sessions of the annual NAB Convention to be held in Houston, March 18-20, 1974. He adds that discussion of this subject at the Convention's engineering conferences should prove highly beneficial not only to those members of the Commission's staff in attendance but also to NAB and other industry parties who plan to file comments in this proceeding.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, *it is ordered,* That the dates for filing comments and reply comments are extended to and including April 15 and May 15, 1974, respectively.

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

FEDERAL COMMUNICATIONS COMMISSION,

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

[FR Doc.74-4072 Filed 2-20-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

OVER-THE-COUNTER DRUGS GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Revision of Tentative Final Order for Antacid Products; Modification of In Vitro Test

Correction

In FR Doc. 74-1821, appearing at page 2488 in the issue for Tuesday, January 22, 1974, make the following changes:

1. In § 130.305, paragraph (a)(1)(ii)(c), in the last line, the word "NHCl" should read "N HCl".

2. In § 130.305, the second paragraph (a)(1)(ii)(*d*)(5)(*vii*) should be redesignated as (a)(1)(ii)(*d*)(5)(*viii*).

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-112]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces a scheduled meeting of the United States Study Group on U.S. Government Regulatory Problems concerned with preparation for meetings of Study Groups of the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union. The meeting will commence on Tuesday, March 5, 1974 at 10 a.m. in Room 847 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C., and will be continued on through Wednesday, March 6, 1974 as necessary to complete the agenda.

The agenda of this third preparatory meeting following the meeting of CCITT Study Group III, "General tariff principles; lease of telecommunication circuits," held in Geneva, Switzerland January 7–11, 1974 will primarily be concerned with review of CCITT Recommendations D.1, D.2 and D.3 in preparation for U.S. participation in a Working Party of CCITT Study Group III meeting scheduled to be held June 10–14, 1974 which is charged with considering possible revisions of these Recommendations.

Members of the general public who desire to attend the meeting on March 5 and possibly continuing on March 6 will be admitted up to the limit of the capacity of the meeting room.

Dated: February 15, 1974.

RICHARD T. BLACK,
Chairman,
U.S. National Committee.

[FR Doc.74-4132 Filed 2-20-74;8:45 am]

[Public Notice CM-113]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces a scheduled meeting of the United States Study Group on U.S. Governmental Regulatory Problems concerned with preparation for meetings of Study Groups of the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union. The meeting will take place on Thursday, March 14, 1974, at 10 a.m. in Room 621 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C.

The agenda of this second CCITT Study Group 1 preparatory meeting in the 1973–1976 CCITT study period will include continued study of plans for the development of U.S. Contributions on questions assigned for study during the 1973–1976 period to CCITT Study Group 1, "Telegraph operation and tariffs (including telex)", and the development of U.S. positions on questions where it is decided not to submit U.S. Contributions. In particular, proposals for revision of rules for counties of chargeable words in telegrams will be further considered.

Members of the general public who desire to attend the meeting on March 14 will be admitted up to the limit of the capacity of the meeting room.

Dated: February 15, 1974.

RICHARD T. BLACK,
Chairman,
U.S. National Committee.

[FR Doc.74-4133 Filed 2-20-74;8:45 am]

[Public Notice CM-114]

SHIPPING COORDINATING COMMITTEE

Notice of Meeting

A meeting of the Shipping Coordinating Committee will be held at 9:30 a.m. on Tuesday, March 19, 1974, in Room 7200, Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. The meeting will be open to the public.

The Committee will discuss United States positions for the Thirtieth Session of the IMCO Maritime Safety Committee, scheduled to meet in London, March 25–29, 1974.

Persons wishing to attend the meeting should contact Mr. Richard K. Bank, Executive Secretary, Shipping Coordinating Committee, Department of State, Washington, D.C. 20520, telephone (area code 202) 632-0704.

Dated: February 15, 1974.

RICHARD K. BANK,
Executive Secretary,
Shipping Coordinating Committee.

[FR Doc.74-4134 Filed 2-70-74;8:45 am]

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Notice of Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Arnold, Walton J., 1030 N. Alexander Street, Port Allen, Louisiana, convicted on August 23, 1968, in the Franklin County Circuit Court, Mississippi.

Bartels, Ivan, Box 271, Blue River, Wisconsin, convicted on February 6, 1970, in the Grant County Court, Wisconsin.

Batts, Roy Lee, 10437 Barnham, Houston, Texas, convicted on February 6, 1959, in the United States District Court for the Southern District of Texas.

Beckler, Kenneth A., 8017 Kidd Street, Alexandria, Virginia, convicted on May 19, 1972, in the United States District Court for the Eastern District of Virginia, Alexandria Division.

Berard, Russell J., 914 Pioneer Road, Des Moines, Iowa, convicted on August 13, 1971, in the Criminal District Court Number 3 of Dallas County, Texas.

Boothe, James E., 2309 West Townsend, Milwaukee, Wisconsin, convicted on December 1, 1967, in the Milwaukee County Circuit Court, Criminal Division, Milwaukee, Wisconsin.

Campbell, Michael L., 701 Oxford Germantown Road, Camden, Ohio, convicted on April 6, 1972, in the Common Pleas Court, State of Ohio, Butler County.

Carney, Maxie V., 1009 West McKennie Avenue, Nashville, Tennessee, convicted on January 14, 1963, in the Criminal Court of Davidson County, Tennessee.

Cronk, Dennis D., Box 73, R.R. No. 2, Tama, Iowa, convicted on March 13, 1970, in the Marshall County, Iowa, District Court.

Curtiss, Paul K., Jr., Route 1, Hidden Valley Road, Savage, Minnesota, convicted on May 22, 1961, in the Superior Court of the State of California in and for the County of San Diego.

Dillard, James R., Jr., 3504 Allison Court, Irving, Texas, convicted on January 6, 1967, in the Criminal District Court No. 4 of Dallas County, Texas.

Duncan, Charley E., Rural Route No. 2, Quinlan, Texas, convicted on June 26, 1939, and on April 5, 1943, in the 7th Judicial District Court, Smith County, Texas.

Erickson, Richard C., 2709 Humboldt Avenue, South No. 3F, Minneapolis, Minnesota, convicted on July 16, 1969, in the United States District Court for the District of Minnesota, Fourth Division.

Goodson, Bob J., 6427 Wurzbach Road, Apt. 27, San Antonio, Texas, convicted on July 1, 1970, in the United States District Court for the Western District of Texas.

Hahn, John J., 13829 Bee Street, Farmers Branch, Texas, convicted on December 16, 1965, in the Criminal District Court No. 5, Dallas County, Texas.

Henry, Adam, 3146 St. Clair Drive, Pontiac, Michigan, convicted on August 3, 1959, in the Circuit Court, St. Clair County, Michigan.

Johnson, Albert, 2800 S. Hawthorne Avenue, Sioux Falls, South Dakota, convicted on April 16, 1970, in the United States District Court, District of South Dakota, Southern Division.

Jones, Corbie D., Route 4, Rocky Mount, Virginia, convicted on April 4, 1972, in the United States District Court, Roanoke, Virginia.

Joynt, Thomas J., 2A, Route 1, Dickens, Iowa, convicted on June 9, 1970, in the Clay County District Court, Iowa.

Klein, Donald A., 619 North First Street, Rewey, Wisconsin, convicted on August 16, 1971, in the Grant County Court, Lancaster, Wisconsin.

LaBeau, George J., Route No. 2, 130 Arbutus, Ishpeming, Michigan convicted on March 21, 1963, in the Circuit Court for Marquette County, Michigan.

Lintecum, John A., Route 1, Box 269, Hillsville, Virginia, convicted on May 27, 1968, in the Circuit Court of Carroll County, Virginia.

Littlefield, Warren R., 4 Washington Street, Amesbury, Massachusetts, convicted on August 11, 1962, in the Second District Court of Essex, Amesbury, Massachusetts.

Marlow, Linda G., Box 602, RD 1, Jersey Shore, Pennsylvania, convicted on July 18, 1968, in the Criminal Court, Dade County, Florida.

Moninger, Harold S., Box No. 5, Deep Valley, Pennsylvania, convicted on November 18, 1970, in the Court of Common Pleas, Columbia County, Ohio.

Moore, Clinton E., 300 Marlboro Road, Portsmouth, Virginia, convicted on February 23, 1949, in the Circuit Court, City of Portsmouth, Virginia; on November 24, 1954, in the Circuit Court, Norfolk County, Virginia; on December 21, 1949, in the United States District Court, Swainsboro, Georgia; on June 19, 1956, in the Hustings Court, City of Portsmouth, Virginia; and on November 20, 1955, in the Criminal Court, City of Portsmouth, Virginia.

Napier, Cleo E., 2134 Vermont Avenue, Connersville, Indiana, convicted on January 4, 1937, in the Circuit Court, Fayette County, Indiana.

Neaher, Robert L., 27754 Eastwick, Roseville, Michigan, convicted on or about December 3, 1953, Oakland County Michigan Court; on October 8, 1957, in the Macomb County Circuit Court, Michigan; on January 8, 1962, in the Wayne County Circuit Court, Michigan; and on September 8, 1963, in the St. Clair County Court, Michigan.

Powell, Danny W., 1509 Edley Place, Apt. 1, Lynchburg, Virginia, convicted on July 14, 1971, in the Lynchburg Corporation Court, Lynchburg, Virginia.

Richer, Roland J., 4054 46th Street, Des Moines, Iowa, convicted on June 26, 1970, in the United States District Court, Southern District, Iowa.

La Rochelle, David L., Star Route, Naples, Idaho, convicted on January 8, 1971, in the Circuit Court of the State of Oregon for the County of Klamath.

Scott, Joseph G., 9534 Ward, Detroit, Michigan, convicted on June 7, 1962, in the United States District Court, Detroit, Michigan.

Telkamp, Geoffrey A., 6926 Mistletoe, Dallas, Texas, convicted on January 8, 1970, in the United States District Court, Western District of Texas, Austin Division.

Thompson, William P., III, RD No. 1, Strattanville, Pennsylvania, convicted on September 1, 1972, in the Court of Quarter Sessions, Clarion County, Pennsylvania.

Westman, Adolph E., 3712 2nd Street NE., Minneapolis, Minnesota, convicted on September 23, 1947, in the United States District Court, District of Minnesota.

Signed at Washington, D.C., this 7th day of February, 1974.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.74-4110 Filed 2-20-74;8:45 am]

Customs Service

[T.D. 74-66]

FOREIGN CURRENCIES

Certification of Rates

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-40 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

France franc:	
February 5, 1974	$0.1983
Italy lira:	
February 5, 1974	.001520
February 4, 1974	.001519
February 6, 1974	.001515
February 7, 1974	.001509
February 8, 1974	.001511
Japan yen:	
February 4, 1974	.003367
February 6, 1974	.003360
February 7, 1974	.003369
February 8, 1974	.003375
Sri Lanka rupee:	
For the period February 4 through February 7, 1974, rate of $0.1425.	

R. N. MARRA,
Director, Appraisement and Collections Division.

[FR Doc.74-4114 Filed 2-20-74;8:45 am]

Internal Revenue Service

ART ADVISORY PANEL

Notice of Closed Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, a closed meeting of the Art Advisory Panel will be held on March 12 and 13, 1974, beginning at 9:30 a.m. in Room 3313 Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal income, estate or gift tax returns. This involves the discussion of confidential material in individual tax returns. A determination as required by section 10(d) of the Act has been made that these meetings are concerned with matters listed in section 552(b) of Title 5 of the United States Code, and that the meetings will not be open to the public.

[SEAL] DONALD C. ALEXANDER,
Commissioner.

[FR Doc.74-4108 Filed 2-20-74;8:45 am]

[Order No. 146]

ASSISTANT COMMISSIONER (STABILIZATION) ET AL.

Delegation of Authority Relating to Phase I, II, and III Price Stabilization

1. The authority granted the Commissioner of Internal Revenue by Treasury Department Order No. 150-84, dated January 24, 1974, is hereby redelegated to the Assistant Commissioner (Stabilization), Regional Commissioners, Assistant Regional Commissioners (Stabilization), and District Directors and also to Key District Directors to exercise in and for the related Associate Districts. Key District Directors will exercise functional supervision over Stabilization activities in related Associate Districts.

2. The authority may be redelegated by the Assistant Commissioner (Stabilization), Regional Commissioners, Assistant Regional Commissioners (Stabilization) and District Directors and may not be further redelegated.

Date of issue: February 14, 1974.

Effective date: February 14, 1974.

[SEAL] DONALD C. ALEXANDER,
Commissioner.

[FR Doc.74-4112 Filed 2-20-74;8:45 am]

[Order No. 147]

COMMISSIONER OF INTERNAL REVENUE

Redelegation of Authority To Effect Personnel Actions for the Compliance and Enforcement Arm

The authority delegated to the Commissioner of Internal Revenue by Federal Energy Office, Delegation of Authority No. 3, effective January 24, 1974, to recruit, appoint, train, reassign, discipline, or take any other usual and necessary personnel action, including classification of positions, required in the establishment of the Compliance and Enforcement Arm as an integral part of the Federal Energy Office is hereby redelegated to IRS officials to the same extent and under the same circumstances and subject to such applicable procedures as are presently contained in existing Service delegations of authority.

The authority delegated in this Order shall be effective as of January 24, 1974

and shall remain in effect until June 30, 1974.

Issued: February 14, 1974.

[SEAL] DONALD C. ALEXANDER, *Commissioner.*

[FR Doc.74-4113 Filed 2-20-74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Defense Advisor, United States Mission to NATO

DEFENSE INDUSTRY ADVISORY GROUP IN EUROPE (DIAGE)

Notice of Closed Meeting

The Defense Industry Advisory Group-Europe (DIAGE) will hold a closed meeting on 21 February 1974 in the United States Mission to the North Atlantic Treaty Organization, Brussels, Belgium. The agenda topics will include current economic problems in the United Kingdom, status of NATO projects, and discussion of activities of U.S. defense industry firms in Europe.

Persons desiring information about the advisory group may telephone Brussels 41.44.00, extension 5729, or write to the Executive Secretary, Defense Industry Advisory Group-Europe (DIAGE), U.S. Mission to NATO, OTAN-Evere, 1110 Brussels, Belgium.

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

FEBRUARY 15, 1974.

[FR Doc.74-4065 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ALEXANDER (ALEXANDER CREEK), ALASKA

Final Decision Concerning Eligibility as Native Village

This is a written decision on protests filed pursuant to 43 CFR, part 2650 by the Alaska Chapter, Sierra Club, P.O. Box 2025, Anchorage, Alaska 99510, Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth by and through their Counsel, James F. Clark, of the law firm of Robertson, Monagle, Eastaugh and Bradley, P.O. Box 1211, Juneau, Alaska 99801, Charles F. Herbert, Commissioner, Department of Natural Resources, State of Alaska, Pouch M, Juneau, Alaska 99801, and Matanuska-Susitna Borough, P.O. Box B, Palmer, Alaska 99645, hereinafter referred to as Protestants.

The protest of the Alaska Chapter, Sierra Club was dated January 18, 1974, and was received on January 18, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

The protest of the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth was dated January 21, 1974, and was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

The protest of the Commissioner, Department of Natural Resources, State of Alaska, was dated January 16, 1974, and was received on January 17, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

The protest of the Matanuska-Susitna Borough was dated January 17, 1974, and was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

Protestant Alaska Chapter, Sierra Club states in part as follows: "1970 census data showed that 25 Natives were not residents of these villages as of the date of the census."

Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth state in part as follows:

> The Bureau of Indian Affairs printout for Alexander Creek run November 8, 1973, shows 37 persons enrolled to the village with only one, Lawrence Roberts, actually residing there now. Alexander Creek is not listed as a village in the unincorporated places of 25 to 999 in the 1970 census (hereinafter called 1970 census). Accordingly, the Director should determine what other evidence exists to warrant certification of the eligibility of the remaining persons enrolled to Alexander Creek.

Protestant Commissioner, Department of Natural Resources, State of Alaska, states in part as follows:

> The findings of fact are defective in that no reasonable effort was made to determine if the persons enrolled to the villages were in fact residents of the villages as required by Sec. 5(b) of the Alaska Native Claims Settlement Act. 85 Stat. 690. The findings are further defective in that an examination of the Alaska Native Roll Family list for these villages indicates on its face that less than twenty-five enrollees to each village have had adequate residence in their respective villages to be considered domiciled therein on April 1, 1970. To the contrary, the data on the Family List, developed from application forms upon which the enrollee himself furnished the information, indicates a different place of residency for almost all of the enrollees to each of these villages. The findings are further defective in that they do not include an examination of voting and licensing records of the enrollees to determine the legal residence.

Protestant Matanuska-Susitna Borough states in part as follows:

> This notice of protest has been prepared in conformity with 43 CFR 2651.2 and is accompanied by evidence which shows that Alexander Creek is ineligible for certification and benefits pursuant to the Alaska Native Claims Settlement Act.

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b)(3) of the Act is quoted as follows:

> Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that
>
> (A) Twenty-five or more Natives were residents of an established village on the 1970 Census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and
>
> (B) The village is not of a modern and urban character, and a majority of the residents are Natives.

The 1970 Census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Federal Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 Census) date as well.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

As of January 21, 1974, 31 Natives had been approved for enrollment in the Native Village of Alexander, (Alexender Creek). On September 19, 1973, a field investigation was completed of Alexander (Alexander Creek) and at that time 16 Natives who used the village for a period of time in 1970 had been certified for enrollment to this village and such enrollment was approved on December 17, 1973. The 31 Natives who have been approved for enrollment to Alexander (Alexander Creek), represent a majority of the residents of the village in 1970. It had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village during 1970 as a place where they actually lived for a period of time. The voting and licensing records of the State of Alaska have no bearing on the determination of their eligibility of the enrolled Natives of Alexander (Alexander Creek).

The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision, and does hereby render a final decision determining that the Native Village of Alexander (Alexander Creek) is eligible for land benefits under said Act.

The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the final decision and findings of fact upon which the final decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of Title 43 CFR, by March 25, 1974. Appellants shall have not more than 15 days from the date of receipt of their notices of appeal

within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 7, 1974.

[FR Doc.74-4053 Filed 2-20-74;8:45 am]

ANTON LARSEN BAY, ALASKA

Final Decision Concerning Eligibility as Native Village

This is a written decision on protests filed pursuant to 43 CFR Part 2650 by the State of Alaska, by Charles F. Herbert, Commissioner, Department of Natural Resources, Pouch M, Juneau, Alaska 99801; by the Forest Service, U.S. Department of Agriculture by and through the Alaska Regional Forester, C. A. Yates, P.O. Box 1628, Juneau, Alaska 99801; by the Alaska Wildlife Federation and Sportsman Council, Inc. and Mr. Philip Holdsworth by and through James F. Clark of Robertson, Monagle, Eastaugh and Bradley, Attorneys at Law, P.O. Box 1211, Juneau, Alaska 99801; by the Alaska Chapter of the Sierra Club by Jack Hession, Alaska Representative, 2400 Barrow, Anchorage, Alaska 99501; and by Bureau of Sport Fisheries and Wildlife, Department of the Interior by and through Area Director Gordon W. Watson, 813 D. Street, Anchorage, Alaska 99501, hereinafter referred to as protestants. The protest of the State of Alaska was dated January 18, 1974 and received on January 21, 1974 by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the U.S. Forest Service was dated January 18, 1974 and received on January 21, 1974 by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth was dated January 21, 1974 and received on January 21, 1974 by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the Alaska Chapter of the Sierra Club was dated January 18, 1974 and received on January 18, 1974 by the Director, Juneau Area Office, Bureau of Indian Affairs. The protest of the Bureau of Sport Fisheries and Wildlife was dated January 18, 1974 and received on January 21, 1974 by the Director, Juneau Area Office, Bureau of Indian Affairs.

Protestant Commissioner, Department of Natural Resources, State of Alaska, states in part as follows:

> The findings of fact are defective in that no reasonable effort was made to determine if the persons enrolled to the villages were in fact residents of the villages as required by sec. 5(b) of the Alaska Native Claims Settlement Act, 85 Stat. 690. The findings are further defective in that an examination of the Alaska Native Roll Family list for these villages indicates on its face that less than twenty-five enrollees to each village have had adequate residence in their respective villages to be considered domiciled therein on April 1, 1970. To the contrary, the data on the Family List, developed from application forms upon which the enrollee himself furnished the information, indicates a different place of residency for almost all of the enrollees to each of these villages. The findings are further defective in that they do not include an examination of voting and licensing records of the enrollees to determine their legal residence.

Protestant Regional Forester, Forest Service, U.S. Department of Agriculture states in part as follows:

> Enrollment to Anton Larsen Bay or Point Possession does not meet the requirements of sec. 5(b) and sec. 3(c) of the ANCSA. The Interior Department has, through its regulations and procedures, distorted and ignored the actual language of the Act. The enrollment of the Natives as set out in the ANCSA, sec. 5(b), is quite specific: "The roll prepared by the Secretary shall show for each Native * * * the region and the village or other place in which he resided on the date of the 1970 census enumeration, and he shall be enrolled according to such residence." The Area Director, in his Anton Larsen and Point Possession decisions, would ignore these pertinent requirements of the Act on enrollment by quoting village requirements Sec. 11(b)(2)(A), "less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary * * *"

Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth state in part as follows:

> The printout run by the Bureau of Indian Affairs for November 8, 1973, shows none of those certified as living at Anton Larsen Bay. Nor is it listed as a village in the 1970 census.

Protestant Alaska Chapter of the Sierra Club states in part: "1970 census data showed that 25 Natives were not resident of these villages as of the date of the census."

Protestant Area Director, Bureau of Sport Fisheries and Wildlife, Department of the Interior states:

> We contend that neither the identifiable physical locations of Bells Flats or Anton Larsen Bay, nor the minimum residence requirement in relation to identifiable physical village location has been established.

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b)(3) of the Act is quoted as follows:

> Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that—
>
> (A) Twenty-five or more Natives were residents of an established village on the 1970 Census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and
>
> (B) The village is not of a modern and urban character, and a majority of the residents are Natives.

The 1970 Census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Federal Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 Census date) as well.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

As of January 21, 1974, 38 Natives had been approved for enrollment in the Native Village of Anton Larsen Bay. On July 19, 1973, a field investigation was completed of Anton Larsen Bay and at that time 14 Natives who used the village for a period of time in 1970 had been certified for enrollment to this village and such enrollment to Anton Larsen Bay, represents a majority of the residents of the village in 1970. It had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village during 1970 as a place where they actually lived for a period of time. The voting and licensing records of the State of Alaska have no bearing on the determination of the eligibility of the enrolled Natives of Anton Larsen Bay.

The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision, and does hereby render a final decision determining that the Native Village of Anton Larsen Bay is eligible for land benefits under said Act.

The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the final decision and findings of fact upon which the final decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of Title 43 CFR, by March 25, 1974. Appellants shall have not more than 15 days from the date of receipt of their notices of appeal within which to file an appeal brief, and the opposing parties shall not have more than 15 days from the date of receipt of the appellant's brief within

which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 8, 1974.

[FR Doc.74-4054 Filed 2-20-74;8:45 am]

ATTU, ALASKA

Final Decision Concerning Ineligibility as Native Village

This is a written decision on a protest filed pursuant to 43 CFR, Part 2650 by The Aleut Corporation by and through its attorneys, Kay, Miller, Libbey, Kelly, Christie & Fuld, hereinafter referred to as protestant, First National Building, Suite 500, Anchorage, Alaska 99501. The protest of the Aleut Corporation was dated January 18, 1974, and it was received January 21, 1974 by the Director, Juneau Area Office, Bureau of Indian Affairs.

Protestant objects to the Native Village of Attu being determined to be ineligible because protestant states as follows:

While the village of Attu is no longer inhabited, it has long been recognized as a traditional Native village. It is only due to the acts of the government after World War II which prevented the Attu Aleuts from returning to their village. The subsequent actions of the government since World War II have continued to prohibit the Aleuts from residing at Attu. As it is the government's action, beginning in 1945 and continuing thereafter which caused Attu to be unoccupied in 1970 should be certified as an eligible village pursuant to the special provision of § 2651.2(b) (2).

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b) (3) of the Act is quoted as follows:

Native villages not listed in subsection (b) (1) hereof shall be eligible for land and benefits under this act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that—

(A) Twenty-five or more Natives were residents of an established village on the 1970 Census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) The village is not of a modern and urban character, and a majority of the residents are Natives.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

Section 2651.2(b) (2) is quoted in part as follows:

* * * Provided, that no village which is known as a traditional village shall be disqualified if it meets the other criteria specified in this subsection by reason of having been unoccupied in 1970 because of an Act of God or government authority occurring within the preceding 10 years.

As of December 17, 1973, only 11 Natives had been approved for enrollment in the Native Village of Attu. To our knowledge no Natives have resided on or used the Native village site of Attu since September, 1942 when they were captured by the Japanese and sent to Japan as prisoners for the duration of World War II.

We realize that the Natives of Attu have always expressed a desire to return to Attu but were prevented from doing so due to financial circumstances. It has been over thirty years since Attu was last occupied as a Native village and therefore fails to meet the requirements of § 2651.2(b) of 43 CFR by not being occupied within the 10 year period preceding 1970.

It appears to us that special Congressional legislation amending the Act and a waiver of the regulations would be required in order for Attu to be eligible as a Native village.

The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protest together with his record of findings of fact and proposed decision, and does hereby render a decision determining that the Native Village of Attu is ineligible for land benefits under said Act.

The decision of the Director, Juneau Area Office. Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulations in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2(a) (5) of Title 43 CFR, by March 25, 1974.

Appellants shall have not more than 15 days from the date of receipt of their notice of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 5, 1974.

[FR Doc.74-4052 Filed 2-20-74;8:45 am]

BETTLES FIELD (EVANSVILLE), ALASKA

Final Decision Concerning Eligibility as a Native Village

This is a written decision on protests filed pursuant to 43 CFR, Part 2650 by the Alaska Chapter, Sierra Club, P.O. Box 2025, Anchorage, Alaska 99510, and the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth by and through their Counsel, James F. Clark of the law firm of Robertson, Monagle, Eastaugh and Bradley, P.O. Box 1211, Juneau, Alaska 99801. The protest of the Alaska Chapter, Sierra Club was dated January 18, 1974, and it was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

Protestant Alaska Chapter, Sierra Club states in part as follows:

* * * we disagree with the provisions (1) that Natives enrolled to a village, but not actually residing therein, are deemed residents of the village; and (2), that a village is considered eligible if "at least thirteen persons who enrolled thereto * * * have used the village during 1970 as a place where they actually lived for a period of time." Both provisions seem logically and perhaps legally inconsistent with the wording of the Alaska Native Claims Settlement Act itself. We think that Congress intended that eligible villages be those actually occupied by 25 or more qualified Natives.

Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth state in part as follows:

"Bettles Field—the printout run by the Bureau of Indian Affairs on November 8, 1973, shows only 15 person enrolled to Bettles Field who currently resides there. Section 11(b) (2) of the Alaska Native Claims Settlement Act requires that a village have 25 or more residents before it can be certified under the Act. Moreover, Bettles Field is not listed as a village in the 1970 census. The Director is called upon for the reasons set forth with respect to Bettles Field to investigate each of the individuals enrolled to Bettles Field to determine whether or not they have other criteria of residence as that term was intended by Congress to mean. Because of this prima facie proof that there are not 25 residents of Bettles Field and that it was not a village in the 1970 census the decision to certify Bettles Field as eligible under the Act is protested.

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b) (3) of the Act is quoted as follows:

Native villages not listed in subsection (b) (1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that—

(A) Twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance: and

(B) The village is not of a modern and urban character, and a majority of the residents are Natives.

The 1970 census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Federal Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 census date) as well.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

As of January 21, 1974, 77 Natives have been approved for enrollment in the Native Village of Bettles Field (Evansville). On July 25, 1973, a field investigation was completed for Bettles Field (Evansville) and at that time 27 Natives used the village for a period of time in 1970 and 25 of these Natives have been approved for enrollment to this village. The 77 Natives who have been approved for enrollment to Bettles Field (Evansville) represent a majority of the residents of the village in 1970. This village had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village during 1970 as a place where they actually lived for a period of time. See requirements of § 2651.2(b) of Title 43 CFR. The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision and does hereby render a final decision determining that the Native Village of Bettles Field (Evansville) is eligible for land and benefits under said Act.

The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of Title 43 CFR, by March 25, 1974. Appellants shall have not more than 15 days from the date of receipt of the notice of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals.

All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 11, 1974.

[FR Doc.74-4055 Filed 2-20-74;8:45 am]

KING ISLAND, ALASKA

Final Decision Concerning Eligibility as a Native Village

This is a written decision on protests filed pursuant to 43 CFR, Part 2650 by the Alaska Chapter, Sierra Club, P.O. Box 2025, Anchorage, Alaska 99510, and Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth by and through their Counsel, James F. Clark of the law firm of Robertson, Monagle, Eastaugh and Bradley, P.O. Box 1211, Juneau, Alaska 99801, hereinafter referred to as Protestants.

The protest of the Alaska Chapter, Sierra Club was dated January 18, 1974, and it was received on January 18, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

The protest of the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth was dated January 21, 1974, and it was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

Protestant, Alaska Chapter, Sierra Club, states in part as follows:

1970 census data showed that 25 Natives were not residents of this village as of the date of the census.

Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth, state in part as follows:

King Island—The Bureau of Indian Affairs printout run November 8, 1973 shows none of the enrollees to King Island as presently living there. Moreover, it is not listed as a village in the 1970 census.

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688-716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b)(3) of the Act is quoted as follows:

Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this act, determines that—

(A) Twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) The village is not of a modern and urban character, and a majority of the residents are Natives.

The 1970 census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Federal Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the offiical enrollment which not only contains evidence of race but of resident (on the 1970 census date) as well.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

As of January 21, 1974, 186 Natives had been approved for enrollment in the Native Village of King Island. On August 17, 1973 and on December 6, 1973, field reports of King Island show at that time 13 Natives who used the village for a period of time in 1970 were subsequently approved for enrollment on December 17, 1973.

The 186 Natives who have been approved for enrollment to King Island, represent a majority of the residents of the village in 1970. It had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives own cultural patterns and life style and thirteen Natives enrolled thereto have used the village as a place where they actually lived for a period of time as required by § 2651.2(b) of Title 43 CFR.

The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision, and does hereby render a final decision determining that the Native Village of King Island is eligible for land benefits under said Act.

The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shal be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the final decision and findings of fact upon which the final decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of Title 43 CFR, by March 25, 1974. Appellants shall have not more than 15 days from the date of receipt of their notices of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to

file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 11, 1974.

[FR Doc.74-4057 Filed 2-20-74;8:45 am]

TENAKEE, ALASKA

Final Decision Concerning Ineligibility as Native Village

This is a written decision on protest filed pursuant to 43 CFR, Part 2650 by John Borbridge, Jr., President, Sealaska Corporation, 127 South Franklin St., Juneau, Alaska 99801, in behalf of the Native Village of Tenakee Springs, also known as Tenakee, hereinafter referred to as protestant. The protest was dated January 15, 1974, and received on the same date by the Director, Juneau Area Office, Bureau of Indian Affairs. Protestant objects to the Native Village of Tenakee being determined to be ineligible on the ground that:

Affidavits attesting to the fact that the Native population of Tenakee Springs, as reported in the 1970 U.S. Census was in error and that as a result of this census error, the village had a majority of Native residents. Many individuals, during the enrollment process, made application to correct their original enrollment which did not show Tenakee Springs under Column 16 due to a mistake of fact or error of law. These same people appealed the denial of their request and our records indicate that many of those appeals are still pending. The importance of the final determination of appeals with regard to the Alaska Native Enrollment cannot be overstated. The December 18, 1973, enrollment printout shows 38 individuals enrolled to Tenakee (Tenakee Springs). Our records show many additional Natives have requested a correction in Column 16 and these requests are presently under appeal.

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688–716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b) (3) of the Act is quoted as follows:

Native villages not listed in subsection (b) (1) hereof shall be eligible for land and benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that—

(a) Twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(b) The village is not of a modern and urban character, and a majority of the residents are Natives.

Part 43h of Title 25 of the Code of Federal Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 census date) as well.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

As of January 21, 1974, 38 Natives had been approved for enrollment in the Native Village of Tenakee. On December 13, 1973, an investigation was completed of Tenakee and it was determined not to be modern and urban in character but it was determined not eligible as an unlisted Native village under the Act and the regulations. The non-Native population of Tenakee was 76 in 1970 according to the U.S. Census. The 1970 census shows that the non-Natives were in the majority when compared to the approved Native enrollment on January 21, 1974. There is no way to determine whether errors were made in the 1970 U.S. Census i.e., whether some Natives were listed as non-Natives. Tenakee meets all requirements of § 2651.2(b) of Title 43 CFR except it did not have a majority of Natives in 1970, nor does it have a majority at this time. The decision of the Director, Juneau Area Office, Bureau of Indian Affairs, must be based on the actual number of Natives on the approved enrollment and any additional Natives not enrolled who resided in Tenakee in 1970. The record does not show that any unenrolled Natives resided in Tenakee in 1970.

Since only 38 Natives were included in the approved enrollment in Tenakee as of January 21, 1974, which is the most recent enrollment printout, the Director must use these figures in making his decision within the thirty-day period for answering protests. The fact that appeals have been filed for Column 16 changes and such appeals are still pending in the enrollment at Tenakee, the decision of the Director cannot be based on these pending enrollment changes. The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protest together with his record of findings of fact and decision and does hereby render a final decision determining that the Native Village of Tenakee is ineligible for land benefits under said Act.

The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2(a) (5) of Title 43 CFR, by March 25, 1974. Appellants shall have not more than 15 days from the date of receipt of the notice of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 11, 1974.

[FR Doc.74-4058 Filed 2-20-74;8:45 am]

WOODY ISLAND

Final Decision Concerning Eligibility as a Native Village

This is a written decision on protests filed pursuant to 43 CFR, Part 2650 by the Alaska Chapter, Sierra Club, P.O. Box 2025, Anchorage, Alaska 99510, and by Alaska Wildlife Federation and Sportsman Council, Inc., and Mr. Philip Holdsworth by and through their Counsel, James F. Clark of the law firm of Robertson, Monagle, Eastaugh and Bradley, P.O. Box 1211, Juneau, Alaska 99801, hereinafter referred to as Protestants.

The protest of the Alaska Chapter, Sierra Club was dated January 18, 1974, and it was received on January 18, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

The protests of the Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth was dated January 21, 1974, and it was received on January 21, 1974, by the Director, Juneau Area Office, Bureau of Indian Affairs.

Protestant, Alaska Chapter, Sierra Club states in part as follows: "1970 Census data showed that 25 Natives were not residents of this village as of the date of the census."

Protestants Alaska Wildlife Federation and Sportsman Council, Inc., and Philip Holdsworth state in part as follows:

Woody Island—The Bureau of Indian Affairs printout dated November 8, 1973, shows only 2 of the persons enrolled to Woody Island as living there at the present time.

The Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688–716), and 43 CFR, Part 2650 provides for the settlement of certain land claims of Alaska Natives and for other purposes. Section 11(b) (3) of the Act is quoted as follows:

Native villages not listed in subsection (b) (1) hereof shall be eligible for land and

benefits under this Act and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from the date of enactment of this Act, determines that—

(a) Twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(b) The village is not of a modern and urban character, and a majority of the residents are Natives.

The 1970 census is not, therefore, the exclusive source of information for the determination of residency. Part 43h of Title 25 of the Code of Federal Regulations provides for the enrollment of the Natives. A main source of "other evidence satisfactory to the Secretary of the Interior" is the official enrollment which not only contains evidence of race but of residence (on the 1970 census date) as well.

Section 2651.2 of Title 43 CFR contains the authority for the Director, Juneau Area Office, Bureau of Indian Affairs, to act for the Secretary of the Interior in the determination of the eligibility of Natives for land benefits under the Act.

As of January 21, 1974, 279 Natives had been approved for enrollment in the Native Village of Woody Island. On July 18, 1973, a field investigation was completed of Woody Island and at that time 18 Natives who used the village for a period of time in 1970 were subsequently approved for enrollment on December 17, 1973. The 279 Natives who have been approved for enrollment to Woody Island, represent a majority of the residents of the village in 1970. It had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and more than thirteen Natives enrolled thereto have used the village as a place where they actually lived for a period of time as required by Subpart 2651.2(b) of Title 43 of CFR.

The Director, Juneau Area Office, Bureau of Indian Affairs, has examined and evaluated the protests together with his record of findings of fact and decision, and does hereby render a final decision determining that the Native Village of Woody Island is eligible for land benefits under said Act.

The final decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the final decision and findings of fact upon which the final decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary of the Interior by a notice filed with the Ad Hoc Board as established in § 2651.2 (a)(5) of Title 43 CFR, by March 25, 1974. Appellants shall have not more than 15 days from the date of receipt of their notices of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional brief in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the Ad Hoc Board shall be submitted to the Secretary of the Interior for his personal approval. The Ad Hoc Board is now known as the Alaska Native Claims Appeal Board and its address is P.O. Box 2433, Anchorage, Alaska 99510.

CLARENCE ANTIOQUIA,
Acting Director.

FEBRUARY 8, 1974.

[FR Doc.74-4056 Filed 2-20-74;8:45 am]

National Park Service

NORTHEAST REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Northeast Regional Advisory Committee will be held at 9 a.m., e.d.t., on February 25 and 26, 1974, at the Mid-Atlantic Regional Office Conference Room, at 143 South Third Street, Philadelphia, Pa.

The Northeast Regional Advisory Committee was established pursuant to Public Law 91-383, August 18, 1970, to provide for the exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Northeast Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mr. Norman G. Duke (Chairman)
Northfield, Ohio

Mr. Hyman J. Cohen
Arlington, Virginia

Mrs. Antoinette Downing
Providence, Rhode Island

Mr. Charles H. W. Foster
Needham, Massachusetts

Mr. Fred D. Hartley
Kenosha, Wisconsin

Mr. Lewis W. Jones
Bloomington, Illinois

Mr. William L. Lieber
Indianapolis, Indiana

Mr. Frederick R. Micha
Ontario, New York

Dr. M. Graham Netting
Pittsburgh, Pennsylvania

The matters to be discussed at this meeting are: (1) Impact of the Energy Crisis in Parks, (2) The National Park Foundation, (3) The Regional Advisory Committee under the reorganization, and (4) Summary of action on Committee Resolutions to date.

The meeting is open to the public. It is expected that 25 persons will be able to attend the session in addition to the Advisory Committee members and the Mid-Atlantic Regional staff.

Any member of the public may file with the Committee a written statement concerning matters to be discussed.

Further information concerning this meeting may be obtained from George A. Palmer, Special Assistant to the Regional Director, at 215-597-7014. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Mid-Atlantic Region, 143 South Third Street, Philadelphia, Pa.

Dated: February 8, 1974.

ROBERT M. LANDAU,
Liaison Office, Advisory Commissions, National Park Service.

[FR Doc.74-4147 Filed 2-20-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-42]

BECKLEY COAL MINING CO.

Petition for Modification of Application of Mandatory Safety Standards

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), the Beckley Coal Mining Company has filed three petitions to modify the application of mandatory safety standards. The first petition requests modification of section 303(y)(1), also published as 30 CFR 75.326; the second requests modification of section 303(y)(2), also published as 30 CFR 75.327, and implementing regulation 30 CFR 75.327-1; and the third requests modification of 30 CFR 75.1707. All such requests relate to Petitioner's mine located at Glen Daniel, West Virginia. Since the three petitions are all interrelated, they have been assigned the same docket number, and they will be considered together.

Section 303(y)(1) reads in pertinent part, as follows:

> In any coal mine opened after the operative date of this title, the entries used as intake and return aircourses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane, and such air shall not be used to ventilate active working places. * * *

Section 303(y)(2) reads as follows:

> In any coal mine opened on or after the operative date of this title, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley wires or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake courses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

30 CFR 75.327–1 reads as follows:

Unless a higher velocity is approved by the Coal Mine Safety District Manager, the velocity of the air current in the trolley haulage entries shall be limited to not more than 250 feet a minute.

30 CFR 75.1707 reads in pertinent part, as follows:

In the case of all coal mines opened on or after March 30, 1970, and in the case of all new working sections opened on or after such date in mines opened prior to such date, the escapeway required by this section to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, * * *.

Petitioner states in support of its petition that the mine at Glen Daniel, West Virginia, is a new operation opened after the operative date of the Federal Coal Mine Health and Safety Act of 1969. The mine is a deep mine operating at a level of approximately 600 feet below the surface. It is below the water table and access is by a slope and two shafts. Construction of the mine is not yet complete. Volume production is expected to begin shortly after February 1, 1974. Plans for mining contemplate a belt conveyor and a trolley operating in parallel entries in all sections.

Petitioner proposes that while return airways would be separated from belt and trolley haulage entries at the mine, intake entries would not be separated from belt and trolley haulage entries and that the velocity of the air current in the trolley haulage entries need not be limited to 250 feet a minute. Petitioner contends that the application of the mandatory standard will result in a diminution of safety to miners in the affected mine because it will permit the accumulation of methane gas in dead air spaces adjacent to stoppings required by the application of the mandatory standards, with a resultant explosive risk. Petitioner further contends that the alternative standard petitioned for herein will provide for the dilution and carrying away of methane gas as it is liberated.

Petitioner contends that the mandatory safety standards would require the construction of permanent-type stoppings between the belt entry and the trolley entry, and also between the trolley entry and intake entry. Petitioner states that the mine contains a sufficient amount of methane gas to require caution in construction. Petitioner is of the opinion that the construction of the stoppings and the limiting of velocity of air on the haulage entries to 250 feet per minute would create the risk of pockets of methane gas adjacent to the stoppings which could not be adequately deleted and removed.

Petitioner feels that the application of the safety standard would result in a diminution of safety to the miners in the mine, whereas the alternative method proposed would provide for dilution and carrying away of methane gas liberated in the mine.

For the same reasons expressed above, Petitioner believes that the application of the requirements of standard 75.1707 providing for an escapeway separated from the belt and trolley haulage entries, will result in a diminution of safety to miners in that the installation of the stoppings will create areas greatly increasing the risk of accumulation of methane gas.

Under Petitioner's proposed modification, the belt and trolley haulage entries become intake airways and for that reason Petitioner feels that the air velocity cannot be limited to 250 feet per minute without severely reducing the intake air in the working sections.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 25, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

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

FEBRUARY 11, 1974.

[FR Doc.74-4014 Filed 2-20-74;8:45 am]

[Docket No. M 74-53]

EASTERN ASSOCIATED COAL CORP.

Petition For Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Eastern Associated Coal Corporation has filed a petition to modify the application of 30 CFR 75.1600–1 to its Wharton No. 5, Wharton No. 6, Federal No. 1, Colver, Kopperston No. 1, Kopperston No. 2, Keystone No. 2, and Keystone No. 3–B Mines.

30 CFR 75.1600–1 reads as follows:

A telephone or equivalent two-way communication facility shall be located on the surface within 500 feet of all main portals, and shall be installed either in a building or in a box-like structure designed to protect the facilities from damage by inclement weather. At least one of these communication facilities shall be at a location where a responsible person who is always on duty when men are underground can hear the facility and respond immediately in the event of an emergency.

Petitioner contends that the authorized representative of the Secretary of the Interior has interpreted such regulation to require that the station which is manned at all times when men are underground, be located within 500 feet of all main portals. Petitioner states that the regulation has been enforced by the authorized representative of the Secretary at Petitioner's Wharton No. 5 and No. 6 Mines, and that the regulation may presently be enforced at its Federal No. 1, Colver, Keystone No. 2 and No. 3–B, Kopperston No. 1 and No. 2 Mines.

Petitioner requests that it be allowed to continue using its present communications system. Petitioner states that it maintains an effective two-way subsurface to surface telephone communication system with a responsible person stationed within hearing distance at all times when men are underground at the above-listed mines.

Petitioner submits that the two-way communication system now utilized at its mines guarantees no less than the same measure of protection afforded the miners at such mines by the mandatory safety standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 25, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 11, 1974.

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

[FR Doc.74-4012 Filed 2-20-74;8:45 am]

[Docket No. M 74-37]

HATTER COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Hatter Coal Company has filed a petition to modify the application of 30 CFR 75.1400 to its Middle Split Slope Mine located at Hegins, Pennsylvania.

30 CFR 75.1400 reads in pertinent part as follows:

Cages, platforms, or other devices which are used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency * * *.

Petitioner seeks modification of the portion of 30 CFR 75.1400 which requires safety catches or other no less effective devices on any cages, platforms, or other devices which are used to transport persons in shafts and slopes. As an alternative, Petitioner would continue to use its present haulage system in its Middle Split Slope Mine.

In support of its petition, Petitioner states:

(1) There is no safety catch or other device currently available for use in a mine with steeply pitched slopes, numerous curves and knuckles as is the case in the Middle Split Slope Mine.

(2) The steel gunboat used to transport men and supplies along the main haulage slope is securely fastened to a wire rope, with secondary safety connections around the gunboat and attached to the main rope.

(3) The safety standard of the rope attached to the gunboat far exceeds the recommended standards for wire ropes used in mines.

(4) A workable safety catch has not been developed, and makeshift devices would actually increase the hazards to the miners.

Petitioner asserts that the alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 25, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 11, 1974.

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

[FR Doc.74-4013 Filed 2-20-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

CAVE MOUNTAIN LAKE UNIT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Cave Mountain Lake Planning Unit, Jefferson National Forest, Virginia, USDA-FS-R8-DES (Adm.)-74-1.

The environmental statement concerns the proposed management direction and resource allocation for a portion of the Glenwood Ranger District, Jefferson National Forest, known as the Cave Mountain Lake Planning Unit.

This draft environmental statement was transmitted to CEQ on February 12, 1974.

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

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

USDA, Forest Service
1720 Peachtree Road NW., Room 804
Atlanta, Georgia 30309

A limited number of single copies are available upon request to Michael J. Penfold, Forest Supervisor, Jefferson National Forest, Roanoke, Virginia.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

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

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Michael J. Penfold, Jefferson National Forest, Roanoke, Virginia. Comments must be received by April 12, 1974 in order to be considered in the preparation of the final environmental statement.

HANS R. RAUM,
Acting Regional Forester.

[FR Doc.74-4061 Filed 2-20-74;8:45 am]

DESCHUTES NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Deschutes National Forest Advisory Council will meet at 6:30 p.m. on March 14, 1974, at the Copper Room. Dinner will be at 7 p.m. at Original Joe's, 1033, Bond, Bend, Oregon, with the program to follow at 8 p.m.

The subject of this meeting is Geothermal Lease Activity as it relates to the Deschutes National Forest. This will be presented by Don Peters.

The meeting will be open to the public.

Dated: February 11, 1974.

EARL E. NICHOLS,
Forest Supervisor.

[FR Doc.74-4074 Filed 2-20-74;8:45 am]

LITTLE SLATE CREEK PLANNING UNIT MULTIPLE USE PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Little Slate Creek Planning Unit, Forest Service report number USDA-FS-FES(Adm) 74-3.

The environmental statement concerns the proposed action to implement the Little Slate Creek Unit Plan which calls for multiple use management of 43,690 acres of National Forest land in the Little Slate Creek Drainage, Slate Creek Ranger District, Nezperce National Forest, Idaho County, Idaho. The Little Slate Creek Unit Plan identifies alternatives and specifies management guidance for key values of timber management, historic and recreational interest, elk calving and breeding grounds and high areas. It specifies access road location and probable timber sale development while outlining numerous guidelines for the protection and/or development of other resources.

This final environmental statement was filed with CEQ on February 14, 1974.

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

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. and Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Northern Region
Federal Building, Room 3077
Missoula, Montana 59801

USDA, Forest Service
Nezperce National Forest
319 East Main
Grangeville, Idaho 83530

A limited number of single copies are available upon request to:

Robert O. Rehfeld, Forest Supervisor
Nezperce National Forest
319 East Main
Grangeville, Idaho 83530

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

KEITH M. THOMPSON,
Acting Regional Forester,
Forest Service.

FEBRUARY 14, 1974.

[FR Doc.74-4075 Filed 2-20-74;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

VOTING AGE POPULATION

Estimates for 1973

Correction

In FR Doc. 74-3460 appearing at page 5350 of the issue for Tuesday, February 12, 1974, make the following changes in the tables:

1. The figure for Florida's 15th Congressional district, now reading 335, should read 353.
2. The total for Maine, now reading 698, should read 689.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2), Public Law 92-463, that the next meeting of the National Advisory Council on Education Professions Development will be held on Wednesday, March 6, 1974, 10 a.m. to 5 p.m.; Thursday, March 7, 1974, 8:45 a.m. to 5 p.m., in the New York Room of the Statler-Hilton Hotel, Sixteenth Street, between K and L Streets NW.; and Friday, March 8, 1974, 9 a.m. to 12:30 p.m.,

local time, in the Executive Suite of the Statler-Hilton Hotel, in Washington, D.C.

The National Advisory Council on Education Professions Development is established under section 502 of the Education Professions Development Act (Public Law 90-35). The Council is charged with the review of the Education Professions Development Act and of all other Federal programs for the training and development of educational personnel.

The meeting of the Council shall be open to the public. The proposed agenda includes discussion of Federal policies on evaluation, educational manpower forecasting, and implementation of the Education Professions Development Act. Records shall be kept of all Council proceedings and shall be available for public inspection at the Council office, located at 1111 20th Street NW., Room 308, Washington, D.C. 20036.

Signed at Washington, D.C., on February 11, 1974.

JOSEPH YOUNG,
Executive Director.

[FR Doc.74-4035 Filed 2-20-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to PL-92-463, that the next meeting of the National Advisory Council on Vocational Education will be held on March 15, 1974, from 9 a.m. to 5 p.m., local time, and on March 16, 1974 from 9 a.m. to 12 noon, local time at the Ramada Inn, Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress; and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meetings of the Council shall be open to the public. The proposed agenda includes:

March 15: Introduction and swearing in of new Council Members, Report from the Office of Education, Report on the Manpower Act.

March 16: Reports from Committees.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425-13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C. on February 13, 1974.

CALVIN DELLEFIELD,
Executive Director.

[FR Doc.74-4038 Filed 2-20-74;8:45 am]

SUPPLEMENTARY EDUCATION CENTERS AND SERVICES

Special Programs and Projects; Notice of Closing Dates for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 306 of Title III of the Elementary and Secondary Education Act of 1965, as amended, (20 U.S.C. 844b) applications are being accepted from local education agencies for grants under section 306 which are made by the U.S. Commissioner of Education for the provision of supplementary and exemplary elementary and secondary school centers and services and programs for testing, and guidance and counseling. Applications must be received by the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. 20202 (mailing address: U.S. Office of Education Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.516), on or before April 11, 1974. A notice of closing date for applications for projects which were commenced under grant awards made in previous fiscal years is being published separately in the FEDERAL REGISTER.

Amounts available to fund applications invited under this notice include, in addition to fiscal year 1974 funds, funds made available under Pub. L. 92-334 which were unallocated in fiscal year 1973 and were allocated in January of this year. The general fiscal and administrative provisions published in the FEDERAL REGISTER, 38 FR 30654, November 6, 1973, are applicable to these grants, and criteria for this program which have been published separately in the FEDERAL REGISTER (39 FR 5321, February 12, 1974), are proposed to be used in determining the selection and funding of grant awards.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The applications are received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

Information and application forms may be obtained from Special Programs and Projects, section 306 of Title III, ESEA, U.S. Office of Education, Room 3682, ROB No. 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 844b)

Dated: February 15, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.516: Pre-School, Elementary and Secondary Education—Special Programs and Projects)

[FR Doc.74-4265 Filed 2-20-74;9:06 am]

SUPPLEMENTARY EDUCATION CENTERS AND SERVICES

Special Programs and Projects; Notice of Closing Date for Receipt of Continuation Applications

Notice is hereby given that pursuant to the authority contained in section 306 of Title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b), aplications are being accepted from local education agencies for section 306 grants for projects which were commenced under grant awards made in previous fiscal years. In order to receive consideration, such applications must be received by the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202 (mailing address: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.516), on or before April 1, 1974. A notice of closing date for applications for new grants is being published separately in the FEDERAL REGISTER.

Grants under section 306 are made by the U.S. Commissioner of Education for the provision of supplementary and exemplary elementary and secondary school centers and services and programs for testing, and guidance and counseling. The general fiscal and administrative provisions published in the FEDERAL REGISTER, 38 FR 30654, November 6, 1973, are applicable to these grants. Amounts available to fund applications invited under this notice include, in addition to fiscal year 1974 funds, funds made available under Pub. L. 92-334 which were unallotted in fiscal year 1973 and were allotted in January of this year.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The applications are received on or before the closing date by either the Department of Health, Education, and Welfare, or

the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

Information and application forms may be obtained from Special Programs and Projects, section 306 of Title III, ESEA, U.S. Office of Education, Room 3682, ROB #3, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(20 U.S.C. 844b)

Dated: February 15, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.516: Pre-School, Elementary and Secondary Education—Special Programs and Projects)

[FR Doc.74-4264 Filed 2-20-74;9:06 am]

Social Security Administration

ADVISORY COMMITTEE ON MEDICARE ADMINISTRATION, CONTRACTING, AND SUBCONTRACTING

Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Advisory Committee on Medicare Administration, Contracting, and Subcontracting, established pursuant to section 1114(f) of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare matters, will meet on Friday, March 1, 1974, and Friday, March 8, 1974, at 9 a.m. in the conference room on the 31st floor at 299 Park Avenue, New York, New York. These meetings are open to the public. However, there will be no formal agenda and no time allotted for public discussion because the Committee will be entirely involved in drafting its report to the Secretary.

Further information on the Committee may be obtained from Mr. Max Perlman, Executive Secretary of the Committee, Room 585 East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-9134. Members of the public planning to attend should notify the Executive Secretary.

(Catalog of Federal Domestic Assistance Program Numbers: 13.800, Health Insurance for the Aged—Hospital Insurance; 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: February 14, 1974.

MAX PERLMAN,
Executive Secretary, Advisory Committee on Medicare Administration, Contracting, and Subcontracting.

[FR Doc.74-4131 Filed 2-20-74;8:45 am]

HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Notice of Meetings

Notice is hereby given, pursuant to Public Law 92-463, that the Health Insurance Benefits Advisory Council (HIBAC), established pursuant to section 1867 of the Social Security Act as amended, which advises the Secretary of Health, Education, and Welfare on Medicare and Medicaid matters, will meet on Friday, March 8, 1974, at 9 a.m., in Room 4131 of the Department of Health, Education, and Welfare's North Building, Third and C Streets SW., Washington, D.C. The Council will consider matters relating to the Medicare and Medicaid programs.

The Home Health Care Committee of HIBAC, which is studying the possibility of broadening the coverage of home health services, and the Mental Health Committee, which is studying the possibility of broadening the coverage of mental health services, will meet on March 7, 1974.

All of these meetings are open to the public.

Further information on the Council and the Committee (including the times and places at which the latter will convene) may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, Room 585, East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-9134.

Members of the public planning to attend any of these meetings are asked to notify the Executive Secretary, to ensure adequate seating.

(Catalog of Federal Domestic Assistance Program Numbers: 13.800, Health Insurance for the Aged—Hospital Insurance; 13.801, Health Insurance for the Aged—Supplementary Medical Insurance; 13.714, Medical Assistance Program.)

Dated: February 14, 1974.

MAX PERLMAN,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.74-4130 Filed 2-20-74; 8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-460]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Notice of Receipt of Application for Construction Permit and Facility License and Availability of Applicant's Environmental Report

Washington Public Power Supply System (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed October 18, 1973, for authorization to construct and operate a generating unit utilizing a pressurized water nuclear reactor. The application was tendered on July 16, 1973. Following a preliminary review for compelteness, the application was rejected on August 20, 1973, for lack of sufficient information. The applicant submitted additional information on October 1, 1973, and the application was found to be acceptable for docketing. Docket No. 50-460 has been assigned to the application and it should be referenced in any correspondence relating to the application.

The proposed nuclear facility, designated by the applicant as the WPPSS Nuclear Project No. 1, is located on the applicant's site in Benton County, Washington, and is designed for initial operation at approximately 3619 megawatts thermal, and a net electrical output of approximately 1206 megawatts.

A notice of hearing with opportunity for public participation is beng published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 19, 1974. The request should be filed in connection with Docket No. 50-460-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated October 15, 1973. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is being made available for public inspection at the aforementioned locations, and at the Office of the Governor, State Planning and Community Affairs Agency, Olympia, Washington 98504 and the Benton-Franklin Governmental Conference, 906 Jadwin Avenue, Richland, Washington 99352.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will aso contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory saff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 14th day of December, 1973.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors, Branch 2-3, Directorate of Licensing.

[FR Doc.73-27005 Filed 12-20-73;8:45 am]

[Docket Nos. 50-445, 50-446]

TEXAS UTILITIES GENERATING CO.

Notice of Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed issuance of construction permits for the Texas Utilities Generating Company's Comanche Peak Electric Station, Units 1 and 2, to be located near Glen Rose, Texas, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Somervell Public Library, On-the-Square, Glen Rose, Texas 76043. The Draft Environmental Statement is also being made available at the North Central Texas Council of Governments, P.O. Box 5888, Arlington, Texas 76011, and the Division of Planning Coordination, Office of the Governor, P.O. Box 12428 Capital Station, Austin, Texas 78711. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Applicant's Environmental Report, as supplemented, submitted by Texas Utilities Generating Company is also available for public inspection at the above-designated locations. Notice of availabiilty of the Applicant's Environmental Report was published in the FEDERAL REGISTER on August 8, 1973 (38 FR 21445).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by April 8, 1974. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Somervell Public Library in Glen Rose, Texas. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 13th day of February 1974.

For the Atomic Energy Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects Branch 3, Directorate of Licensing.

[FR Doc.74-4151 Filed 2-20-74;8:45 am]

[Docket Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice of Oral Argument

In the matter of Commonwealth Edison Co., (Zion Station, Units 1 and 2).

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Appeal Board's Order of February 13, 1974, oral argument on the various exceptions to the initial decision of October 5, 1973 in this proceeding has been rescheduled for 9:15 A.M. on Wednesday, March 13, 1974, in the Appeal Panel hearing room, fifth floor, East West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

FEBRUARY 14, 1974.

[FR Doc.74-4027 Filed 2-20-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25280, et al.; Order No. 74-2-50]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Increased Fuel Costs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of February 1974; Dockets 25280, 25513, 25661, Agreement C.A.B. 24208, R-1 through R-7.

By Order 73-12-77 dated December 19, 1973, the Board approved an IATA agreement which increased worldwide passenger fares and cargo rates by approximately six percent in order to compensate for increased experienced fuel costs. The increases associated with passenger fares would expire March 31, 1975, and those related to cargo rates would expire September 30, 1975.

Under the terms of that agreement passenger fares were increased by a flat six percent in all world areas except on the North Atlantic and on North/Central and South Pacific routes. The increase on the North Atlantic was equivalent to four percent of the one-way shoulder-season normal economy fare between New York and the various European points with the resulting dollar amount applied to all fares in the structure. Fares across the Pacific were similarly increased across-the-board, with the dollar amount calculated at four percent of the normal economy fare from Los Angeles. Round-trip fares were increased by twice the dollar amount applicable to one-way fares.

Similarly cargo rates in all world areas except the North Atlantic and the North/Central and South Pacific were increased by a flat six percent across-the-board. In the excepted areas, the increase was four percent of the 45 kilogram general commodity rate applied to all rates in the structure.

The above agreement, as regards North Atlantic cargo rates failed to receive the required approvals by various European governments. As a consequence of these disapprovals, the IATA carriers convened a meeting in New York during early January 1974 and issued a mail vote, later adopted and filed as an agreement with the Board, which would increase all New York-Europe rates by a flat six percent.

This second agreement was approved by the Board by Order 74-1-152 dated January 30, 1974, for effect on February 1, 1974, through September 30, 1975. It permitted increases of six percent to be applied on all North Atlantic cargo rates (to and from New York) intended for application on or after February 1, 1974.

As a consequence of still further escalations in the cost of fuel, the Traffic Advisory Committee of IATA met in New York on January 7-8, 1974, and recommended the issuance of a mail vote which, in addition to the already approved fuel-related fare and rate increases, would increase all worldwide fares and rates by still another seven percent across-the-board. This mail vote has been adopted in part for effect from March 1, 1974, and has been submitted to the Board for approval.

Although initially intended to be applied worldwide, the mail vote failed to receive all of the necessary affirmative votes for worldwide implementation. As a consequence the agreement currently before the Board and assigned the above designated C.A.B. agreement number would further increase passenger fares by a flat seven percent, as a consequence of escalating fuel prices, intended for application on or after March 1, 1974, and through March 31, 1975. Under the terms of the agreement filed for Board approval the increases would apply on tickets sold for transportation by air within area TC 2 (encompassing Europe and Africa), and for travel by air over the Mid-Atlantic and South Atlantic routes to Europe and/or beyond to Asia. Insofar as direct application in air transportation is concerned the increases would apply on passenger travel over the Mid-Atlantic to and from Puerto Rico and the Virgin Islands.

Increases of an additional seven percent to be implemented as a consequence of fuel-cost increases on all rates intended for application on or after March 1, 1974, and through September 30, 1975, are intended to be applied on all cargo rates within the Western Hemisphere, within/and between Europe and Africa, and over the Atlantic to Europe and/or beyond.

As far as air transportation is concerned the increases would apply on ship-

ments between the United States and South/Central America and the Caribbean,[1] and between the United States, on the one hand, and Europe/Africa and Asia, on the other hand, when shipment is routed via the Atlantic.

In documentation filed with the subject agreement, material prepared by the IATA Traffic Advisory Committee was submitted which purports to show that the average increase calculated for the first quarter of 1974 over the average fuel costs for the second quarter of 1973 now amounts to 152 percent rather than the forecast figure of 52 percent arrived at in November of last year. It is alleged that the extra revenue required to maintain profitability indicates that fares and rates should be increased by at least 18 percent of which only six percent has been implemented.

The purpose of this order is to establish procedures for the receipt of justification by the carriers and comments of third parties in the interest of a prompt disposition of the agreement. Accordingly, all U.S. carrier members of IATA are directed to file within seven days of the date of this order full economic justification in support of the agreement, including past, present and future identifiable contractual fuel costs. We also expect the carriers to provide profit and loss statements, both with and without the proposed increase, based on the present fares/rates and those proposed for 1974.

The Board would welcome comments from the foreign-flag carriers as well, which, along with those of other interested parties, should likewise be submitted within seven days from the date of this order.

Accordingly, *It is ordered*, That:

1. All United States air carrier members of the International Air Transport Association shall file within seven calendar days of this order full documentation and economic justification in support of the proposed fare and rate increases embodied in the subject agreement.

2. Comments and/or objections from interested persons shall be submitted within seven days after the date of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[FR Doc.74-4135 Filed 2-20-74;8:45 am]

[Docket No. 25904]

INTERNATIONAL FARES FOR U.S. MILITARY STATIONED OVERSEAS AND THEIR DEPENDENTS

Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter has been postponed from February 21, 1974, (38 FR 34011, December 10, 1973), to March 7, 1974, at 10 a.m. (local time) in Room 1031, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

In order to facilitate the conduct of the conference, parties other than Bureau Counsel are to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of position; and (5) proposed procedural dates by February 28, 1974.

Dated at Washington, D.C., February 14, 1974.

[SEAL] MILTON H. SHAPIRO, *Administrative Law Judge.*

[FR Doc.74-4137 Filed 2-20-74;8:45 am]

[Docket No. 26339, et al; Order No. 74-2-63]

SEABOARD WORLD AIRLINES, INC. AND UNITED AIR LINES, INC.

Domestic Air Freight Rate Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of February, 1974, Docket 26339, 26370, 26371, 22859.

By tariff revisions variously bearing filing dates of January 11 and 18, and marked to become effective February 17 and February 18, 1974, Seaboard World Airlines, Inc. (Seaboard) and United Air Lines, Inc. (United) propose tariff changes in domestic freight rates as indicated below:

SEABOARD

1. Increase bulk and container rates in numerous markets by an average of 7.5 percent; and

2. Increase the minimum chargeable weight for bulk shipments to 8.9 pounds per cubic foot (194 cubic inches per pound) from 6.9 pounds (250 cubic inches) for general freight and from 6.5 pounds (266 cubic inches) for cut flowers and nursery stock.

UNITED

1. *Mainland.* a. Increase by 6 percent westbound and southbound general commodity rates for bulk shipments at the 100-pound weight break, and apply the resulting dollar increases in each market to all other rates (bulk and container) in both directions, with the maximum percentage increase for any rate limited to 10 percent;

b. Increase bulk minimum charges by $1.00 per shipment;

c. Increase under-100-pound rates by one percent of the calculated dollar increase rounded up to the next higher penny; and

d. Cancel or place daylight time-of-departure restrictions on all westbound bulk and container specific commodity rates, except from cities west of Chicago, and a few other markets.

2. *Hawaii.* a. Increase by 6 percent all westbound 500-pound minimum weight general commodity rates and apply the resulting dollar increase per 100 pounds to other rates (bulk and container) in the Hawaiian market, with the exceptions indicated below and with the maximum increase for any rate limited to 10 percent; and

b. No increases in the minimum charge, under-100-pound, 100-pound, and 250-pound rates or in the specific commodity rates for pineapples which became effective September 30, 1973.

The carrier asserts that the higher rates proposed will increase its total freight revenues by 7.2 percent.

Complaints requesting suspension and investigation of United's proposal have been filed by the Hawaii Air Cargo Shippers Association, Inc. (HACSA) with respect to rates to and from Hawaii, and the Western Growers Association (WGA) with respect to eastbound rates, especially on perishables. Suspension and investigation of Seaboard's proposed cube rule change was requested by the Society of American Florists (SAF), to the extent that it would apply to florist products.

HACSA's complaint alleges, interalia, that (1) the effect of the proposed revisions is to require large-volume shippers, forwarders, and shipper associations in Hawaii to bear the total cost of the increase in rates to Hawaii; (2) the proposed revision will put severe and unfair competitive pressure on these freight forwarders and shipper associations; (3) United's competitive position will be substantially improved at the expense of HACSA and forwarders; (4) there is no evidence that the domestic volume taper should be applied to Hawaii or is more accurate or more appropriate for Hawaii than the existing Hawaiian volume taper, or that the proposed charges will accurately reflect the comparative costs to United of handling small-volume shipments as compared to large-volume shipments; (5) HACSA does not oppose rate increases which are economically justified and necessary to insure service to shippers in Hawaii, but (a) rate increases must be uniformly applied and equitably borne by all rate payers; (b) the proposed increases are based on all-cargo operations which are much less profitable than wide-bodied combination aircraft operations; and (c) further reducing the spread between the rates for large shipments and small shipments is not justified on cost or any other basis, and in the long run will have a damaging effect on the Hawaiian economy.

SAF's complaint alleges, inter alia, that (1) Seaboard is "jumping the gun" by changing the cube rule while the Domestic Air Freight Rate Investigation is pending and has not reached final decision, and the carrier is thus prejudging the outcome of the investigation; (2) the proposed change, resulting in a 37 percent increase in air freight charges for florist products, will have an extremely damaging effect upon the florist industry, which has required a cube rule below general freight; (3) the current fuel crisis, which has resulted in a severe reduction of air freight capacity, is a temporary condition that should not be permitted to change such a fundamental ratemaking factor of such long standing;

[1] This increase will not be applicable to those specific commodity rates from Colombia to the U.S.A. established to encourage Colombian exportation.

(4) the existence of an international weight rule of 8.9 pounds per cubic foot does not justify a change in the long-established domestic rule, for there is little or no similarity between domestic and international commerce; (5) the proposal clearly discriminatory against the floral industry in that the densities of its products cannot be further improved without completely disrupting present market distribution practices; and (6) a combination of spiralling air freight costs and low market values has seriously jeopardized the floral industry's ability to continue utilizing air freight service on a nationwide basis.

WGA asserts, inter alia, that (1) air freight rates constitute a large percentage of the delivered price of strawberries, and the proposed increases cannot be absorbed by the growers; (2) shippers of perishable commodities must pay a share of the burden of increased fuel costs which is significantly higher than that paid by shippers of other commodities and the proposal, thus, is clearly discriminatory burden upon eastbound shipresent an undue, unreasonable, and discriminatory burden upon eastboard shipments in general and upon eastbound shipments of perishable commodities in particular; and (4) any rate increase that is allowed should be instituted on a proportionate basis that is the same for all shippers.

In support of its proposal and in answer to each complaint, United asserts, among other things, that:

1. For the year ended June 30, 1973, its all-cargo operations incurred a $3.1 million operating deficit and approximately a $160 million profit short-fall below the Board's approved return element;

2. Rapid cost escalation, especially for fuel, strongly suggests a worsening financial picture for 1974, despite C.A.B. approval of a general rate increase in the spring of 1973 and a short-haul rate increase this past November;

3. Since there are only limited opportunities for improved operating efficiencies, cost escalation will rapidly outpace the rate increases of 1973 in the very near future;

4. Increases are totally justified solely on the need to reduce the substantial and continuing profit short-fall from air freight operations, even without considering rapidly increasing costs, particularly of fuel:

5. Even with the proposed increase, United still has a forecasted 1974 earnings deficiency of $6.8 million for all-cargo operations;

6. While it may be true that the application of a flat dollar amount (limited to 10 percent) results in a greater percentage increase on strawberries and certain other specific commodity traffic, this results directly from the fact that these rates are substantially lower than westbound general commodity rates and do not cover fully allocated costs of providing this service to the shipper; and

7. Rates established below the general commodity rate level are justified only to the extent that such discounted traffic does not generally utilize space demanded by general commodity rated traffic.

In support of its proposal, Seaboard contends, among other things, that (1) the cost of fuel now amounts to 196 percent over fuel costs for fiscal year 1973; (2) these fuel expenses, as a portion of all operating expenses, have increased from 12.3 percent to 29.4 percent, and have caused a 24.3 percent increase in Seaboard's total operating expenses per revenue ton-mile; (3) proposed rate increases will produce an estimated $1.0 million additional annual revenue and will only partially offset known fuel cost increases; (4) proposed increases will permit carrier to earn an estimated operating profit of $2.1 million, or a 3.88 percent return on investment; and (5) the proposed cube rule change standardizes the tariff density requirements of shipments moving under various combinations of U.S. domestic and international tariffs, and will encourage the efficient use of Seaboard's aircraft.

The proposed rates, charges, and rule come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposals or to permit them to become effective pending investigation.

General rate increases proposed by Seaboard and United. In our opinion, the carriers have justified a need for higher revenues. The Board is aware of the sharp increases in fuel expenses in recent months and believes that some adjustment in rates and charges is justified to offset these higher expenses. In permitting certain of the rate increases proposed, we are giving weight to higher fuel prices claimed by the carriers to be actually experienced or those to be shortly effected pursuant to existing contracts, as well as to other indications of demonstrated need for additional earnings.

Upon consideration of all relevant factors, however, the Board finds that the proposed increased rates and charges, to the extent that they apply to westbound general commodity bulk and container shipments in markets involving lengths of haul of 1,800 miles and over, should be suspended. Although the carriers present data indicating their need for additional revenues, they make no showing that the rates proposed for various lengths of haul are in line with their costs. The proposed westbound general commodity bulk and container rates and charges for shipments of 1,800 miles or more appear excessive in relation to costs, as indicated by data available to the Board.[1] The remaining portions of the proposals, including general commodity rates and charges for less than 1,800 miles, the increases in eastbound general commodity rates at all distances, the increases in specific commodity rates and the cancellation of westbound specific commodity rates (and the placing of daylight time-of-tender requirements on such rates) appear sufficiently related to costs that the Board will permit them to become effective. The complaints, to the extent they request suspension thereof, will be dismissed.

As indicated, WGA requests that if the Board permits any increases proposed by United, such increases should be by the same proportion for all shipments. United's increases result in higher percentage increases for larger shipments and for those moving eastbound under specific commodity rates, but these are limited to 10 percent. Furthermore, it should be noted that eastbound rates are generally substantially lower than westbound rates in the same markets, and the current yields per revenue ton-mile for eastbound specifics are particularly low. Thus, for 5,000-pound shipments of strawberries, which would incur a 10 percent increase, the current yield from the rate from San Francisco to New York is 8.1 cents per ton-mile and the yield from United's proposed rate is 8.9 cents. In the foregoing circumstances, the Board concludes that United's proposal, with respect to the rates complained of by WGA, should not be suspended.

Increase in cube rule proposed by Seaboard. In Order 74-1-155, adopted January 30, 1974, we permitted The Flying Tiger Line Inc. (Tiger) to increase its cube rule for bulk shipments and dismissed SAF's complaint against that proposal. In that order, we discussed at some length the reasons for our actions, inter alia, the fact that all-cargo aircraft in current service have a design density that fully justifies Tiger's proposal. For the same reasons, we shall permit the identical proposal by Seaboard to become effective and shall dismiss SAF's complaint.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A[2] hereto are suspended and their use deferred to and including May 17, 1974[3] unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaints of the Hawaii Air Cargo Shippers Association, Inc. in Docket 26370, the Society of American Florists in Docket 26371, and of the Western Growers Association in Docket 26339 are dismissed; and

3. Copies of this order shall be filed with the tariffs and served upon Seaboard World Airlines, Inc., United Air

[1] Although HACSA claims that wide-bodied combination aircraft freight operations are more profitable for United than all-cargo services, it does not present any factual data supporting that claim.

[2] Appendix A filed as part of the original document.

[3] For Seaboard World Airlines, Inc. The date for United Air Lines, Inc. is May 18, 1974.

Lines, Inc., the Hawaii Air Cargo Shippers Association, Inc., the Society of American Florists, and the Western Growers Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[FR Doc.74-4138 Filed 2-20-74;8:45 am]

[Docket No. 26408]

TRANSPORTURILE AERIENE ROMANE (TAROM)

Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on February 27, 1974, at 10 a.m. (local time) in Room 1031, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ross I. Newmann.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before February 22, 1974.

Dated at Washington, D.C., February 14, 1974.

[SEAL] RALPH L. WISER, *Chief Administrative Law Judge.*

[FR Doc.74-4136 Filed 2-20-74;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Office of Business Development, Economic Development Administration.

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

[FR Doc.74-4103 Filed 2-20-74;8:45 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Bureau of East-West Trade, Office of the Director.

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

[FR Doc.74-4100 Filed 2-20-74;8:45 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Office of Technical Assistance, Economic Development Administration.

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

[FR Doc.74-4098 Filed 2-20-74;8:45 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Policy Coordination, Economic Development Administration.

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

[FR Doc.74-4097 Filed 2-20-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Assistant Director for Policy, Planning and Program Development, Office for Civil Rights, Office of the Secretary.

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

[FR Doc.74-4094 Filed 2-20-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Public Affairs Division, Office for Civil Rights, Office of the Secretary.

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

[FR Doc.74-4093 Filed 2-20-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Assistant Director for Planning, Office for Civil Rights, Office of the Secretary.

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

[FR Doc.74-4092 Filed 2-20-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary for Energy Affairs, Office for Energy Affairs, Office of the Secretary.

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

[FR Doc.74-4086 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the author-

ity of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary—Public Land Management (Public Lands), Office of the Secretary.

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

[FR Doc.74-4099 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer exective assignment in the excepted service the position of Assistant Commissioner—Resource Planning, Bureau of Reclamation.

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

[FR. Doc.74-4091 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Director, Office of International Policies, Office of the Secretary.

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

[FR Doc.74-4085 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE TREASURY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Chief Counsel, Internal Revenue Service, Office of the Chief Counsel.

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

[FR Doc.74-4102 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE TREASURY

Notice of Title Change in Noncareer Executive Assignment

By notice of June 15, 1973, FR Doc. 73-11959 the Civil Service Commission authorized the Department of the Treasury to make a change in title for the position of Deputy Assistant to the Secretary for Legislative Affairs, Office of the Assistant to the Secretary for Legislative Affairs, Office of the Secretary, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Special Assistant to the Deputy Under Secretary, Office of the Deputy Under Secretary, Office of the Secretary.

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

[FR Doc.74-4101 Filed 2-20-74;8:45 am]

DEPARTMENT OF THE TREASURY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Chief Counsel (Special Programs), Office of Chief Counsel, Internal Revenue Service.

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

[FR Doc.74-4095 Filed 2-20-74;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Director, Office of Program Planning and Evaluation, Office of the Chairman.

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

[FR Doc.74-4090 Filed 2-20-74;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Chief, Plans and Programs Staff, Office of the Executive Director.

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

[FR Doc.74-4089 Filed 2-20-74;8:45 am]

FARM CREDIT ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Farm Credit Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Credit Service.

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

[FR Doc.74-4088 Filed 2-20-74;8:45 am]

FEDERAL POWER COMMISSION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Power Commission to fill by noncareer executive assignment in the excepted service the position of Assistant Executive Director (Regulatory Information System and Administration), Office of Executive Director, Commissioners and Offices.

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

[FR Doc.74-4087 Filed 2-20-74;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the National Credit Union Administration to fill by noncareer executive assignment in the excepted service the position of General Counsel, Office of General Counsel.

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

[FR Doc.74-4086 Filed 2-20-74;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Notice of Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodity to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITY

Class 7210:
Pillowcase
7210-00-119-7356

Comments and views regarding this proposed addition may be filed with the Committee on or before March 25, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-4045 Filed 2-20-74;8:45 am]

PROCUREMENT LIST

Notice of Withdrawal of Proposed Additions

Notice is hereby given that the commodities and services published on pages 26628 through 26630 of the FEDERAL REGISTER of December 14, 1972, as proposed additions to the Initial Procurement List are withdrawn.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-4046 Filed 2-20-74;8:45 am]

PROCUREMENT LIST 1974

Addition to Procurement List

Notice of proposed addition to Procurement List 1974, November 29, 1973 (38 FR 33038), was published in the Federal Register on June 20, 1973 (38 FR 16096).

Pursuant to the above notice the following service is added to Procurement List 1974.

SERVICE

Industrial Class 7211:	*Price*
Laundering Wool Blankets (GI), Naval Administrative Command, Supply Depot, Great Lakes, Ill.	$.25 per unit.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-4048 Filed 2-20-74;8:45 am]

PROCUREMENT LIST 1974

Deletions From Procurement List

Notice of proposed deletions from Procurement List 1974, November 29, 1973 (38 FR 33038), was published in the FEDERAL REGISTER on January 10, 1974 (39 FR 1531).

Pursuant to the above notice the following commodities are deleted from Procurement List 1974.

COMMODITIES

Class 6532:
Cap, Operating, Surgical
6532-634-6262
6532-634-6263
6532-634-6264
Class 8415:
Apron, Food Serving
8415-899-3027
Headband, Food Serving
8415-634-4939

By the Committee

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-4047 Filed 2-20-74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

PLASTIC BALLOON TOYS; LABELING OF TOYS

Notice of Public Hearing

Notice is given that a public hearing will be held on Wednesday, March 20, 1974, at 10 a.m. in the hearing room, Consumer Product Safety Commission, 6th Floor, 1750 K Street NW., Washington, D.C., to discuss a petition submitted by the Consumers Union of United States, Inc., requesting that the Commission, pursuant to the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.):

(1) Immediately ban all plastic balloon toys containing acetone; and

(2) Declare safety directions related to electrical, mechanical, or thermal hazards of any toy or other article intended for use by children (with certain exceptions) to be inadequate if they must be read or heeded by preadolescent children or if they advise adult supervision of a child's use of a hazardous toy or article.

Plastic balloon toys in general ("novelties consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and not more than 25 percent by weight of acetone, and intended for blowing plastic balloons") are presently exempted from the classification "banned hazardous substances" by 16 CFR 1500.85(a)(6) (formerly 21 CFR 191.65(a)(6)), regulations under the Federal Hazardous Substances Act.

The hearing will be held pursuant to section 27(a) of the Consumer Product Safety Act (Pub. L. 92-573, sec. 27(a), 86 Stat. 1227; 15 U.S.C. 2076(a)).

The Commission received the petition and certain attached exhibits on December 7, 1973. The petition is set forth below. The petition and the attachments are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, 10th Floor, 1750 K Street NW., Washington, D.C.

Among the allegations given in support of the petition are that plastic balloon toys contain a hazardous substance, acetone, in such manner that it may come into contact with a child playing with the toy; that acetone is toxic, corrosive, irritating, and extremely flammable; that numerous complaints about plastic balloon toys and emergency room data in this Commission's files demonstrate that such balloon toys cause substantial personal injury attributable to their acetone content; that no warning labels or instructions could make these toys safe for children; and that any safety directions are inadequate which must be read to or heeded by preadolescent children or which advise adult supervision of a child's use of a hazardous toy or article.

The hearing is to be held to help the Commission determine whether or not the petition or any part of the petition should be granted. The primary issue is whether and to what extent the subject toys are hazardous. Information, views, and arguments relevant to the material covered in the petition are sought because of the breadth of the subject matter and the relief requested. Views of individual consumers are particularly sought.

Persons interested in attending the hearing are requested to write to Mr. Russ Smith, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207, or call (301) 496-7197. Those persons who wish to make a formal presentation are requested to submit a copy or outline of their presentation and the amount of time requested for such presentation. Persons unable to attend the hearing who wish to present written comments for the Commission's consideration are invited to do so. All comments should be received by close of business March 13, 1974. The hearing will be a legislative-type proceeding conducted by a member or representative of the Commission and will be transcribed by a stenographer.

In the event the space available for the hearing will not accommodate everyone wishing to attend, attendance will be determined on the basis of when the request for attendance is received.

Dated: February 15, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

The subject petition, without exhibits, attachments, etc., and without a quantitative formula for Superelasticbubbleplastic, reads as follows:

BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

CONSUMERS UNION OF UNITED STATES, INC., PETITIONER

TO: Honorable Richard O. Simpson, Chairman, Consumer Product Safety Commission.

PETITION REQUESTING THE REPEAL OF 21 CFR 191.65(a)(6), THE ISSUANCE OF A REGULATION CLASSIFYING PLASTIC BALLOON TOYS CONTAINING ACETONE AS BANNED HAZARDOUS SUBSTANCES, AND FOR OTHER RELIEF UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT

Petitioner requests that the Commission exercise its authority under sections 2 and 3

of the Federal Hazardous Substances Act, as amended (hereinafter "the Act"), 15 U.S.C. §§ 1261 and 1262, to take the following actions:

1. Repeal 21 CFR 191.65(a)(6) which exempts from classification as banned hazardous substances "(n) ovelties consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and not more than 25 percent by weight of acetone, and intended for blowing plastic balloons," provided such toys "bear labeling giving adequate directions and warnings for safe use."

2. Determine by regulation that all plastic balloon toys containing acetone are banned hazardous substances within the meaning of section 2(q)(1) of the Act, 15 U.S.C. section 1261(q)(1), because they are toys which (a) are hazardous substances and/or (b) contain a hazardous substance in such manner as to be susceptible of access to a child to whom such toys are entrusted.

3. Immediately publish a notice finding that distribution of all such plastic balloon toys represents an imminent hazard to the public health, and that, pending completion of the proceedings requested in paragraphs 1 and 2, supra, all such toys shall be deemed to be banned hazardous substances.

4. Promulgate a regulation providing that directions for the protection of children from the electrical, mechanical, or thermal hazards of any toy or article intended for their use (except those toys or articles exempted pursuant to 15 U.S.C. § 1261(a)(1)(B)(i)) shall not be deemed to be adequate under 15 U.S.C. § 1261(p)(1)(J)(ii) if such directions, in order to be effective, must be read to or by and heeded by preadolescent children; or if such directions state or otherwise indicate that the hazardous toy or article can be used safely by a child of any age only when such child is supervised by an adult.

PETITIONER

Petitioner Consumers Union of United States, Inc. ("Consumers Union") is a nonprofit membership corporation chartered in 1936 under the laws of the State of New York. Consumers Union is headquartered at 256 Washington Street, Mount Vernon, New York 10550. The purposes of Consumers Union are to provide information and counsel on consumer goods and services and on all matters relating to the expenditure of the family income, and to initiate and cooperate with individual and group efforts seeking to create and maintain decent living standards.

Consumers Union is the publisher of *Consumer Reports*, a monthly magazine with a paid circulation of over 2.2 million. At present, approximately 375,000 *Consumer Reports* subscribers are members of Consumers Union. Consumers Union is supported solely by the subscribers to *Consumer Reports*, and accepts no commercial advertising or support. *Consumer Reports* features reports on the results of tests performed by Consumers Union on a wide variety of consumer products, including toys and other articles intended for the use of children. In the July 1967 issue, for example, Consumers Union published an article warning against the hazards of Wonder Plastic Balloons, one of the products sought to be banned in the instant petition.

AUTHORITY FOR PETITION

Petitioner is authorized to submit this petition and obtain a final order with respect thereto by section 4 of the Administrative Procurement Act, 5 U.S.C. § 553(e), and by § 371(e)(1)(B) of Title 21 of the United States Code and 21 CFR § 191.201, which authorize any interested party to petition the Commission for "the issuance, amendment, or repeal of a rule."

APPLICABLE LAWS

Section 30(d) of the Consumer Product Safety Act, 15 U.S.C. § 2079(d), provides in pertinent part that "(a) risk of injury which is associated with consumer products and which could be eliminated or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act * * * may be regulated by the Commission only in accordance with the provisions of * * * [that Act]."

The applicable provisions of the Federal Hazardous Substances Act are as follows:

Section 2(f)(1)(A)—The term "hazardous substance" means: (a) ny substance or mixture of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, * * * [or] (v) is flammable or combustible, * * * if such substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children. 15 U.S.C. § 1261(f)(1)(A).

Section 2(f)(1)(D)—The term "hazardous substance" means: (a) any toy or other article intended for use by children which the * * * [Commission] by regulation determines, in accordance with § 1262(2) of this title, presents an electrical, mechanical, or thermal hazard. 15 U.S.C. section 1261(f)(1)(D).

Section 2(g)—The term "toxic" shall apply to any substance * * * which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface. 15 U.S.C. section 1261(g).

Section 2(j)—The term "irritant" means any substance * * * which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction. 15 U.S.C. section 1261(j).

Section 2(l)—The term "extremely flammable" shall apply to any substance which has a flash point at or below twenty degrees Fahrenheit as determined by the Tagliabue Open Cup Tester * * *. 15 U.S.C. section 1261(l).

Section 2(q)(1)—The term "banned hazardous substance" means (a) any toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted * * *." 15 U.S.C. section 1261(q)(1).

Section 2(s)—An article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness * * * (6) as a result of self-adhering characteristics of the article, (7) because the article or any part or accesory thereof may be aspirated or ingested, * * * or (9) because of any other aspect of the article's design or manufacture. 15 U.S.C. section 1261(s).

Section 2(p)—The term "misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted) intended or packaged in a form suitable, for use in the household or by children, if the packaging or labeling of such substance is in violation of an applicable regulation issued pursuant to sections 1472 or 1473 of this title or if such substance except as otherwise provided by or pursuant to section 1262 of this title, fails to bear a label—(1) which states conspicuously * * * (J) the statement (i) "Keep out of the reach of children" or its practical equivalent, or, (ii) if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard * * * 15 U.S.C. section 1261(p)

Section 3(e) of the Act, 15 U.S.C. § 1262(e), provides in pertinent part that the Commission's determination that a toy presents an electrical, mechanical, or thermal hazard must be made by regulation, and that, pending issuance of a final regulation, the Commission may publish an order in the FEDERAL REGISTER finding that distribution of a toy presents an imminent hazard to the public health and that, therefore, such toy shall be deemed to be a banned hazardous substance. Sections 2(f)(1)(B) and 2(q)(1)(B) provide similar procedures for the Commission to follow when it makes determinations, respectively, that a substance is a hazardous substance because it is toxic, corrosive, an irritant, or extremely flammable, and that any such hazardous substance is a banned hazardous substance. Finally, section 4 of the Act makes it unlawful, *inter alia*, to introduce, to receive, or to deliver in interstate commerce any misbranded hazardous substance or banned hazardous substance. 15 U.S.C. section 1263(a) and (c).

On October 28, 1967, without prior published notice and with no opportunity for public comment, the Food and Drug Administration promulgated a regulation exempting plastic balloon toys containing not more than 25 percent acetone from classification as banned hazardous substances provided such toys "bear labeling giving adequate directions and warnings for safe use." 21 CFR § 191.65(a)(6); 32 FR 14946 (Oct. 28, 1967). Adoption of this exemption was requested by Chemical Sundries, Co., Inc., manufacturer of Wonder Plastic Balloons, in a letter dated August 3, 1967.

GROUNDS IN SUPPORT OF PETITION

1. Petitioner has purchased five different brands of plastic balloon toys which contain acetone. Four of the products are manufactured by the Chemtoy Corp. of Cicero, Illinois: Bugs Bunny Plastic Balloons, No. 212 (10¢); Mickey Mouse Balloon Art, No. 207 (79¢); Make Your Own Plastic Balloons Blue, No. 219 (19¢); and Wonder Plastic Balloons, No. 217 (49¢). The other product, SUPERELASTICBUBBLEPLASTIC, Stock No. 740 ($1.20), is manufactured by Wham-O Mfg. Co., 835 East El Monte Street, San Gabriel, California 71778. These inexpensive (all quotations represent unit retail prices) toys were purchased in September 1973 at grocery and variety stores located in New York. Although the Chemtoy products are similar, the following analysis will focus almost exclusively on the Wham-O product.

2. SUPERELASTICBUBBLEPLASTIC is a toy consisting of a gummy product which can be blown into a multicolored balloon with the aid of a four-inch plastic drinking straw. The gummy substance is packaged in a collapsible metal tube which bears each of the following warnings:

a. "CAUTION: FLAMMABLE MIXTURE. DO NOT USE NEAR FIRE OR FLAME."

b. "PARENTS: Although product is regarded as "SAFE FOR CHILDREN" it is recommended small children use under supervision of an adult."

c. "DO NOT PUT MATERIAL ON PAINTED SURFACES OR FURNITURE."

d. "DO NOT CHEW OR SWALLOW."

All of the warnings, except the second, are repeated on the back of the display case on which the tube and the straw are packaged.

3. SUPERELASTICBUBBLEPLASTIC, according to the tube label and the display card packaging, contains polyvinyl acetate,

acetone, pigment, and plastic fortifiers. When squeezed from the tube, the gummy substance emits a strong odor of acetone. Petitioner's weight loss tests (copies of the laboratory reports are attached as Exhibit A) indicate that the product contains about 24 percent acetone by weight.

4. Acetone:

a. Description: Acetone is a colorless, extremely flammable, highly volatile liquid (Flash pt.—17.8° F) with a fragrant mint-like or sweet odor. Its boiling point is 56.5° C. Acetone is miscible with water, alcohol, dimethylformamide, chloroform, ether, and most oils. Acetone is obtained by fermentation (by-product of butyl alcohol manufacture) or by chemical synthesis from isopropanol (as chief product), from cumene (by-product in phenol manufacture) and from propane (by-product of oxidation-cracking). The chemical formula for acetone is C_3H_6O. (*7, 8, 10*)

b. Legitimate uses: Acetone is a principal constituent of nail polish remover, and of paint and varnish removers. It is a solvent for oils, waxes, resins, rubber, plastics, lacquers, varnishes, and rubber cements. Acetone is used in the manufacture of explosives, airplane dopes, rayon, photographic films, and isopene, in the extraction of various principles from animal and plant substances, to purify paraffin, and to harden and dehydrate tissues. (*7, 8*)

c. Toxicity: Most of the toxicology literature on acetone is based upon occupational exposures of adults. (*3, 5, 6, 9, 10, 12*) Some references indicate that the dose-response relationship of acetone is a function of body weight. For example, Gleason *et al.* report that the probable mean lethal dose (LD-50) of acetone is between 500 milligrams and 5 grams per kilogram of weight. (*4*) Kaye states that the minimum lethal dose (MLD) for a man weighing 150 lbs. is approximately 100 ml. (*7*) Ingestion of a toxic dose of acetone causes gastroenteric irritation, narcosis, and injury to the kidneys and liver. (*1*) According to Browning, the narcotic dose of acetone, orally administered, is 7 milligrams per kilogram of body weight. (*1*)

Depending on the ambient concentration and the duration of exposure, inhalation of acetone can produce one or more of the following adverse effects: Headache, fatigue, excitement, irritation of mucous membranes, gastroenteric irritation, bronchial catarrh, dizziness, vomiting, central nervous depression, narcosis, gradual fall in rectal temperature, respiratory rate, and pulse, progressive collapse with stupor and periodic breathing, fainting, dyspnea, bradypnea, hypothermia, bradycardia and death by ketosis (acidosis). (*1, 2, 3, 6, 7, 8*) Thienes and Haley report 15 minutes of exposure to 1,600 ppm of acetone causes irritation of the eyes, nose, and throat. (*11*)

Prolonged or repeated topical application of acetone may cause erythema and dryness. (*8*) Its solvent, defatting action on the skin encourages the development of eczematous changes and secondary infections. (*6*) Topical application to the eye causes * * * "an immediate stinging sensation, but if it is washed out promptly causes injury only to the epithelium. * * * usually healing is complete in a day or two." One case of deep damage to the cornea has been reported. (*5*)

In general, the effect of acetone is similar to that of ethyl alcohol, although its narcotic effect is somewhat greater. (*3*) Acetone can be absorbed through all portals. (*7*) With the exception of eye toxicity, Fairhall warns that pure acetone is less toxic than the impure trade products. He also reports that there is no evidence of chronic effects in man following continued exposure to low concentrations of acetone. (*3*) Finally, Henson notes that human intoxications from acetone are very rare but that they can occur from unusual sources. (*6*)

5. The abbreviated directions of the SUPERELASTICBUBBLEPLASTIC tube label are:

"Squeeze a blob of plastic about the size of a small grape onto your fingers. Roll into ball and stick it on the end of the blowpipe. Blow slowly at first using the palms of your hands to shape the balloon. Pinch holes to seal. When balloon is completed, pinch off from blowpipe."

More extensive, illustrated instructions are provided on the back of the display card:

(1) Press end of tube and squeeze blob of plastic out on your forefinger about the size of a bean for a small balloon. For a larger balloon use a bigger blob.

(2) Mold the plastic into a blob and stick it on the end of the blowpipe. Press plastic around the edge of the hole to insure an airtight seal. Be sure the blowpipe is centered in the plastic blob.

(3) Blow slowly to start, without touching the tacky plastic. When balloon is fully blown, use the palms of your hands to shape it.

Keep the tip of your tongue on the end of the blowpipe to prevent the air from escaping and pinch off your balloon from the blowpipe.

(4) Multi-color ballons. Turn the blowpipe slowly between your fingers. Apply a ribbon of plastic, starting about ½" back from the end of the blowpipe, and continuing to the end. Mold to the end. Mold to blowpipe.

Your balloon should look like the illustration. If holes appear: Pinch tight with fingers and hold briefly to seal.

(5) Try this for a wild one! For a different effect—apply the plastic in strips, starting about ½" back from the ends of the blowpipe. Cover the end all around. Mold to blowpipe.

Your balloon should look like the illustration.

In summary, the manufacturer's directions instruct the juvenile user of SUPERELASTICBUBBLEPLASTIC to blow into the gummy substance via a four-inch blowpipe, to keep his tongue on the end of the blowpipe until the inflated balloon is removed with his hands, and to handle the gummy substance before and after it is inflated. For those who can read and heed them, the manufacturer's warnings also instruct the user not to chew or swallow the plastic, not to put the gummy substance on painted surfaces or furniture, and to avoid playing with the toy near fire or flame.

6. The Commission's files are replete with evidence that, under conditions of normal use and reasonably foreseeable abuse, SUPERELASTICBUBBLEPLASTIC produces adverse toxicological reactions in adult and child users. Petitioner's examination of some[1] of the complaints received during 1970 alone indicates that at least 22 children and adults suffered ill-effects from this plastic balloon toy. These data and two reports of injury received in 1971 and in 1973 are tabulated in Table I to show type and frequency of adverse reaction, and ages of victims. On the basis of the complaints available from the Commission's files, it appears that the most frequent adverse reaction to SUPERELASTICBUBBLEPLASTIC is an upset stomach and/or nausea. Other frequently reported reactions include burning sensation of the lips, mouth, and throat, headache, narcotic "high", upper respiratory tract irritation and chest pains, and coughing and choking.

Records available from the Commission's files[1] indicate that during 1970 and 1971 the Food and Drug Administration received inquiries and complaints about SUPERELASTICBUBBLEPLASTIC from at least ten different State and local government agencies, from one Area Chamber of Commerce, and from one hospital. The Administrator of the Wisconsin Department of Agriculture's Food Division recommended, in a letter dated November 9, 1970, that the exemption for plastic balloon toys containing acetone be repealed. In a letter dated October 30, 1970, the Director of the Poison Information Center of the Children's Orthopedic Hospital and Medical Center in Seattle, Washington reported that he had received several complaints of respiratory distress, burns of the mouth and lips, headache, and nausea from persons who had used SUPERELASTICBUBBLEPLASTIC. In November 1970 the Upper Darby Township (Pa.) Department of Health announced that it had banned the sale of SUPERELASTICBUBBLEPLASTIC and Chem-Toy Plastic Balloons.

After receiving several complaints about SUPERELASTICBUBBLEPLASTIC, the Los Angeles District Office of the Food and Drug Administration inspected the premises of the Wham-O-Mfg. Co. on September 29, 1970.[2] The only regulatory action taken as a result of this inspection was to request that the company conduct an additional rat inhalation study.

Letters in the Commission's files from individual consumers complaining about the SUPERELASTICBUBBLEPLASTIC product are indeed numerous. They clearly demonstrate that adverse toxicological reactions occur even when the toy is used according to directions and, in the case of children, under the supervision of an adult. Exhibit B hereto, a letter dated May 1, 1973, from Mrs. Lynn Hazlett of Cleveland, Ohio is typical of the many consumer complaints in the Commission's files. Mrs. Hazlett reports that her five-year-old daughter inhaled acetone vapors while inflating a SUPERELASTICBUBBLEPLASTIC balloon, and that the child suffered a brief fit of coughing and complained of a burning sensation in her throat. This adverse reaction occurred even though the child's father first tested the toy and thereafter closely supervised the child while she was playing with it.

It is a well-known statistical fact that the number of self-reporting injury victims represents only a fraction of the total number of victims sustaining injury.[3] Therefore, on the basis of the substantial number of reports of injury in the Commission's files from consumers, physicians, and State and local health agencies, it is fair to conclude that the total incidence of adverse reactions to SUPERELASTICBUBBLEPLASTIC is quite high.

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[1] The Commission's file of SUPERELASTICBUBBLEPLASTIC complaints is, unfortunately, incomplete. In response to several requests by counsel for petitioner, the Commission's staff has been able to retrieve a substantial volume of correspondence during the year 1970, but has been able to locate only a very few complaints received in succeeding years. See, e.g., unanswered letter dated September 6, 1973 from Carol A. Cowgill, counsel for petitioner, to Michael A. Brown, General Counsel, Consumer Product Safety Commission.

[2] Establishment Inspection Report, Central File No. 13704.

[3] A recent survey of 46 northern Virginia toy stores indicates that only 4 percent of the retail outlets forwarded complaints about unsafe toys to the Food and Drug Administration. "VCCC Survey of Stores Selling Toys in Northern Virginia," January 31, 1973.

7. But for the exemption in 21 CFR 191.65 (a)(6), it is clear that plastic balloon toys containing acetone would be a mechanical hazard within the meaning of § 2(s) of the Act, 15 U.S.C. section 1261(s). The Commission's SUPERELASTICBUBBLEPLASTIC complaint file demonstrates that even when used according to directions, it is impossible to avoid aspirating the acetone vapors volatilized from the inflating balloon. In addition to the aspiration hazard, it is reasonable to foresee that children, contrary to the instructions on the products' packaging, will chew and perhaps succeed in swallowing blobs of the colorful plastic balloon material which has the consistency of soft chewing gum. As Walter U. Johnson, Deputy Director, Bureau of Information and Education, noted in a recent speech, children put in their mouths "just about anything they can lay their hands on."[4]

A February 1971 computer print-out in the Commission's files indicates that during a two-year period four cases of SUPERELASTICBUBBLEPLASTIC ingestion were treated in hospital emergency rooms. Three of the victims were under five years of age. Under the heading of symptoms and findings, the print-out states: "Possible gastrointestinal upset. Case reports have been received indicating very limited oral and upper gastric distress." Administration of milk or other demulcent is the treatment recommended for SUPERELASTICBUBBLEPLASTIC ingestion.

Both the aspiration and the ingestion hazards are aggravated by the self-adhering characteristics of the sticky plastic balloon products. Stuck to one end of a straw, a child inhaling on the other end is certain to suck in acetone vapors. If placed inside the oral cavity, SUPERELASTICBUBBLEPLASTIC and similar products would have the effect of drying out the mucous membranes so that the gummy substance would tend to stick to the linings of the mouth, to the tongue, and to the teeth. The gooey plastic also could adhere to clothing, hair, eyes, or skin, thus enhancing the risk of topical irritation. Finally, administrative notice must be taken of the fact that children delight in popping balloons; because of its self-adhering characteristics, a plastic balloon which burst during or shortly after inflation could very easily stick to a child's eyes and face.

8. SUPERELASTICBUBBLEPLASTIC and other plastic balloon products are all toys which contain a hazardous substance—acetone—in such manner as to be susceptible of access by a child to whom such toys are entrusted; therefore, all such toys are (but for the current exemption) banned hazardous substances within the meaning of section 2(q)(1) of the Act, 15 U.S.C. section 1261(q)(1). Acetone is toxic, corrosive, irritating, and extremely flammable. The numerous complaints about SUPERELASTICBUBBLEPLASTIC and the emergency room data in the Commission's files demonstrate that, when handled and used as directed and when ingested contrary to the Company's printed warnings, the acetone in the balloon plastic causes substantial personal injury and illness. Furthermore, the adverse reactions of these victims to SUPERELASTICBUBBLEPLASTIC are consistent with the published data on the toxicity of acetone.

9. On the basis of the complaints concerning SUPERELASTICBUBBLEPLASTIC, it is clear that the only way to use plastic balloon toys containing acetone safely is not to use them at all. No conceivable warning labels or instructions could adequately protect a child (or adult) from the unavoidable, intrinsic aspiration hazard associated with all such toys. Similarly, labeling has not been and could not be effective in protecting juvenile users from the ingestion hazards of such toys. Adult supervision is an unreliable source of protection, and insofar as plastic balloon toys are concerned, almost completely ineffective. See, e.g., Exhibit B.

As pointed out in the Senate Report on the Child Protection and Toy Safety Act of 1969: "Small children cannot read and heed warning labels; nor can they be constantly supervised by parents."[5] Commissioner Elkind, testifying in hearings on this legislation, was even more emphatic: "Very often parents do not, and children cannot read brochures accompanying articles that may be hazardous. The protection offered youngsters by labels is no protection."[6]

10. Petitioner urges the Commission to promulgate a regulation which would provide parents, teachers, and toy manufacturers with definitive guidance on the adequacy of directions for the protection of children from the electrical, mechanical, or thermal hazards of any toy or article intended for their use. Under petitioner's proposal, such directions would be inadequate if their effectiveness depended upon their being read to or by and heeded by a pre-adolescent child. Similarly such directions would be inadequate if they stated or otherwise indicated that the hazardous toy or article could be used safely by a child of any age only when such child is supervised by an adult.

It is common knowledge that the reading skills of many pre-adolescent children are either non-existent or deficient. Even if hazard-avoidance instructions are read to young children, they cannot be expected to retain all that they hear nor can they be expected to comply at all times with those instructions that are remembered. This problem is not solved by the further direction that an adult should supervise whenever a child plays with a hazardous toy.[7]

PRAYER FOR RELIEF

For the reasons set forth above, petitioner requests that the Commission grant the relief described on pages 1 and 2 of this Petition.

Respectfully submitted,

PETER H. SCHUCK.

CAROL A. COWGILL.

1714 Massachusetts Avenue, NW., Washington, D.C. 20036, 202-785-1906. Counsel for Petitioner, Consumers Union of United States, Inc.

DECEMBER 7, 1973.

[FR Doc.74-4041 Filed 2-20-74;8:45 am]

[4] Walter U. Johnson, "Toy Test Method Development," presented at the 16th Annual Educational Conference, Shoreham Hotel, Washington, D.C., December 13, 1972, at p. 5.

[5] S. Rep. No. 91-237, 91st Cong., 1st Sess. 3 (1969); quoted with approval in R. B. Jarts, Inc. v. Richardson, 438 F. 2d 846 (2d Cir. 1971), Government's brief at p. 26.

[6] Hearings on H.R. 10987, H.R. 7621 and H.R. 7509 before a Subcomm. of the House Committee on Interstate and Foreign Commerce, 91st Cong., 1st Sess. 15 (1969); *id.*

[7] See text of paragraph 9 and accompanying notes, *supra*.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19660]

INTERNATIONAL RECORD CARRIERS' SCOPE OF OPERATIONS IN THE CONTINENTAL UNITED STATES

Order Extending Time

1. By Memorandum Opinion and Order in the above-captioned matter released November 26, 1973, 43 FCC 2d 1174 (published at 39 FR 4133), we instituted an investigation into the international formula. That order directed parties to submit by January 25, 1974, statements of fact and memorandums of law with respect to the issues designated for investigation. By Order released January 28, 1974, the Chief, Common Carrier Bureau, extended the time for the parties to submit their comments until February 15, 1974.

2. We have received from RCA Global Communications, Inc. (RCA) a request for a further extension of time in which to file the required comments. RCA states that the parties to the proceeding are scheduled to meet on February 15, 1974, in an effort to develop data on the exclusive unrouted traffic. The extension of time is requested in order that the exclusive unrouted traffic problem can be addressed at the meeting and to allow time for the formulation of comments.

3. Since RCA has shown good cause for its request and all parties agree to the extension and it will not seriously delay the proceeding, we will grant a further extension of two weeks.

Accordingly, *It is ordered*, pursuant to § 0.303(c) of the Commission's rules, That the time for the parties to submit their comments in this proceeding is extended until March 4, 1974.

Adopted: February 14, 1974.

Released: February 15, 1974.

[SEAL] WALTER R. HINCHMAN, *Chief, Common Carrier Bureau.*

[FR Doc.74-4070 Filed 2-20-74;8:45 am]

[Docket No. 18935]

WESTERN UNION TELEGRAPH CO.

Order Extending Time

Counsel for Western Union has requested extensions of time in which to file proposed findings and conclusions and reply findings in the above-captioned proceeding. The proposed findings and conclusions are presently due to be filed by February 28, 1974, and the reply findings are due by April 29, 1974. The requested extensions would require the proposed findings and conclusions to be filed by April 1, 1974, and the reply findings by May 31, 1974.

The basis for the request is the pressing involvement of those preparing the subject findings in other matters requiring their immediate attention.

As counsel for the other party to this proceeding, the Department of Defense, concurs in the requested extensions, and for the reason stated by counsel for Western Union, we find that good cause has been shown for granting the extensions.

Therefore, pursuant to the authority delegated to the Chief, Common Carrier Bureau, under § 0.303(c), the date by which proposed findings and conclusions must be filed in this proceeding is changed from February 28, 1974, to April 1, 1974, and the date by which reply findings must be filed is changed from April 29, 1974, to May 31, 1974.

Adopted: February 14, 1974.

Released: February 15, 1974.

[SEAL] WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.74-4071 Filed 2-20-74;8:45 am]

FEDERAL MARITIME COMMISSION

[Agreement No. 8005-7]

NEW YORK TERMINAL CONFERENCE

Notice of Agreements Filed; Correction

In the notice of the filing of Agreement No. 8005-7 (between the members of the New York Terminal Conference) published in the FEDERAL REGISTER on January 3, 1974 (Vol. 39, No. 2), it was incorrectly stated that the purpose of the agreement is to clarify the New York Terminal Conference's authority to establish uniform free time and demurrage practices on import cargo in New York. The agreement in fact clarifies the Conference's authority to establish uniform free time and demurrage practices on both import and export cargo in New York. In view of the bearing this may have on the position of interested parties, we are therefore extending the time for comments an additional twenty days.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreement, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 13, 1974. 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, Jesse A. Chebuske, Chairman, New York Terminal Conference, 17 Battery Place, Suite 643, New York, N.Y. 10004, and the statement should indicate that this has been done.

By Order of the Federal Maritime Commission.

Dated: February 14, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4106 Filed 2-20-74;8:45 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE ET AL.

Notice of Agreements Filed

Notice is hereby given that the following agreements have 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 agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 13, 1974. Any person desiring a hearing on the proposed agreements 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.

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

MODIFICATION OF AGREEMENT

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 631, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 9214-12, among the member lines of the above-named conference, extends through September 30, 1974, the Conference's authority over cargo moving to inland European points via Conference landing ports, whether or not moving under a through bill of lading.

By Order of the Federal Maritime Commission.

Dated: February 15, 1974.

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

MODIFICATION OF AGREEMENT

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 631, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 8210-24, among the member lines of the above-named conference, extends through September 30, 1974, the Conference's authority over cargo moving from inland European points via Conference loading ports, whether or not moving under a through bill of lading.

By Order of the Federal Maritime Commission.

Dated: February 15, 1974.

NORTH ATLANTIC BALTIC FREIGHT CONFERENCE

MODIFICATION OF AGREEMENT

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 631, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 7670-10, among the member lines of the above-named conference, deletes the text of the self-policing provisions contained in Article XVII of the basic agreement and substitutes therefor language incorporating by reference Articles 7 through 20 of the Associated North Atlantic Freight Conferences Agreement to which the Conference has become a party for both self-policing and administrative purposes.

By Order of the Federal Maritime Commission.

Dated: February 15, 1974.

NORTH ATLANTIC DISCUSSION AGREEMENT

EXTENSION OF AGREEMENT

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 631, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 9989-2, among the member lines of the above-named agreement, extends the effective period of the basic agreement through August 8, 1974.

By Order of the Federal Maritime Commission.

Dated: February 15, 1974.

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

MODIFICATION OF AGREEMENT

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 631, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 5850-25, among the member lines of the above-named conference, extends through September 30, 1974, the conference's authority over cargo moving to ports situated on inland

waterways tributary to U.S. South Atlantic "coastal ports".

By Order of the Federal Maritime Commission.

Dated: February 15, 1974.

TRANS-PACIFIC PASSENGER CONFERENCE

Notice of Agreement Filed for Approval by:

Mr. Ronald C. Lord, General Manager, Trans-Pacific Passenger Conference, 311 California Street, San Francisco, Calif. 94104.

Agreement No. 131-259 filed by the Trans-Pacific Passenger Conference modifies Article E and Rule E-1 which are entitled "Travel Agents" to also cover group organizers, and also establishes a new Rule E-2 entitled "Group Organizers" with rules specially applicable to group organizers.

Existing Rules E-2 to E-7 will be renumbered as Rules E-3 to E-8.

Corresponding modifications and renumbering will be made in Exhibit D to Rule E-1 now entitled "Rules of the Trans-Pacific Passenger Conference Affecting Travel Agencies".

By Order of the Federal Maritime Commission.

Dated: February 14, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4105 Filed 2-20-74;8:45 am]

AMVIC EXPRESS INTERNATIONAL, ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act of 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Steven Seraphim Demopoulos, d/b/a AMVIC Express International, 149 Madison Avenue, New York, N.Y. 10016.

L. R. Forwarding Corp., 368 Broadway, New York, N.Y. 10013.

OFFICERS

Lawrence Ray Fink, President, Morris C. Kimmel, Secretary/Treasurer.

Stephen Chien, 436 Mountain Avenue, Berkeley Heights, N.J. 07922.

Marco Forwarding Co., 2001 Northwest 7th Street, Miami, Fla.

OFFICERS

Marco A. Sainz, President, Ana Maria Sainz, Secretary.

Frederick Richards of Ga., Inc., P.O. Box 1246, Savannah, Ga. 31402.

OFFICERS

Robert A. Richards, President.
Andrew B. Rogers, Vice President.
James P. Black, Vice President.
Sara Lee Richards, Secretary.

By the Federal Maritime Commission.

Dated: February 14, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4107 Filed 2-20-74;8:45 am]

UNITED STATES LINES, INC. AND AMERICAN EXPORT 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, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreement, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 4, 1974. 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 (indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stuart R. Breidbart, Corporate Counsel, United States Lines, Inc., One Broadway, New York, N.Y. 10004.

Agreement No. T-2901, between United States Lines, Inc. (USL) and American Export Lines, Inc. (AEL) provides for the sublease to AEL of portions of the Howland Hook Terminal leased to USL under Agreement No. T-2890 for an initial term of approximately 34 years (plus renewal options aggregating an additional 69 years). Use of the subleased premises by third parties is restricted to persons whose use is consented to by AEL and USL and the AEL/USL joint venture terminal operating company formed under FMC Agreement No. T-2901. As compensation, USL is to receive (a) $1,100,000 annually; (b) 50 percent of rentals payable for improvements under FMC Agreement No. T-2890, to the extent AEL has approved the improvements; and (c) 50 percent of the cost of insurance required under FMC Agreement No. T-2890.

By Order of the Federal Maritime Commission.

Dated: February 15, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4104 Filed 2-20-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-122]

ARKANSAS LOUISIANA GAS CO.

Notice of Tariff Filing

FEBRUARY 13, 1974.

Take notice that on February 6, 1974, Arkansas Louisiana Gas Company (Arkla), in purported compliance with Commission Opinion Nos. 643, 643-A, and 643-B, issued January 8, 1973, April 10, 1973, and June 8, 1973, respectively, and a Commission Order of January 22, 1974, in the instant docket, tendered for filing Second Revised Sheets Nos. 3A, 3B, and 3C and First Revised Sheet No. 3D to its FPC Gas Tariff, First Revised Volume No. 1, to be effective February 20, 1974.

In its filing Arkla has included nine curtailment priorities which coincide with the priorities set out in Opinion No. 643-A and has also included certain other provisions in its curtailment plan which are allegedly in compliance with the requirements of the above opinions and Orders.

Concurrently with the tender of the Tariff Sheets, Arkla submitted a Limited Application for Rehearing and Reconsideration of the Commission Order of January 22, 1974. This Application requested that First Revised Sheet No. 3D be accepted for filing by the Commission along with the accompanying Sheets. In this Sheet, Arkla proposes to include in Priority 2 firm industrial sales up to 300 Mcf per day. Although these sales are classified in Priority 3 in the Priority scheme of Opinion 643-B, Arkla states that their proposal is necessary because of the logistical problems associated with the physical implementation of curtailments to small volume industrials.

In addition, Arkla submits that when it is necessary to curtail Priority 2 loads, the large requirements for feedstock and process needs which normally use more than 3,000 Mcf per day will be curtailed before the smaller loads in Priority 2. Arkla asserts that it must do this because the Priority 2 gas for feedstock and process needs represents a small number of customers and a large volume of gas whereas all other gas in Priority 2 is delivered in small volumes to many customers. Thus, Arkla claims that when Priority 2 curtailments are required this scheme will provide quick availability of gas in sufficient volumes to maintain adequate Priority 1 service. In addition they state that this situation would not result in plant damage during the curtailment Arkla expects to experience on its system.

Any person, not already a party to this proceeding, desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Power Commission, 825 North Capitol Street NE., Washington, D.C. 20425, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 22, 1974. Additionally, persons who have heretofore been granted status as intervenors in Docket No. RP71-122, should file their comments, if any, on or before February 22, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-4031 Filed 2-20-74;8:45 am]

[Docket No. G-2594, G-6125 et al.]

EASON OIL CO. ET AL.

Notice of Petitions To Amend

FEBRUARY 13, 1974.

Take notice that on January 22, 1974, in Docket No. G-2594 et al., and on January 24, 1974, in Docket No. G-6125, et al., Eason Oil Company (Petitioner), P.O. Box 18755, Oklahoma City, Oklahoma 73118, filed petitions to amend the orders issuing certificates of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act in said dockets to Southwest Gas Producing Company, Inc. (Southwest), and Commonwealth Gas Corporation (Commonwealth), respectively, by substituting Petitioner as certificate holder, all as more fully set forth in the petitions to amend which are on file with the Commission and open to public inspection.

Petitioner states that Southwest and Commonwealth have assigned to Petitioner and John W. Nichols, in equal shares, all of their corporate assets, including the gas producing properties dedicated to the performance of the contracts for their certificated sales. Petitioner proposes to continue, without change, sales of natural gas from the interests which it has acquired from Southwest and Commonwealth.

Any person desiring to be heard or to make any protest with reference to said petitions to amend should on or before March 13, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-4032 Filed 2-20-74;8:45 am]

[Docket No. E-7740]

INDIANA AND MICHIGAN ELECTRIC CO.

Notice of Extension of Time

FEBRUARY 12, 1974.

On February 11, 1974, Staff Counsel filed a motion to enlarge time for filing responses to the motion filed February 5, 1974, by the City of Fort Wayne for extraordinary and other relief and/or reconsideration and appeal from rulings of the Presiding Administrative Law Judge. The motion states that all parties support the procedure requested.

Upon consideration, notice is hereby given that the time fixed for filing responses to the above motion is as follows:

Responses in support of motion on the same basis, February 21, 1974.
Responses in opposition or motions opposing, March 4, 1974.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-4033 Filed 2-20-74;8:45 am]

[Project No. 2709]

MONONGAHELA POWER CO., ET AL.

Extension of Time and Postponement of Hearing

FEBRUARY 12, 1974.

On February 5, 1974, the Sierra Club filed a motion for an extension of time to file its direct testimony as required by the order issued January 4, 1974, in the above-designated matter. Staff Counsel filed an answer posing no objection to the motion. The answer states that to be consistent with previous orders in this proceeding all direct testimony of staff and interveners should be filed on the requested date. On February 8, 1974, Applicants filed an answer requesting denial of the motion. If the motion is granted, Applicants' urge that the hearing schedule not be delayed.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Direct Testimony and Exhibits (an original and 10 copies) by the Commission Staff and Interveners, February 28, 1974.
Service of Direct Testimony and Exhibits, including Qualifications of Witnesses (an original and 10 copies) by the Commission Staff and Interveners, February 28, 1974.
Service of Commission Staff's Final Environmental Impact Statement, February 28, 1974.
Hearing, April 2, 1974 (10:00 a.m., e.d.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-4030 Filed 2-20-74;8:45 am]

[Docket No. CP74-173]

SOUTHWEST GAS CORP.

Notice of Application

FEBRUARY 14, 1974.

Take notice that on December 19, 1973, Southwest Gas Corporation (Applicant) P.O. Box 1450, Las Vegas, Nevada 89101, filed in Docket No. CP74-173 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of unspecified gas sales facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate up to 12 taps on its Northern Nevada mainline transmission system at unspecified locations in order to deliver natural gas to various right-of-way grantors. The application states that facilities downstream of the proposed taps will be constructed and the actual sales of gas will be made by Applicant pursuant to its State of Nevada distribution authorization. Applicant states that the ultimate consumers who will receive these subject volumes will be Priority 1 and 2 users, whose gas requirements will be approximately 20 Mcf on a peak day and 2,000 Mcf of gas annually during each of the first three years.

The application states that grant of the requested authorization will allow Applicant to fulfill its contractual obligations to furnish gas service to these right-of-way grantors while increasing high priority utilization of Applicant's existing gas supply. Applicant alleges that grant of this requested authorization is required as these small usage consumers have no available source of alternate fuel.

The total estimated cost of the proposed facilities is approximately $12,000 which cost Applicant will finance with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the

Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-4028 Filed 2-20-74;8:45 am]

[Docket No. RP74-21]

UNITED GAS PIPE LINE CO.

Notice of Extension of Time and Postponement of Hearing

FEBRUARY 13, 1974.

On January 25, 1974, Commission Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued January 10, 1974, in the above-designated matter.

Upon consideration notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Evidence by Staff, March 14, 1974.
Service of Intervener Evidence, April 16, 1974.
Service of Company Rebuttal Evidence, May 21, 1974.
Hearing, May 21, 1974 (10:00 a.m. EDT).

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.74-4029 Filed 2-20-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, February 26, 1974, from 10 a.m. to 4:30 p.m., Room 274B, Federal Building, 1500 East Bannister Road, Kansas City, Missouri. This meeting will be for the purpose of considering architectural and engineering firms to provide design services for the proposed new Courthouse and Federal Office Building and Parking Facility in Topeka, Kansas. The meeting will be closed to the public in accordance with the provisions set forth in section 10(d) of Pub. L. 92-463.

JEFFREY P. HILLELSON,
Regional Administrator.

[FR Doc.74-4201 Filed 2-20-74;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, February 27, 1974, from 10 a.m. to 4:30 p.m., Room 274B, Federal Building, 1500 East Bannister Road, Kansas City, Missouri. The meeting will be for the purpose of considering firms for supplemental mechanical and electrical engineering services and for supplemental architectural, civil, and structural engineering services for projects within Region 6.

The meeting will be closed to the public in accordance with the provisions set forth in section 10(d) of Pub. L. 92-463.

JEFFREY P. HILLELSON,
Regional Administrator.

[FR Doc.74-4202 Filed 2-20-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

VISUAL ARTS ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel to the National Council on the Arts will be held at 10 a.m. on February 20, 1974 in the 11th floor conference room of the Shoreham Building, 806 15th Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 332-5871.

PAUL BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.74-4015 Filed 2-20-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR BIOCHEMISTRY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Biochemistry to be held at 9 a.m. on March 8 and 9, 1974, in Room 643 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information concerning this Panel, contact Dr. Roy Repaske, Program Director, Biochemistry Program, Room 329, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

FEBRUARY 8, 1974.

[FR Doc.74-4044 Filed 2-20-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

REQUEST FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 15, 1974 (44 USC 3509).

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

Department of Health, Education, and Welfare
Health Resources Administration
Connecticut Ambulatory Care Study
Form HRABHSRE 0115, Single time, Elliott, Connecticut physicians.
Social Security Administration
SSI Referral Notice
Form SSA-L 8050, Occasional, Caywood, Business firms, government agencies.
Small Business Administration
Group Application Form Loan Development; Group Application, Form State Development
Forms 502, Parts I & II, 502A and 501; Occasional, Caywood Business firms requesting assistance.

Group Application for Lease Guarantee—Part I; Group Application for lease Guarantee—Part II; Group Application for Lease Guarantee—Part III
Forms 800, 800a, 800b, Occasional, Caywood, Individuals requesting assistance.
Application for Surety Bond Guarantee Assistance
Form 994; Occasional, Lowry, Business firms requesting assistance.
License Application, Instructions, Personal History Statement, Amendments to Application
Form SBA 415, 415A, 415B, and 415C, Occasional, Lowry, Venture capitalists.
Size Status Declaration
Form SBA 480, Occasional, Lowry, Small businesses.
Minority Vendor Profile Request Form
Form SBA 1024, Occasional, Sunderhauf/Lowry, Large private sector firms.
Application for Certificate of Competency
Form SBA 74, 74A and 74B, Single time, Lowry, Small business concerns.
Application for Membership in Small Business Production or Research and Development Pool
Form SBA 419, Occasional, Caywood/Weiner, Small business community.
Investigative Inquiry for Small Business Investment Co. Applicants
Form SBA 415 (E), Single time, EGGD/Lowry, Federal, state, and local law enforcement agencies.
Questionnaire to Selected Lessees of the Lease Guarantee Program
Form _____, Single time, EGGD/Caywood, Lessees of lease guarantee program.

REVISIONS

Small Business Administration
Compliance Report
Form SBA 707, Annual, Sunderhauf/Lowry, Small businesses.
Veterans Administration
Serviceman's Application for Program of Education or Training
Form 22-1990a, Occasional, Caywood, Servicemen.
Employment Assistance Questionnaire (Vietnam Era Service-Connected Disabled Veterans)
Form 22-8672k (NR), Single time, CVAD, Veterans.

EXTENSIONS

Federal Mediation and Conciliation Service
Notice to Mediation Agencies
Form FMCS F-7, Occasional, Evinger (x), Labor-management.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-4228 Filed 2-20-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

ENGLE INVESTMENT CO.

Filing of Application for Approval of Conflict of Interest Transaction and Transfer of Control

Notice is hereby given that Engle Investment Co. (Engle), 35 Essex Street, Hackensack, New Jersey 07601, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed a proposal with the Small Business Administration (SBA) pursuant to §§ 107.701, 107.1004, and 107.1005 of the regulations governing small business investment companies (38 FR 30836, November 7, 1973) for approval of the transfer of control over the Licensee and of a conflict of interest transaction falling within the scope of the above Sections of the Regulations, respectively.

The facts and circumstances concerning these transactions are as follows:

On August 3, 1973, Engle made a loan to American Allied Industries, Inc., (American). Mr. Alexander Filenbaum, an officer and director and a major stockholder of Engle, has now offered to purchase from Engle partly for cash and partly on credit, its entire interest in American at terms no less favorable than obtainable elsewhere.

This proposed financing is brought within the purview of §§ 107.1004 and 107.1005 of the regulations since Mr. Filenbaum is an "Associate of the Licensee" as defined in § 107.3 of the regulations.

Simultaneously, with the proposed financing, Mr. Filenbaum proposes to resign as an officer and director of Engle and sell his entire stock ownership, which represents 17 percent of the issued and outstanding stock, to five individuals who are presently stockholders of the Licensee. Three of the individuals already own over 10 percent of the issued and outstanding stock for a combined total of 40 percent. Subsequent to the sale and purchase these three individuals will on a combined basis own 53 percent of the Licensee's stock. Since the proposed transfer of stock represents more than ten percent of the shares issued, it is subject to § 107.701 of the regulations.

Notice is hereby given that any person may, not later than March 8, 1974, submit to SBA, in writing, comments on the proposed transactions. Any such communication shall be addressed to: Deputy Associate Administrator for Investment, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Hackensack, New Jersey.

Dated: February 12, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-4022 Filed 2-20-74;8:45 am]

[License No. 04/05-5103]

FLORIDA CROWN MESBIC

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Florida Crown MESBIC (licensee), 604 Hogan Street, Jacksonville, Florida 32202, a small business investment company licensed under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), has filed with the Small Business Administration (SBA) an application for exemption from the provision of § 107.1004 (38 FR 30836, November 7, 1973.)

Licensee proposes to make a 10-year loan in the principal amount of $75,000 to Northeast Container Corporation (NCC). Licensee's proposed financing represents a minor portion of an overall financing totaling $207,000 being obtained from other sources.

The proposed financing comes within the purview of the above cited regulation by virtue of the fact that Mr. Samuel H. Grant, President and 51 percent stockholder of NCC, was secretary and a director of the licensee until November 6, 1973. Since Mr. Grant's affiliation with the licensee falls within the definition of an associate of the licensee under § 107.3 (g) (38 FR 30836, November 7, 1973), the transaction comes within the provisions of § 107.1004 of the regulations.

Notice is hereby given that any person may, not later than March 8, 1974, submit comments to SBA on the proposed transaction. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Notice is further given that any time after such date, SBA may dispose of the application on the basis of the information set forth therein and other relevant data.

Dated: February 8, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-4020 Filed 2-20-74;8:45 am]

[License No. 12-0067]

LYON CAPITAL CORP.

Surrender of License

Notice is hereby given that Lyon Capital Corp., 800 Welch Road, Palo Alto, California 94304, has surrendered its License No. 12-0067, issued by the Small Business Administration (SBA) on May 8, 1962.

Lyon Capital Corp. has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Lyon Capital Corp. is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: February 12, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-4023 Filed 2-20-74;8:45 am]

[Notice of Disaster Loan Area 1035]

OREGON

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Oregon as a major disaster area following severe storms, snowmelt, and flooding beginning on or about January 14, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional

counties: Gilliam and Wallowa, and adjacent affected areas. (See 39 FR 4974)

Applications may be filed at the:

Small Business Administration
District Office
700 Pittock Block
921 Southwest Washington Street
Portland, Oregon 97205

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of P.L. 93-94.

Applications for disaster loans under this announcement must be filed not later than March 27, 1974.

Dated: February 5, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-4017 Filed 2-20-74;8:45 am]

[Notice of Disaster Loan Area 1034]

WASHINGTON

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Washington as a major disaster area following severe storms, snowmelt, and flooding beginning on or about January 14, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Benton, Columbia, Ferry, Kitsap, Lewis, Mason, Pend Oreille, Stevens, and Thurston, and adjacent affected areas. (See 39 FR 4974)

Applications may be filed at the:

Small Business Administration
Regional Office
5th Floor, Dexter Horton Building
710 Second Avenue
Seattle, Washington 98104

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than March 27, 1974.

Dated: February 6, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-4018 Filed 2-20-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-73-21]

BURD & FLETCHER CO.

Amended Notice of Application for Variance and Interim Order; Grant of Interim Order

I. *Amended Notice of Application.* Notice is hereby given that Burd & Fletcher Co., 321 W. Seventh St., Kansas City, Missouri 64105, has submitted additional information pertaining to its application for a variance, and interim order pending a decision on the variance, from the standards prescribed in 29 CFR 1910.213 (c)(1) concerning guards for circular hand-fed ripsaws, which was published in the FEDERAL REGISTER on September 25, 1973 (38 FR 26778).

On that date a denial of interim order was published concerning the method the applicant proposed to use for making cuts on material 1 inch or less in width.

The applicant states that a copy of the amended variance application has been given to the affected employees and to their authorized representatives. The employees have also been informed of their right to petition the Assistant Secretary for a hearing.

On October 22, 1973, the applicant submitted additional information stating that it has now developed a transparent plastic guard for use while making cuts on material 1 inch or less in width. This guard is composed of two parts. The stationary part covers the saw blade and is ¼" above the blade at operating height. The other part of the guard is attached to a push guide 5/16" from the stationary guard, leaving a slot for a pick to hold the wood block being sawed.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
823 Walnut Street
Waltower Building—Room 300
Kansas City, Missouri 64106

U.S. Department of Labor
Occupational Safety and Health Administration
1627 Main Street, Room 1100
Kansas City, Missouri 64108

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views, and arguments relating to the pertinent application no later than March 25, 1974. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than March 25, 1974, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Standards at the above address.

II. *Interim order.* It appears from the application for a variance and interim order, that an interim order is necessary to prevent undue hardship to the employer and employees pending a decision on the variance. Therefore, it is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Burd & Fletcher Co. be, and it is hereby, authorized to use the two-part transparent plastic guard described in its application, in lieu of the hood required by 29 CFR 1910.213(c)(1).

Burd & Fletcher Co. shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of February 21, 1974, and shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 14th day of February 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-4032 Filed 2-20-74;8:45 am]

STANDARDS ADVISORY COMMITTEE ON NOISE

Notice of Receipt of Recommendations; Availability for Inspection and Copying

Notice is hereby given that the Standards Advisory Committee on Noise, established under section 7 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1592), submitted to the Assistant Secretary of Labor for Occupational Safety and Health, on December 20, 1973, its recommendations for a standard for occupational noise exposure.

Copies of the recommended standard will be available for inspection and copying, upon request, at the U.S. Department of Labor, Office of Administrative Programs, Room 540, 1726 M Street NW., Washington, D.C. 20210, and at the following regional offices:

John F. Kennedy Federal Building, Government Center, Room No. E303, Boston, Massachusetts 02203; 1515 Broadway, New York, New York 10036; 15220 Gateway Center, 3535 Market Street, Philadelphia, Pennsylvania 19107; 1375 Peachtree Street NE., Suite 587, Atlanta, Georgia 30309; 300 South Wacker Drive, Room 1201, Chicago, Illinois 60606; 7th Floor, Texaco Building, 1512 Commerce Street, Dallas, Texas 75201; 823 Walnut Street, Waltower Building, Room 300, Kansas City, Missouri 64104; Federal Building, Room 15010, 1961 Stout Street, Denver, Colorado 80202; 9470 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, California 94102; and 506 Second Avenue, 1808 Smith Tower Building, Seattle, Washington 98104.

Signed at Washington, D.C., this 12th day of February, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-4031 Filed 2-20-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 459]

ASSIGNMENT OF HEARINGS

FEBRUARY 15, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument ap-

pear 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. No amendments will be entertained after the date of this publication.

MC 124211 Sub-229, Hilt Truck Line, Inc., now being assigned March 25, 1974 (3 days), at Seattle, Washington, in a hearing room to be later designated.

MC 88161 Sub-87, Inland Transportation Co., Inc., now being assigned March 28, 1974 (2 days), at Seattle, Washington, in a hearing room to be later designated.

MC 138875 Sub-9, Shoemaker Trucking Co., now being assigned April 1, 1974 (2 days), at Portland, Oregon, in a hearing room to be later designated.

MC 108340 Sub-25, Haney Truck Line, now being assigned April 3, 1974 (3 days), at Portland, Oregon, in a hearing room to be later designated.

MC 107456 Sub-21, Harry L. Young And Sons, Inc., and MC 129631 Sub-39, Pack Transport, Inc., now being assigned April 8, 1974 (1 week), at Boise, Idaho, in a hearing room to be later designated.

MC 138922, Leggitt Leasing Corp., now assigned March 11, 1974, at Dallas, Texas, is cancelled and the application is dismissed.

MC 61592 Sub-309, Jenkins Truck Line, Inc., now assigned February 20, 1974, at Chicago, Ill., is cancelled and application dismissed.

MC-C-8186, Allen S. Kraft dba Universal Travel Service-V-World Travel Service (Arthur A. Johnson, Owner), now being assigned hearing March 26, 1974 (2 days), at Kansas City, Mo., in Room 609, Federal Office Bldg., 911 Walnut Street.

MC-C-8191, Belger Cartage Service, Inc., Investigation of Operations and Revocation of Certificates, now assigned March 18, 1974, at Kansas City, Mo., is postponed to April 2, 1974 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 127042 Sub 120, Hagen, Inc., MC 128273 Sub 142, Midwestern Express, Inc., now being assigned continued hearing May 6, 1974 (2 weeks), at Chicago, Illinois, in a hearing room to be later designated.

NO. 35913, Louis Dreyus Corporation, Et Al.-V-The Atchison, Topeka and Santa Fe Railway Company, Et Al., now assigned March 18, 1974, at Kansas City, Mo., will be held in Room 829, Court of Appeals, U.S. Courthouse, 811 Grand Avenue.

MC 138922, Leggitt Leasing Corporation, now assigned March 11, 1974, at Dallas, Texas, is cancelled and the application is dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-4125 Filed 2-20-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 15, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 8, 1974.

FSA No. 42804—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd., (No. 9), for itself and interested rail carriers. Rates on general commodities, between ports in the Orient, and rail stations on the U.S. Atlantic and Gulf Seaboard. Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-4120 Filed 2-20-74;8:45 am]

[Notice No. 6]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 15, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4 (c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4 (c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4 (c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-48958 (Deviation No. 56), ILLINOIS - CALIFORNIA EXPRESS, INC., P.O. Box 9050, Amarillo, Texas 79105, filed January 30, 1974. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Wichita Falls, Tex., over U.S. Highway 277 to Abilene, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Wichita Falls, Tex., over Texas Highway 79 to junction U.S. Highway 283, thence over U.S. Highway 283 to junction U.S. Highway 180, thence over U.S. Highway 180 to junction Texas Highway 351, thence over Texas Highway 351 to Abilene, Tex., and return over the same route.

No. MC-48958 (Deviation No. 57), ILLINOIS-CALIFORNIA EXPRESS, INC., P.O. Box 9050, Amarillo, Texas 79105, filed January 30, 1974. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Vernon, Tex., over U.S. Highway 283 to Seymour, Tex., thence over U.S. Highway 277 to Abilene, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Vernon, Tex., over U.S. Highway 283 to Seymour, Tex., thence over Texas Highway 199 to Olney, Tex., thence over Texas Highway 79 to junction U.S. Highway 283 at or near Throckmorton, Tex., thence over U.S. Highway 283 to Albany, Tex., thence over U.S. Highway 180 to junction Texas Highway 351, thence over Texas Highway 351 to Abilene, Tex., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-4122 Filed 2-20-74;8:45 am]

[Notice No. 13]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 15, 1974.

The following publications (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 the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 107002 (Sub-No. 435) (REPUBLICATION), filed June 6, 1973, and published in the FEDERAL REGISTER issue of August 2, 1973, and republished this issue. Applicant: MILLER TRANSPORTERS, INC. P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative:

John J. Borth, P.O. Box 8573, Jackson, Miss. 39204. An Order of the Commission, Operating Rights Board, dated January 16, 1974, and served February 5, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *petroleum products*, in bulk, in tank vehicles, from Natchez, Miss., to points in Texas; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 112750 (Sub-No. 299) (REPUBLICATION), filed June 20, 1973, and published in the FEDERAL REGISTER issue of August 30, 1973, and republished this issue. Applicant: PUROLATOR COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). An Order of the Commission, Operating Rights Board, dated January 23, 1974, and served February 5, 1974, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *commercial papers, documents, written instruments, and business records* (except currency, and negotiable securities) as are used in the business of banks and banking institutions: (1) between Vincennes, Ind., on the one hand, and, on the other, points in Clark, Clay, Crawford, Cook, Cumberland, Edwards, Effingham, Jasper, Lawrence, Wabash, and Wayne Counties, Ill.; (2) between Bedford and Sullivan, Ind., on the one hand, and, on the other, Chicago, Ill.; (3) from points in Worcester County, Mass., to Windsor Locks, Conn.; (4) from Pittsfield, Mass., to Windsor Locks, Conn.; and (5) from Holyoke, Mass., to Windsor Locks, Conn., under a continuing contract or contracts with banks and banking institutions, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 124854 (Sub-No. 12) (REPUBLICATION), filed February 8, 1973, and published in the FEDERAL REGISTER issue of March 22, 1973, and republished this issue. Applicant: GRIM BROS. TRUCKING CO., 997 Loucks Mill Road, York, Pa. 17402. Applicant's representative: Chester A. Zyblut, 1422 K Street NW., Washington, D.C. 20005. An Order of the Commission, Review Board Number 3, dated January 25, 1974, and served February 7, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, (1) of *concrete, cinder*, and *slag products* from Baltimore, Md., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and (2) of *brick* and *clay products* from the facilities of Capitol Clay Products Company at Fairmount Heights, Md., to points in Maine, New Hampshire, and Vermont; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138328 (Sub-No. 2) (REPUBLICATION), filed February 20, 1973, and published in the FEDERAL REGISTER issue of April 19, 1973, and republished this issue. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32nd Avenue, Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, 2310 Colorado Bank State Building, 1600 Broadway, Denver, Colo. 80202. An Order of the Commission, Review Board Number 1, dated January 29, 1974, and served February 5, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of (1) *upholstered furniture* from Council Bluffs, Iowa, to points in Arizona, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, restricted to the transportation of traffic originating at the plant sites and storage facilities of Charles Schneider & Co., Inc., or Charles, Inc., at Council Bluffs, Iowa, and (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture of upholstered furniture from points in California, Colorado, Connecticut, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, and Washington, to Council Bluffs, Iowa, restricted to the transportation of traffic destined to the plant sites and storage facilities of Charles Schneider & Co., Inc., or Charles, Inc., at Council Bluffs, Iowa; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 59655 (Partial correction of a notice of filing of petition for partial modification, clarification and amendment of certificate) filed, December 3, 1973, published in the FEDERAL REGISTER issue of January 3, 1974, republished in the FEDERAL REGISTER issue of January 30, 1974, and in third publication, as corrected in part, this issue. Petitioner: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, N.Y. 10901. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *common carrier* certificate in No. MC 59655 issued June 4, 1971, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, liquor, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Passaic, Bergen, Hudson, Essex, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester, Rockland, and Orange Counties, N.Y.

NOTE.—The purpose of this partial republication is to substitute the destination point of Westchester County, N.Y., in lieu of Winchester County, N.Y., previously published in error. The rest of the notice remains as originally published. Any interested person or persons desiring to participate may file an original and six copies of his written repre-

sentations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 125918 (Sub-No. 1) (Notice of filing of petition to add a contracting shipper) filed, January 28, 1974. Petitioner: JOHN A. DI MEGLIO, INC., White Horse Pike, Ancora, N.J. 08037. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *contract carrier* permit in No. MC 125918 (Sub-No. 1) issued December 7, 1973, authorizing as pertinent transportation, over irregular routes, of (A) *Brick*, (1) from Winslow, N.J., to points in Chester, Montgomery, Bucks, Delaware, Lancaster, Berks, Philadelphia, and Lehigh Counties, Pa., and Delaware, with no transportation for compensation on return except as otherwise authorized; (2) from Washington, D.C., and Charleston, Martinsburg, and North Mountain, W. Va., to points in Chester, Montgomery, Bucks, Delaware, Lancaster, Berks, Philadelphia, and Lehigh Counties, Pa., Mercer, Middlesex, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem, Atlantic, Cumberland, and Cape May Counties, N.J., and Delaware, with no transportation for compensation on return except as otherwise authorized; and (3) from Harrisburg, Middletown, Ephrata, Wyomissing, Shoemakerville, York, Watsontown, and Mifflinville, Pa., and points in the Beaver Falls, Pa., commercial zone as defined by the Commission (except Fallston, Pa.), to points in Mercer, Middlesex, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem, Atlantic, Cumberland, and Cape May Counties, N.J., and Delaware, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts with the Diener Brick Company, of Collingswood, N.J., and Glenwood Refractories Company of Brooklyn, N.Y.; and (B) *Bricks, tile, and clay products*, from Ancora, N.J., to points in New Jersey, with no transportation for compensation on return except as otherwise authorized, restricted to shipments having a prior movement by rail from origins beyond New Jersey, under a continuing contract, or contracts with the same shippers as (1, 2, and 3) above. By instant petition, petitioner seeks to add Glen-Gery Corporation, Reading, Pa. as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 134765 (Notice of filing of petition to add an additional contracting shipper) filed, February 4, 1974. Petitioner: SPECIALITY TRANSPORT, INC., Holland Road, Wales, Mass. 01081. Petitioner's representative: David M. Marshall, 135 State Street, Springfield, Mass. 01103. Petitioner holds a motor *contract carrier* permit in No. MC 134765 issued August 4, 1972, authorizing transportation, over irregular routes, of *plastic, plastic products, and cellulose products* (except in bulk), between Worcester and Manchaug, Mass., and Central Falls, R.I., on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Pennsylvania, Maryland, and the District of Columbia, under a continuing contract or contracts with Norman Kartiganer, Inc., of Worcester, Mass. By the instant petition, petitioner seeks to add Hammond Plastics, Inc., of Worcester, Mass., as an additional contracting shipper to the authority described above. Any interested person or persons may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210A(B)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-11022. (Supplement) (PACIFIC INTERMOUNTAIN EXPRESS CO., CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, EASTERN EXPRESS, INC., AND GRAVES TRUCK LINE, INC.), published in the November 25, 1970, issue of the FEDERAL REGISTER on page 18096. By a supplemental application under section 5(1) of the Interstate Commerce Act, filed February 7, 1974. Applicants SANTA FE TRAIL TRANSPORTATION COMPANY, AND GRAVES TRUCK LINE, INC., desires to join in as party applicants.

No. MC-F-12104. (CORRECTION) (ILLINOIS - CALIFORNIA EXPRESS, INC.—PURCHASE (PORTION)—BESTWAY FREIGHT LINES, INC.), published in the January 23, 1974, issue of the FEDERAL REGISTER on page 2653. Prior notice should be modified to show authority to be acquired as follows: *General commodities*, with usual exceptions, as a *common carrier* over regular routes, between Oklahoma City, and Waurika, Okla., between Burkburnett, Tex., and Waurika, Okla., between Chickasha and Pauls Valley, Okla., between Oklahoma City, and Lawton, Okla., between junction U.S. Highway 277 and Oklahoma Highway 37, south of Oklahoma City, Okla., and junction U.S. Highway 277 and unnumbered highway, approximately five miles east of Chickasha, Okla., between junction U.S. Highways 277 and 81 south of Chickasha, Okla., and Waurika, Okla., between Waurika, and Ardmore, Okla., between Burkburnett, Tex., and Waurika, Okla., serving all intermediate points, between Oklahoma City, Okla., and junction Oklahoma Highway 76 and U.S. Highway 70 south of Healdton, Okla., serving various intermediate and off-route points; *government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquified petroleum gas, between Oklahoma City, and Waurika, Okla., between Burkburnett, Tex., and Waurika, Okla., serving no intermediate points, between Burkburnett, Tex., and Waurika, Okla., serving all intermediate points, between Chickasha, and Pauls Valley, Okla., between Oklahoma City, and Lawton, Okla., serving no intermediate points, between junction U.S. Highway and Oklahoma Highway 37, south of Oklahoma City, Okla., and junction U.S. Highway 277 and unnumbered highway approximately five miles east of Chickasha, Okla., serving no intermediate points, between Waurika, Okla. and Ardmore, Okla., between Oklahoma City, Okla., and junction Oklahoma Highway 76 and U.S. Highway 70 south of Healdton, Okla., serving various intermediate and off-route points, between junction U.S. Highway 277 and U.S. Highway 81 south of Chickasha, and Waurika, Okla., serving no intermediate points; *general commodities*, with usual exceptions, over irregular routes, between points and places in Oklahoma on and south of U.S. Highway 66, on and west of U.S. Highway 281, on and east of U.S. Highway 283, except Lawton and Fort Sill, on the one hand, and, on the other, points and places in Oklahoma, except Lawton and Fort Sill, those in that part of Kansas on and south of U.S. Highway 54, and on and west of U.S. Highway 77, and those in that part of Texas on and west of U.S. Highway 81, and on and north of a line beginning at Ringgold, Tex., and extending along U.S. Highway 82 to Wichita Falls, Tex., and thence along U.S. Highway 70 to Paducah, Tex., and on and east of U.S. Highway 83; *farm machinery*, and *parts of farm machinery*, between Kiowa and Washita Counties, Okla., on the one hand, and, on the other, points and places in Texas on and north of U.S. Highway 70; *cotton gin machinery*, between Kiowa and Washita Counties, Okla., on the one hand, and, on the other, Fort Worth and Dallas, Tex.; *government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquified petroleum gas, between points in Oklahoma on and south of U.S. Highway 66, on and west of U.S. Highway 281, and on and east of U.S. Highway 283, except Lawton and Fort Sill, on the one hand, and, on the other, points in Oklahoma, except Lawton and Fort Sill, those in that part of Kansas on and south of U.S. Highway 54 and on and west of U.S. Highway 77, and those in that part of Texas on and west of U.S. Highway 81, and on and north of a line beginning at Ringgold, Tex., and extending along U.S. Highway 82 to Wichita Falls, Tex., and thence along U.S. Highway 70 to Paducah, Tex., and on and east of U.S. Highway 83, between points in Kiowa and

Washita Counties, Okla., on the one hand, and, on the other, points in Texas on and north of U.S. Highway 70, between points in Kiowa and Washita Counties, Okla., on the one hand, and, on the other, Fort Worth and Dallas, Tex.

No. MC-F-12110. (CORRECTION) (ARKANSAS-BEST FREIGHT SYSTEM, INC.—PURCHASE—HARRY N. NICKLAUS AND ALBERT P. NICKLAUS, doing business as NICKLAUS TRANSFER & STORAGE CO.), published in the January 30, 1974, issue of the FEDERAL REGISTER on pages 3878 and 3879. Prior notice should be modified to include authority under the heading *Chemicals*, from Pittsburgh, Pa., to Steubenville, Mingo Junction, and Martins Ferry, Ohio; and vendee is also authorized to operate as a *common carrier* in Arizona, Colorado, Florida, Georgia, Nebraska, New Mexico, North Carolina, South Carolina, and Virginia.

No. MC-F-12132. Authority sought for control by LEASEWAY TRANSPORTATION CORP., 21111 Chagrin Blvd., Cleveland, OH 44122, of MAX BINSWANGER TRUCKING, 13846 Firestone Blvd., Santa Fe Springs, CA 90670, and for acquisition by W. J. O'NEILL and F. J. O'NEILL, both of Cleveland, OH 44122, of control through the acquisition by LEASEWAY TRANSPORTATION CORP. Applicants' attorneys: Roland Rice, 618 Perpetual Bldg., Washington, D.C. 20004, and J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Operating rights sought to be controlled: *Cement*, as a *common carrier* over irregular routes, from Creal, Calif., to Gabbs, Hawthorne, and Yerington, Nev., and points in Nevada on and south of U.S. Highway 6, from Colton and Victorville, Calif., to Gabbs, Hawthorne, and Yerington, Nev., and points in Nevada on and south of U.S. Highway 6; and return with *empty cement containers; cement*, in bulk, from Colton, Creal, Victorville, Gorman, and Monolith, Calif., to described areas in Nevada, Arizona, and Utah; *cement*, in bags, from Colton, Creal, and Victorville, Calif., to Yuma, Ariz., and to those points in Yuma and Mohave Counties, Ariz., on and north of Interstate Highway 10; from Colton, Victorville, and Creal, Calif., to points in a defined area of Arizona, Nevada, and Utah, from Monolith, Crestmore, and Oro Grande, Calif., and from the plantsite of Pacific Western Industries, Inc., at or near Gorman, Calif., to points in Arizona, and Nevada, and points in a defined area of Utah; *pozzolan*, in bulk, from points in Kern County, Calif., to points in Arizona and Nevada, between points in California, with restriction, from Panaca, Nev., to points in California; *fly ash* and *bottom ash, in bulk*, from points in Clark County, Nev., to points in California. LEASEWAY TRANSPORTATION CORP. is a holding company not engaged in motor carrier transportation, is affiliated with Anchor Motor Freight, Inc., Signal Delivery Service, Inc., Sugar Transport, Inc., Pep Lines Trucking Co., Mitchell Transport, Inc., and Refiners Transport & Terminal Corporation, all motor carriers. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12133. Authority sought for purchase by L & B EXPRESS, INC., P.O. Box 137, Madisonville, Ky. 42431, of the operating rights of YATES TRUCK LINES, INC., Maud, Ky. 40042, and for acquisition by WILLIAM G. THOMAS, also of Madisonville, Ky. 42431, of control of such rights through the purchase. Applicants' attorney: Robert M. Pearce, P.O. Box E, Bowling Green, Ky. 42101. Operating rights sought to be transferred: *Fertilizer* (except liquid fertilizer, in bulk, in tank vehicles), as common carrier over irregular routes, from Cincinnati, Ohio, to points in Kentucky; *fertilizer, fertilizer ingredients and component fertilizer raw materials* (except in bulk in tank vehicles), between Cincinnati, Ohio, and Jeffersonville, Ind., with restriction, from Cincinnati, Ohio, to points in Tennessee, from Cincinnati, Ohio (except from the plantsite of Virginia-Carolina Chemical Corp., at or near St. Bernard, Ohio) to points in Decatur, Ohio, and the described Counties in Indiana; *feed, feed ingredients and insecticides* (except in bulk, in tank vehicles), from Cincinnati, Ohio, to points in Kentucky, with restrictions; *fertilizer and fertilizer materials and ingredients, and insecticides, pesticides, fungicides, herbicides, and related advertising materials* when moving in the same vehicle with fertilizer and fertilizer materials and ingredients, from the plantsite of Armour Agricultural Chemical Co., at Jeffersonville, Ind., to points in Kentucky, Ohio, Tennessee, and West Virginia; *plastic pipe*, and *materials and supplies* used in the manufacture of plastic pipe (except commodities in bulk), between the plantsite of Universal Pipe and Plastics, Inc., near Springfield, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), with restriction. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12134. Authority sought for purchase by LILE MOVING & STORAGE COMPANY, 7021 Northeast Halsey St., Portland, Oreg. 97213, of the operating rights of CENTRAL TRANSFER & STORAGE CO., 215 Southeast Morrison St., Portland, Oreg. 97214, and for acquisition by LILE INTERNATIONAL COMPANIES, 3602 S. Pine, Tacoma, Wa., which, in turn, is controlled by WENDELL B. LILE, also of Tacoma, Wa., and JAMES B. LARSEN of Portland, Oreg. 97213, of control of such rights through the purchase. Applicants' attorney: George H. Hart, 1100 IBM Bldg., Seattle, Wa. 98101. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between Portland, Oreg., and points within 20 miles of Portland, on the one hand, and, on the other, points in Washington. Vendee is authorized to operate as a *common carrier* in Oregon and Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12135. Authority sought for purchase by WILSON FREIGHT COMPANY, 3636 Follett Ave., Cincinnati, OH 45223, of a portion of the operating rights of DOWNING & SONS, INC., 365 Swan St., Buffalo, NY 14204, and for acquisition by DAVID M. GANTZ, JOSEPH M. GANTZ, S. DAVID SHOR, AND JOHN E. SHORE, all of Cincinnati, OH 45223, of control of such rights through the purchase. Applicants' attorneys: Milton H. Bortz, 3636 Follett Ave., Cincinnati, OH 45223, and William J. Hirsch, 43 Court St., Buffalo, NY 14202. Operating rights sought to be transferred: *General commodities*, with usual exceptions, as a *common carrier* over irregular routes, between points in New York within 75 miles of Buffalo, including Buffalo. Vendee is authorized to operate as a *common carrier* in Connecticut, New Jersey, New York, Pennsylvania, Ohio, Massachusetts, Maryland, West Virginia, North Carolina, Virginia, Rhode Island, Indiana, Kentucky, Tennessee, Illinois, Minnesota, Wisconsin, Missouri, Iowa, Delaware, Maine, New Hampshire, Vermont, Oklahoma, Kansas, Michigan, Arkansas, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MC-F-12136. Authority sought for purchase by JAMES INNACO, 969 Bridgeport Avenue, Milford, CT 06460, of the operating rights of MEEK EXPRESS, INC., 206 Windsor Street, Buckland, CT, and for acquisition by JAMES INNACO, 25 Nuthatch Hill Road, Trumbull, CT, of control of such rights through the purchase. Applicants' attorney. WILLIAM J. MEUSER, 86 Cherry Street, Milford, CT 06460. Operating rights sought to be transferred: Under a Certificate of Registration, in Docket No. MC 121032 (Sub No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Connecticut, and MC-121032 Sub No. 2, *General commodities* as a *common carrier* over irregular routes (except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), which are at the time moving on bills of lading of freight forwarders, between Manchester, Conn., on the one hand, and, on the other, North Haven, Conn. Vendee is authorized to operate as a *common carrier* in New York, and Connecticut. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-133150 Sub 2 is a directly related matter.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-4124 Filed 2-20-74;8:45 am]

[Notice No. 27]

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 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before March 13, 1974. 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-74887. (CORRECTED). By order of January 17, 1974, the Motor Carrier Board approved the transfer to Goodman Transportation, Inc., Salt Lake City, Utah, of the operating rights in Permits Nos. MC-134278 and MC-134278 (Sub-No. 2), issued March 2, 1973, and March 2, 1973, respectively, to Charles R. Goodman, doing business as C. R. Goodman Trucking Co., Murray, Utah, authorizing the transportation of sporting goods (a) from Los Angeles, Oakland, and San Francisco, Calif., and points in the Los Angeles, Calif., Harbor Commercial Zone, to Salt Lake City, Utah, and (b) from Salt Lake City, Utah, to points in Idaho, Wyoming, Colorado, and Arizona; and chemicals (except in bulk) and containers, between points in California, Washington, Nevada, and Utah. The purpose of this corrected publication is to describe the correct operating rights authorized to be transferred. The publication in the January 23, 1974, issue (a) inadvetently stated that the operating rights in No. MC-134278 (Sub-No. 4) were included in the transfer and (b) omitted reference to the operating rights in No. MC-134278.

[SEAL] ROBERT L. OSWALD, *Secretary*,

[FR Doc.74-4123 Filed 2-20-74;8:45 am]

[Notice No. 25]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 13, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 730 (Sub-No. 361 TA), filed February 5, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: Alfred G. Krebs (Same address as above). 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), from, to, or between the following points or described areas: (1) Between Spanish Fork, Utah, and the junction of U.S. Highway 290 with Interstate Highway 45, serving no intermediate points, with service at the junction of U.S. Highway 666 and Interstate Highway 40, and the junction of Interstate Highways 10 and 25 for the purpose of joinder only: From Spanish Fork over U.S. Highway 50 to junction U.S. Highway 163, thence over U.S. Highway 163 to junction U.S. Highway 666, thence over U.S. Highway 666 to junction Interstate Highway 40 to junction Interstate Highway 25, thence over Interstate Highway 25 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction U.S. Highway 290, thence over U.S. Highway 290 to junction Interstate Highway 45, and return over the same route; (2) Between Pueblo, Colo., and the junction of Interstate Highway 45 with U.S. Highway 290, serving no intermediate points, with service at the junction of U.S. Highway 287 and Interstate Highway 40, and the junction of Interstate Highways 20 and 45 for the purpose of joinder only.

From Pueblo over Interstate Highway 25 to junction U.S. Highway 87, thence over U.S. Highway 87 to junction U.S. Highway 287, thence over U.S. Highway 287 to junction Interstate Highway 40, thence over U.S. Highway 287 to junction Interstate Highway 20, thence over Interstate Highway 20 to its junction with Interstate Highway 45, and thence over Interstate Highway 45 to junction U.S. Highway 290, and return over the same route; (3) Between Riverside, Calif., and the junction of U.S. Highway 64 (Interstate Highway 40) with U.S. Highway 51, serving no intermediate points, with service at the junction of U.S. Highway 60 and California Highway 86, the junction of U.S. Highway 666 and Interstate Highway 40, and the junction of U.S. Highway 287 and Interstate Highway 40 for the purpose of joinder only: From Riverside over U.S. Highway 60 (Interstate Highway 10) to Quartzsite, Ariz., thence over U.S. Highway 60 to Arizona Highway 71, thence over Arizona Highway 71 to junction U.S. Highway 89, thence over U.S. Highway 89 to junction Interstate Highway 40 (U.S. Highway 66), thence over Interstate Highway 40 (U.S. Highway 66) to junction U.S. Highway 64, thence over U.S. Highway 64 (Interstate Highway 40) to junction U.S. Highway 51, and return over the same route; and (4) Between the junction of U.S. Highway 60 with California Highway 86 and the junction of U.S. Highway 80 (Interstate Highway 20) with U.S. Highway 71, serving no intermediate points, with service at the junction of U.S. Highway 60 and California Highway 86, the junction of Interstate Highways 10 and 25, and the junction of Interstate Highways 20 and 45 for the purpose of joinder only.

From the junction of U.S. Highway 60 and California Highway 86 over California Highway 86 to junction U.S. Highway 80 (Interstate Highway 8), thence over U.S. Highway 80 (Interstate Highway 8) to junction Interstate Highway 10, thence over Interstate Highway 10 to junction U.S. Highways 80 and 82, thence over U.S. Highway 82 to junction New Mexico Highway 18, thence over New Mexico Highway 18 to junction U.S. Highway 180, thence over U.S. Highway 180 to junction of U.S. Highway 80 (Interstate Highway 20), thence over U.S. Highway 80 (Interstate Highway 20) to junction U.S. Highway 71, and return over the same route. RESTRICTION: The use of the above authority is limited to the movement of traffic interchanged between Ryder Truck Lines, Inc., and Pacific Intermountain Express Co., for 180 days.

NOTE: Applicant states that it does not seek to serve any new points by this application. It is the intention of this application to join routes of Pacific Intermountain Express Co., and Ryder Truck Lines, Inc., as alternative shorter routes between certain points served by each carrier so as to allow combined service by the two carriers to be rendered over shorter, safer, more economical and more efficient routes than those now available for combined service being rendered by the two carriers. This application is also in contemplation of the merger of Pacific Intermountain Express Co., and Ryder Truck Lines, Inc., as required by the Interstate Commerce Commission in Docket No. MC-F-10795 (International Utilities—Control—Pacific Intermountain Express Co.) and currently pending in a merger application in Docket No. MC-F-11594 (Pacific Intermountain Express Co.—Merger—Ryder Truck Lines, Inc.) before the Commission.

SUPPORTED BY: There are approximately 25 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: A. J. Rodriquez, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 26396 (Sub-No. 116 TA), filed February 5, 1974. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Mlg: P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Charlotte Vicars (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals, including pest and weed control*, from the plant site and warehouse facility of Monsanto Company at or near Muscatine, Iowa, to points in Florida, Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia, for 180 days. SUPPORTING SHIPPER: Monsanto Company, 800 North Lindberg, St. Louis, Mo. 63166. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 26396 (Sub-No. 117 TA), filed February 5, 1974. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Mlg: P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Charlotte Vicars (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals*, from Memphis, Tenn., to points in Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, and Washington, for 180 days. SUPPORTING SHIPPER: Monsanto Company, 800 North Lindberg, St. Louis, Mo. 63166. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 60014 (Sub-No. 34 TA), filed February 6, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: Edward J. Conto (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to points in Illinois, Indiana, Michigan (Lower Peninsula), Ohio and Wisconsin, for 180 days. SUPPORTING SHIPPER: Bethlehem Steel Corporation, Bethlehem, Pa. 18016. SEND PROTESTS TO: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 103498 (Sub-No. 40 TA), filed February 5, 1974. Applicant: W. D. SMITH TRUCK LINE, INC., P.O. Drawer C, DeQueen, Ark. 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: *Posts, poles and lumber*, treated and/or untreated, from Mena, Ark., to points in Missouri and Kansas, for 180 days. SUPPORTING SHIPPER: Edward Hines Lumber Company, 200 South Michigan Ave., Chicago, Ill. 60604. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 106674 (Sub-No. 124 TA), filed February 6, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conveyors systems*, knocked down, from Mitchell, Ind., to points east of the Mississippi River, for 180 days. SUPPORTING SHIPPER: Synchro-Systems, Inc., 550 South Fifth St., Mitchell, Ind. SEND PROTESTS TO: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 692 TA), filed February 6, 1974. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulated metal* (aluminum and steel) *building panels, insulated fiberglass building panels, urethane insulated roof panels, and accessories*, from Holland Township, Mich., to points in Missouri, Wisconsin, Minnesota, Kansas, North Dakota, South Dakota, Colorado, Nebraska, and Iowa, for 180 days. SUPPORTING SHIPPER: W. H. Porter, President, W. H. Porter, Inc., 4240 North 136th Avenue, P.O. Box 823-B, Holland, Mich. 49423. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 107882 (Sub-No. 34TA), filed February 4, 1974. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton, N.J. 08638. Applicant's representative: Herbert A. Dubin, Federal Bar Bldg., 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline coupons*, between any point or place in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: General Services Administration, Building 4, Crystal Mall, Washington, D.C. 20406. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 110563 (Sub-No. 127TA), filed February 7, 1974. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Applicant's representative: John L. Maurer, P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsites and warehouse facilities utilized by The Miami Margarine Co. located at or near Cincinnati, Ohio, to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Virginia, for 180 days. RESTRICTION: Restricted to traffic originating at the above named origin. SUPPORTING SHIPPER: The Miami Margarine Co., 5226 Vine Street, Cincinnati, Ohio 45217. SEND PROTESTS TO: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 113106 (Sub-No. 40 TA), filed February 6, 1974. Applicant: THE BLUE DIAMOND COMPANY, 4401 East Fairmount Avenue, Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 1522 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated sheets and boxes*, from Newark, Del. to Salem, N.J., for 180 days. SUPPORTING SHIPPER: Mr. Charles E. Smith, Resident Manager, Crown Zellerbach Corp., 1001 Ogletown Road, Newark, Del. 19711. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 114725 (Sub-No. 56 TA), filed February 6, 1974. Applicant: WYNNE TRANSPORT SERVICE, INC., 2606 North 11th St., Omaha, Nebr. 68110. Applicant's representative: Patrick E. Quinn, 605 South 14 St., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, (1) From Doniphan, Nebr., and Kansas City, Mo., to points in Kansas; and (2) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska, for 180 days. SUPPORTING SHIPPER: Agrico Chemical Co., J. J. Stefanec, Manager of Transportation Legislation, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, Suite 620 Union Pacific Plaza, 110 North 14 St., Omaha, Nebr. 68102.

No. MC 119634 (Sub-No. 11 TA), filed January 22, 1974. Applicant: DICK IRVIN, INC., P.O. Box F, 218 12th Ave.

North, Shelby, Mont. 59474. Applicant's representative: Joe Gerbase, 100 Transwestern Bldg., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite*, in bulk, and in bags, from Salt Lake City, Utah, to points in Montana, for 180 days. SUPPORTING SHIPPER: Wyo-Ben Products, Inc., P.O. Box 1979, Billings, Mont. 59103. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 123065 (Sub-No. 11 TA), filed February 6, 1974. Applicant: STX, INC., doing business as SPOTSWOOD TRAIL EXPRESS, Redbone Road, Chester Springs, Pa. 19425. Applicant's representative: Frederick Phillips (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Hudson, N.C., to points in Delaware, District of Columbia, Maryland, Michigan, Ohio, and West Virginia, for 180 days. SUPPORTING SHIPPERS: Sears, Roebuck & Company, Sears Tower, Chicago, Ill. 60684; Terminal Freight Cooperative Association, Terminal Manager, Hudson, N.C. 28638. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Bldg., Room 3238, Philadelphia, Pa. 19106.

No. MC 123074 (Sub-No. 8 TA), filed February 6, 1974. Applicant: M. L. ASBURY, INC., 1100 South Oakwood, Detroit, Mich. 48217. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy fuel oil and bunker oil*, in bulk, in tank vehicles, from the International Boundary line between the United States and Canada at or near Port Huron, Mich., to Galesburg, Jackson, and Parchment, Mich., and points within the commercial zone to such points, for 180 days. SUPPORTING SHIPPER: Petro Products, Inc., 7200 Inkster Road, Taylor, Mich. 48180. SEND PROTESTS TO: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 127539 (Sub-No. 31 TA), filed February 5, 1974. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th St., Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach, Calif., to points in Oregon and Washington, for 180 days. SUPPORTING SHIPPERS: Peirone Produce Company, 524 East Trent, Spokane, Wash. 99202; Standard Fruit & Steamship Company, 666 East Ocean, Suite 1404, Long Beach, Calif. 90802; West Coast Fruit and Produce, 448 East 18th, Tacoma, Wash. 98421; and Pacific Fruit & Produce, P.O. Box 3687, 4103 2d Ave. South, Seattle, Wash. 98124. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 128217 (Sub-No. 10 TA), filed February 5, 1974. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, N. Dak. 58401. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles*, from points in the Minneapolis, Minn., commercial zone to points in North Dakota and South Dakota, for 180 days. SUPPORTING SHIPPER: Joseph T. Ryerson & Sons, Inc., Box 8000-A, Chicago, Ill. 60680. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 133576 (Sub-No. 3 TA), filed February 4, 1974. Applicant: BUSBOOM TRUCKING, INC., Route 1, Filley, Nebr. 68357. Applicant's representative: James E. Ryan, 214 Sharp Building, Lincoln, Nebr. 68508. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Calcium chloride*, in containers—for the account of Oldfather's O.K. Tire Co., from Ludington, Mich., to Nebraska, Kansas and points on and west of U.S. Highway No. 65 in Iowa, for 180 days. SUPPORTING SHIPPER: Oldfather's O.K. Tire company, John G. Smith, Stockholder and Director of Commercial Sale, Beatrice, Nebr. 68310. SEND PROTESTS TO: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134806 (Sub-No. 19 TA), filed February 4, 1974. Applicant: B-D-R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tennis shoes*, from Roberts Shoe Division, Somersworth Manufacturing Co., Somersworth, N.H., to Talcottville, Conn., and the plantsite and warehouse facilities of Head Ski Division of AMF, Inc., Boulder County, Colo., for 180 days. SUPPORTING SHIPPER: Head Ski Division of AMF, Incorporated, 4801 North 63d Street, Boulder, Colo. 80301. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-4121 Filed 2-20-74;8:45 am]

[Rev. S.O. 994; I.C.C. Order No. 119]

ILLINOIS CENTRAL GULF RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of R.D. Pfahler, Agent, the Illinois Central Gulf Railroad Company is unable to transport traffic over its line between Natchez, Mississippi, and Packton, Louisiana, because of high water and flooding.

It is ordered, That:

(a) *Rerouting traffic*. The Illinois Central Gulf Railroad Company, being unable to transport traffic over its line between Natchez, Mississippi, and Packton, Louisiana because of high water and flooding, that line and its connections are hereby authorized to reroute or divert such traffic via any available route.

(b) *Concurrence of receiving roads to be obtained*. The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers*. Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date*. This order shall become effective at 11:30 a.m., February 11, 1974.

(g) *Expiration date*. This order shall expire at 11:59 p.m., March 15, 1974, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 11, 1974.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER, *Agent*.

[FR Doc.74-4118 Filed 2-20-74;8:45 am]

[Rule 19; Ex Parte No. 241, Exemption No. 61, Amdt. 1]

MISSOURI PACIFIC RAILROAD CO.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 61 issued January 20, 1974.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 61 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire March 15, 1974.

This amendment shall become effective February 10, 1974.

Issued at Washington, D.C., February 7, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-4119 Filed 2-20-74;8:45 am]

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federal register

THURSDAY, FEBRUARY 21, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 36

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

RUBBER PROCESSING POINT SOURCE CATEGORY

Tire and Inner Tube Plants, Emulsion Crumb Rubber, Solution Crumb Rubber, and Latex Rubber Subcategories

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 428—RUBBER PROCESSING POINT SOURCE CATEGORY

Tire and Inner Tube Plants, Emulsion Crumb Rubber, Solution Crumb Rubber, Latex Rubber Subcategories

On October 11, 1973 notice was published in the FEDERAL REGISTER, (38 FR 28219) that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the tire and inner tube plants, emulsion crumb rubber, solution crumb rubber and latex rubber subcategories of the rubber processing category of point sources. This final rulemaking which established final effluent limitations guidelines and standards of performance and pretreatment standards for new sources is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c), and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), and 1317(c)); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the tire and inner tube plants, emulsion crumb rubber, solution crumb rubber and latex rubber subcategories. In addition, the regulations as proposed were supported by two other documents: (1) the document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Tire and Synthetic Segment of the Rubber Processing Point Source Category" (September 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines," "Rubber Processing Industry" (September 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

The regulation as promulgated contains minor departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) Summary of Comments.

The following responded to the request for written comments contained in the preamble to the proposed regulation: Phillips Petroleum; Anne W. Amacher, Citizen; B. F. Goodrich Co.; Texas-U.S. Chemical Co.; Dupont-Texas Chemical Council; Carolyn A. Carr, Citizen; Uniroyal, Inc.; Dupont, Wilmington; Los Angeles County; U.S. Department of Commerce and the U.S. Department of the Interior.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) It was urged that the Agency not include algae from oxidation ponds in the TSS limitation or that the Agency double the limitation, if algae is to be included.

It is the Agency's intention that any material contributing to TSS is to be included in the limitation and the Agency believes that the limitation can be met by plants practicing best practicable control technology currently available.

(2) It was suggested that the BOD test is inaccurate at low concentrations (5 mg/1) and that best available technology economically achievable to achieve 5 mg/1 is unrealistic in terms of cost and water quality impact.

The use of activated carbon technology for best available technology economically achievable will reduce BOD5 to levels less than 5 mg/1, which in the Agency's judgment is within the range of measurement using standard analytical methods.

(3) The comment was made that one of EPA's contractors has assumed that rubber production is directly proportional to water use.

The data obtained by the contractor shows that there is a high correlation between production and water use within any given synthetic rubber subcategory.

(4) It was recommended that the best available technology economically achievable limitations be doubled or that the Agency study best available technology economically achievable further.

It is the Agency's judgment that, based on current data, the limitations set forth for best available technology economically achievable can be met using activated carbon technology. In addition the Act requires review of the limitations within five years of promulgation.

(5) It was recommended that the wording "30 consecutive days" be changed to "any calendar month" to simplify record keeping.

Since discharges will in any event be required to keep daily production and discharge records to determine compliance with limitations applicable to any one day, additional monitoring or records will not be required to comply with this provision. Moreover, the Agency believes that dischargers should meet the limitations for any 30 consecutive days in order to prevent sustained periods of high levels of discharge.

(6) One commenter stated that the regulations do not prohibit tire and inner tube plants from releasing toxic pollutants and pollutants with unknown effects on human beings and fish. Also the regulation does not prohibit the release of any specific chemical compound by name, neither does the regulation require tire plants to get EPA permission before adding new chemicals to their process which might get into the discharged water.

Although the ingredients used in compounding rubber for tire and inner tube manufacturing might possibly be harmful if discharged as process waste water pollutants, compounding is a dry process and none of the specific ingredients used in compounding the rubber was detected in the waste waters. The limitations for best practicable control technology and best available technology will lead to control and removal of all identified primary pollutants of concern. Discharge of harmful substances are independently controlled under sections 303 and 307 of the Act.

(7) The same commenter noted that EPA did not consult with the American Chemical Society, American Academy of Science, American Cancer Society or NIH in drafting the proposed regulations.

The preamble to the proposed regulations invited comments from all interested persons or organizations. The organizations cited by the commenter did not submit comments or suggestions.

(8) One commenter does not believe there are any benefits to be gained by separating process waste water from utility waste water and storm water in tire and inner tube plants.

The Agency believes that isolation of process waste waters from other types of plant wastes as the least costly alternative to meet the effluent limitations. Any method or procedure can be used that will achieve the required reduction of the process waste water pollutants, TSS and oil and grease.

(9) Two commenters stated that the technology, biological treatment, does not result in a specified COD removal. COD removal is only coincidental with BOD removal.

COD does not always correlate with BOD. However, in this industry, there is sufficient data to indicate that best practicable control technology will result in compliance with the limitations for COD.

(10) Several commenters stated that there has not been enough study on which to base best available technology

economically achievable limitations and recommend a several months testing program to obtain additional information on the applicability of best available technology economically achievable to specific types of synthetic rubber waste water pollutants.

Although the Agency believes that the BATEA limitations are realistic, it is recognized that there may be some technical and economic risk for industry in applying the technology to synthetic rubber waste effluents. However, the Act requires review and, if appropriate, modification of these guidelines every five years. If subsequent data indicate that modification of these guidelines is required, such modification will be considered at that time.

(11) One commenter suggested that EPA should relate limitations to the size of the receiving stream. The characteristics of receiving water bodies must be taken into account in permit issuance, to ensure that permits require compliance with water quality standards under section 303 of the Act. However, receiving water characteristics are not relevant to determination of effluent reduction attainable by the application of available technology.

(12) One commenter suggested that the control of problems at old tire plants indicate that the "guidelines" should be twice that of newer plants.

The data in possession of the Agency and presented in the Development Document indicate that any tire or inner tube plant practicing BPCTCA can meet the effluent limitations set forth in this regulation regardless of the age of the plant.

(13) Two commenters stated that the costs of segregation of effluent streams at old tire plants are excessive and the lack of available land for waste treatment systems at old plants may entail excessive costs.

The isolation of the process waste waters stream from other waste streams in older tire plants should not require excessive costs. These costs are discussed in detail in the development document. The equipment and control systems required to meet BPCTCA have been estimated to require less than 5,000 square feet of plant area.

(14) One commenter stated that the BPCTCA for emulsion plants contains flaws and does not account for nitrile rubber production peculiarities.

The commenter did not specify any specific respects in which nitrile rubber facilities differ from other facilities in the same subcategory. The Agency is not aware that any relevant differences exist. Accordingly, it is appropriate to require such facilities to achieve the same degrees of effluent control as other plants employing similar processes.

(15) Two commenters stated that there seems to be no logical correlation between neoprene technology and hydrocarbon technology that would justify a common limitation for either BPCTCA or BATEA.

Although neoprene production facilities may have more difficulty operating treatment systems than hydrocarbon facilities, it is the Agency's judgment that neoprene rubber facilities can meet the limitations for BPCTCA and BATEA as set forth in the regulation.

(16) A comment was made that the start-and-stop process operations at chloroprene plants affect their ability to meet the daily limitations.

The Agency believes that the start-and-stop process operations at chloroprene plants are no more frequent or severe than in hydrocarbon rubber production.

(17) It was recommended that the definitions of specific pollutant parameters measurements be changed and that the basis for limitation reflect both product produced and water use and that the limitation be expressed in mg/l.

These guidelines are based upon the total quantity of pollutant per unit of production, rather than upon the concentration discharged, to preclude the use of dilution as a means of attaining the limitations and to avoid penalizing dischargers who practice good water conservation. However, any discharger will be able to calculate the concentration which he will have to achieve in order to meet the limitations from his known water usage and the limitations set forth herein.

(18) It was recommended that the older and newer tire and inner tube plants subcategories be combined, since the limitations set forth for each of the two subcategories are the same.

The original purpose of the subcategorization for the tire and inner tube plants subcategories was to identify the relative economic impact for old and new plants. Since the Development Document and the Economic Analysis report for the industry clarify the differences in cost for old and new plants, the need to retain the separate subcategorization for older and newer plants is dissipated. The subcategories, therefore have been combined, and the regulation modified to reflect the change.

(19) Two commenters stated that the accuracy of the cost estimates is less than satisfactory for the synthetic rubber subcategories. Costs and economic impacts should be reexamined.

The cost estimates provided in the Development Document and used for the economic analysis have been reexamined. It is the Agency's judgment that the cost estimates, although subject to minor errors and miscalculations, in general accurately reflect the economic impact on the various segments of the industry.

(20) Another commenter thought that the methodology statements are incorrect.

The Agency and the economics contractor have reviewed the methodology and continue to believe that it represents the economic situation fairly.

(21) It was suggested that the Agency did not examine the economic impact or differential treatment costs which would be incurred by small producers.

The Agency has examined a wide range of plants within this industry. All of the small plants of which we are aware discharge into municipal treatment systems and will therefore not be directly affected by these guidelines. However, because there is a possibility that small plants may exist which discharge directly into navigable waters, the treatment cost which such a plant would incur were examined and discussed in the development document.

(22) A comment was made that the economic analysis presents costs based on a breakdown different from that of the Development Document.

This was checked and the Agency found that the economic analysis used investment and annual costs based on costs provided in the Development Document.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comment and continuing review and evaluation of the proposed regulation by the EPA, the following changes have been made in the regulation.

(1) The older tire and inner tube plants subcategory and the newer tire and inner tube plants subcategory have been combined and designated as tire and inner tube plants subcategory.

(2) The subparts of the regulation have been numbered to reflect a total of four subcategories instead of five.

(3) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) Economic impact.

The resultant changes to the regulation will not affect the results of the economic analysis prepared for the proposed regulation.

(d) Cost-benefit analysis.

The detrimental effects of the constituents of waste waters now discharged by point sources within the tire and synthetic segment of the rubber processing point source category are discussed in section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Tire and Synthetic Segment of the Rubber Processing Point Source Category" (February 1974). It is not feasible to quantify in economic

terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines RUBBER PROCESSING INDUSTRY" (September 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the rubber processing industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of Section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Tire and Synthetic Segment of the Rubber Processing Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C. 20401 for a nominal fee.

(f) Final rulemaking.

In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding a new Part 428, Rubber Processing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective April 22, 1974.

Dated: February 8, 1974.

RUSSELL E. TRAIN,
Administrator.

PART 428—RUBBER MANUFACTURING POINT SOURCE CATEGORY

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Subpart A—Tire and Inner Tube Plants Subcategory

§ 428.10 Applicability; description of the tire and inner tube plants subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the production of pneumatic tires and inner tubes in tire and inner tube plants.

§ 428.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "raw material" shall mean all natural and synthetic rubber, carbon black, oils, chemical compounds, fabric and wire used in the manufacture of pneumatic tires and inner tubes or components thereof.

(c) The term "oil and grease" shall mean those components of a waste water amenable to measurement by the method described in Methods for Chemical Analysis of Water and Wastes, 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

§ 428.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.096	0.064
Oil and grease	.024	.016
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
TSS	0.096	0.064
Oil and grease	.024	.016
pH	Within the range 6.0 to 9.0.	

§ 428.13 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.096	0.064
Oil and grease	.024	.016
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
TSS	0.096	0.064
Oil and grease	.024	.016
pH	Within the range 6.0 to 9.0.	

§ 428.14 Reserved.

§ 428.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.096	0.064
Oil and grease	.024	.016
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
TSS	0.096	0.064
Oil and grease	.024	.016
pH	Within the range 6.0 to 9.0.	

§ 428.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the tire and inner tube plants subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.15; *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart B—Emulsion Crumb Rubber Subcategory

§ 428.20 Applicability; description of the emulsion crumb rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of emulsion crumb rubber.

§ 428.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "oil and grease" shall mean those components of a waste water amenable to measurement by the method described in Methods for Chemical Analysis of Water and Wastes, 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

§ 428.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	12.00	8.00
BOD5	.60	.40
TSS	.98	.65
Oil and grease	.24	.16
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	12.00	8.00
BOD5	.60	.40
TSS	.98	.65
Oil and grease	.24	.16
pH	Within the range 6.0 to 9.0.	

§ 428.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	3.12	2.08
BOD5	.12	.08
TSS	.24	.16
Oil and grease	.12	.08
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	3.12	2.08
BOD5	.12	.08
TSS	.24	.16
Oil and grease	.12	.08
pH	Within the range 6.0 to 9.0.	

§ 428.24 Reserved.

§ 428.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: the limitations shall be as specified in § 428.22.

§ 428.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the emulsion crumb rubber subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart C—Solution Crumb Rubber Subcategory

§ 428.30 Applicability; description of the solution crumb rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the

§ 428.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "oil and grease" shall mean those components of waste water amenable to measurement by the method described in Methods for Chemical Analysis of Water and Wastes, 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

§ 428.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	5.91	3.94
BOD5	.60	.40
TSS	.98	.65
Oil and grease	.24	.16
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	5.91	3.94
BOD5	.60	.40
TSS	.98	.65
Oil and grease	.24	.16
pH	Within the range 6.0 to 9.0.	

§ 428.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	3.12	2.08
BOD5	.12	.08
TSS	.24	.16
Oil and grease	.12	.08
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	3.12	2.08
BOD5	.12	.08
TSS	.24	.16
Oil and grease	.12	.08
pH	Within the range 6.0 to 9.0.	

§ 428.34 [Reserved]

§ 428.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: the limitations shall be as specified in § 428.32.

§ 428.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the solution crumb rubber subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.-133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.35: *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pre-

treatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart D—Latex Rubber Subcategory

§ 428.40 Applicability; description of the latex rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of latex rubber.

§ 428.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "oil and grease" shall mean those components of waste water amenable to measurement by the method described in Methods for Chemical Analysis of Water and Wastes, 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

§ 428.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) and factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	10.27	6.85
BOD5	.51	.34
TSS	.82	.55
Oil and grease	.21	.14
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	10.27	6.85
BOD5	.51	.34
TSS	.82	.55
Oil and grease	.21	.14
pH	Within the range 6.0 to 9.0.	

§ 428.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	2.66	1.78
BOD5	.11	.07
TSS	.21	.14
Oil and grease	.11	.07
pH	Within the range 6.0 to 9.0.	
	English units (lb/1,000 lb of product)	
COD	2.66	1.78
BOD5	.11	.07
TSS	.21	.14
Oil and grease	.11	.07
pH	Within the range 6.0 to 9.0.	

§ 428.44 [Reserved]

§ 428.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new point source subject to the provisions of this subpart: the limitations shall be as specified for § 428.42.

§ 428.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the latex rubber subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.45; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

[FR Doc.74-3715 Filed 2-20-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 428]

RUBBER PROCESSING POINT SOURCE CATEGORY

Application of Effluent Limitations Guidelines

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) (33 U.S.C. 1251, 1311, 1314 and 1317(b)); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 428—Rubber Processing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the tire and inner tube plants subcategory, emulsion crumbs rubber subcategory, solution crumb rubber subcategory, latex rubber subcategory, subcategories of the rubber processing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR 428) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act: *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant: *And provided further*, That when the effluent limitations guideline for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is appropriate to support the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 428.15, 428.25, 428.35, 428.45, and 428.55 of the proposed regulation for point sources within the tire and inner tube plants, emulsion crumb rubber, solution crumb rubber and latex rubber subcategories (October 11, 1973; 38 FR 28219), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 428.16, 428.26, 428.36, and 428.46 which state the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Tire and Synthetic Segment of the Rubber Processing Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines, Rubber Industry", (September 1973) was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653) The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from rubber processing, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of tires and inner tubes and synthetic rubbers. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial

number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the rubber processing category (38 FR 28219; October 11, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 428) which currently is being published in the Rules and Regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the tire and inner tube plants, emulsion crumb rubber, solution crumb, rubber and latex rubber subcategories the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Document the process waste waters from plants in the tire and inner tube plants subcategory contain suspended solids, oil and grease and pH. The process waste water from plants in the emulsion crumb rubber, solution crumb rubber and latex rubber subcategories contain BOD5, COD, suspended solids, oil and grease and pH. Accordingly, it is the opinion of the EPA that because the suspended solids, and pH discharged by tire and inner tube plants are recognized as compatible pollutants and because the relatively low concentration of oil and grease discharged by such plants are compatible with adequately designed public treatment works, the first option is appropriate and discharge of these pollutants without pretreatment should be allowed. For plants in the emulsion crumb, solution crumb and latex rubber subcategories, BOD5, suspended solids, and pH are recognized as compatible pollutants, as well as oil and grease which is present in low concentration and is compatible with adequately designed public treatment works. However, the COD contained in the process waste waters is not compatible if introduced into a publicly owned treatment works untreated because it may obstruct the flow in sewers or interfere with the proper operation of the treatment works. Therefore, it is the opinion of the EPA that the guidlines should apply except that BOD5, suspended solids, oil and grease as found in discharges from this industry segment, and pH are recognized as compatible pollutants and discharge of these pollutants without pretreatment should be allowed.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR 428 be amended to add §§ 428.14, 428.24, 428.34, and 428.44. All comments received on or by March 25, 1974 will be considered.

Dated: February 8, 1974.

RUSSELL E. TRAIN,
Administrator.

PART 428—RUBBER PROCESSING POINT SOURCE CATEGORY

40 CFR Part 428 is proposed to be amended as follows:

§ 428.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 428.12 above shall not apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

§ 428.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines for chemical oxygen demand set forth in 40 CFR 428.22 above shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

§ 428.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines for chemical oxygen demand set forth in 40 CFR 428.32 above shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

§ 428.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines for chemical oxygen demand set forth in 40 CFR 428.42 above shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

LOW-NOISE-EMISSION PRODUCTS

CERTIFICATION PROCEDURES

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER G—NOISE ABATEMENT PROGRAMS

PART 203—LOW-NOISE-EMISSION PRODUCTS

Certification Procedures

The Environmental Protection Agency hereby establishes a new Part 203 of Title 40 of the Code of Federal Regulations (40 CFR 203.1 through 203.8).

Section 15 of the Noise Control Act of 1972, Public Law 92-574, 86 Stat. 1234, established a process under which the Federal Government will give preference in its purchasing to products whose noise emissions are significantly lower than those required by the Federal noise source emission standards, promulgated pursuant to section 6 of the act.

The process involves three steps. First, EPA will determine upon receipt of a properly filed certification application whether a class or model of product is a low-noise-emission product. Second, EPA will decide whether the low-noise-emission product is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government. If the product is found suitable, the Administrator will issue a certificate for that product, effective for a period of one year from the date of issuance. Third, the Administrator of the General Services Administration will determine whether the certified product has procurement costs which are no more than 125 percent of the retail price of the least expensive type of product for which they are certified substitutes. If the low-noise-emission product meets this final requirement, it should be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of the products for which it is a suitable substitute. The Administrator of GSA will promulgate separate procedures prescribing the circumstances under which the various Federal agencies will be required to purchase certified low-noise-emission products.

Section 15(b)(3) of the act also provides that the Administrator may establish a Low-Noise-Emission Product Advisory Committee. The regulations proposed on May 2, 1973, provided for such a committee to be composed of the Administrator of the Environmental Protection Agency or his designee, representatives of Federal agencies, and private individuals. The regulations herein omit reference to an advisory committee since the Administrator has decided to defer establishing the committee until a later date.

The notice of proposed rule making (NPRM) was issued in the FEDERAL REGISTER on May 2, 1973, in volume 38, number 84, page 10821. Comments were invited to be submitted to EPA on July 2, 1973, for consideration prior to issuing the regulation.

The definition of retail price in the Noise Control Act of 1972 caused considerable difficulty with the Federal agencies that have commented upon this regulation. Since the term "retail price" is not actually used in this regulation, EPA decided that it was unnecessary to define the term for purposes of its regulation. The General Services Administration has responsibility under the act to administer the retail price determinations.

It was suggested that the definition of the term "product" should be included as defined in section 3(3)(b)(iii) of the act. This suggestion has been adopted and appears in § 203.15(5).

Another comment questions whether EPA possesses the expertise to make suitable substitute decisions. Section 203.5(a) has been modified to specify that the Administrator will consult with the appropriate Federal agencies before making suitable substitute decisions.

Another comment recommended that the regulations should provide procedures prescribing the circumstances and method under which agencies other than the General Services Administration will be required to purchase certified low-noise-emission products. Since the General Services Administration has primary responsibility for administering government purchases, EPA believes that the GSA should prescribe the circumstances and methods under which all agencies will be required to purchase certified low-noise-emission products. However, the language of § 203.6(b) has been modified to indicate that GSA will act in coordination with other Federal agencies.

It was also suggested that any procurement of $10,000 or less should be exempt from the operation of the act. This suggestion was rejected since the Administrator does not have authority, under section 15 of the act, to exempt procurement below a specified dollar amount.

It was recommended, that reimbursement procedures for purchase of Low-Noise-Emission Products (LNEP) by Federal agencies be included in the regulation. Each Federal agency planning to make LNEP purchases should include a request for additional funds authorized in section 15(g) for these purchases in their budget submission to the Office of Management and Budget.

One comment recommended that § 203.2 should be modified to indicate that the Administrator will request the submission only of information relative to the requirements of Federal procurement specifications. This suggestion was rejected because EPA believes that the Administrator has implicit authority to request the submission of all information necessary to make a reasoned decision, especially where purchase specifications do not exist.

A request was made that the definition of "Low-Noise-Emission Product Determination" in § 203.1(a)(5) be modified by deleting the reference to a specific low-noise-emission product criterion. This suggestion was rejected because the agency believes that manufacturers should be given notice regarding the amount of reduction that will be necessary to qualify as a low-noise-emission product.

It was also suggested that § 203.4(a)(2) be amended by eliminating the parenthetical reference to the issuance of low-noise-emission product criterion. This suggestion has been adopted.

In addition to these major comments, there were others that required minor clarification of the regulations.

The regulations prescribe procedures for the certification of low-noise-emission products. They do not contain the low-noise-emission criterion nor do they contain the specific data requirements necessary for deciding whether the product is a "suitable substitute". These will be published at a later date.

This regulation is issued under the authority of section 15 of the Noise Control Act of 1972 (Public Law 92-574, 86 Stat. 1234, and will take effect 30 days after promulgation (_____, 1974).

Dated: February 13, 1974.

RUSSELL E. TRAIN,
Administrator, Environmental Protection Agency.

Part 203 of Title 40 is added to read as follows:

Sec.
203.1 Definitions.
203.2 Application for Certification.
203.3 Test Procedures.
203.4 Low-Noise-Emission Product Determination.
203.5 Suitable Substitute Decision.
203.6 Contracts for Low-Noise-Emission Products.
203.7 Postcertification Testing.
203.8 Recertification.

AUTHORITY: Section 15, Noise Control Act, 1972, Public Law 92-574, 86 Stat. 1234.

§ 203.1 Definitions.

(a) As used in this part, any term not defined herein shall have the meaning gven it in the Noise Control Act of 1972 (Public Law 92-574).

(1) "Act" means the Noise Control Act of 1972 (Public Law 92-574).

(2) "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) "Administrator" means the Administrator of the Environmental Protection Agency.

(4) "Product" means any manufactured article or goods or component thereof; except that such term does not include—

(i) any aircraft, aircraft engine, propellor or appliance, as such terms are defined in Section 101 of the Federal Aviation Act of 1958; or

(ii) (*a*) any military weapons or equipment which are designed for combat use; (*b*) any rockets or equipment which are designed for research, experimental or developmental work to be performed by the National Aeronautics and Space Administration; or (*c*) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental

work done by or for the Federal Government.

(5) "Low-Noise-Emission Product Determination" means the Administrator's determination whether or not a product, for which a properly filed application has been received, meets the low-noise-emission product criterion.

(6) "Suitable Substitute Decision" means the Administrator's decision whether a product which the Administrator has determined to be a low-noise-emission product is a suitable substitute for a product or products presently being purchased by the Federal Government.

§ 203.2 Application for certification.

(a) Any person desiring certification of a class or model of product under section 15 of the act shall submit to the Administrator an application for certification. The application shall be completed upon such forms as the Administrator may deem appropriate and shall contain:

(1) A description of the product, including its power source, if any; and

(2) Information pertaining to the test facility for the product establishing that the test facility meets all requirements which EPA may prescribe; and

(3) All noise emission data from the test of the product; and

(4) Data required by the Administrator relative, but not limited to, the following characteristics;

(i) Safety;

(ii) Performance Characteristics;

(iii) Reliability of product and reliability of low-noise-emission features;

(iv) Maintenance;

(v) Operating Costs;

(vi) Conformance with Federal Agency Purchase Specifications; and

(5) Such other information as the Administrator may request.

(b) Specific data requirements relative to (a) (4) of this section will be published separately from the low-noise-emission criterion for that product or class of products.

(c) The Administrator will, immediately upon receipt of the application for certification, publish in the FEDERAL REGISTER a notice of the receipt of the application. The notice will request written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of product under consideration.

§ 203.3 Test procedures.

(a) The applicant shall test or cause his product to be tested in accordance with procedures contained in the regulations issued pursuant to section 6 of the act unless otherwise specified.

(b) The Administrator may conduct whatever investigation is necessary, including actual inspection of the product at a place designated by him.

§ 203.4 Low-noise-emission product determination.

(a) The Administrator will, within ninety (90) days after receipt of a properly filed application for certification, determine whether such product is a low-noise-emission product. In doing so, he will determine if the product:

(1) Is one for which a noise source emission standard has been promulgated under section 6 of the act; and

(2) Emits levels of noise in amounts significantly below the levels specified in noise emission standards under regulations under section 6 of the act applicable to that product or class of products;

(3) Is labeled in accordance with regulations issued pursuant to section 8 of the act.

(b) The Administrator will, upon making the determination whether a product is a low-noise-emission product, publish in the FEDERAL REGISTER notice of his determination, and the reasons therefor.

(c) The notice of determination that a product is a low-noise-emission product shall be revocable whenever a change in the low-noise-emission product criterion for that product occurs between determination and decision. Notice of any revocation will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor.

(d) The notice of determination that a product is a low-noise-emission product shall expire upon publication in the FEDERAL REGISTER of the Administrator's notice of a decision that a product will not be certified.

§ 203.5 Suitable substitute decision.

(a) If the Administrator determines that a product is a low-noise-emission product, then within one hundred and eighty (180) days of such determination, in consultation with the appropriate Federal agencies, the Administrator will decide whether such product is a suitable substitute for any class or model or product being purchased by the Federal Government for use by its agencies. Such decision will be based upon the data obtained under § 203.2 of this part, the Administrator's evaluation of the data, comments of interested parties, and, as the Administrator deems appropriate, an actual inspection or test of the product at such places and times as the Administrator may designate.

(b) In order to compare the data for any class or model of product with any class or model of product presently being purchased by the Federal Government for which the applicant seeks to have its product substituted, the Administrator will enter into appropriate agreements with other Government agencies to gather the necessary data regarding such class or model.

(c) Immediately upon making the decision as to whether a product determined to be a low-noise-emission product is a suitable substitute for any product or class of products being purchased by the Federal Government for its use, the Administrator shall publish in the FEDERAL REGISTER notice of such decision and the reasons therefor.

(d) If the Administrator decides that the product is a suitable substitute for products being purchased by the Federal Government, he will issue a certificate that the product is a suitable substitute for a product or class of products presently being purchased by the Federal Government and will specify with particularity the product or class of products for which the certified product is a suitable substitute.

(e) Any certification made under this section shall be effective for a period of one year from date of issuance.

§ 203.6 Contracts for low-noise-emission products.

(a) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product will be incorporated by reference in any contract for the procurement of such product.

(b) A determination of price to the Government of any certified low-noise-emission product will be made by the Administrator of General Services in coordination with the appropriate Federal agencies in accordance with such procedures as he may prescribe and with subsection c(1) of section 15 of the act.

§ 203.7 Post-certification testing.

The Administrator will, from time to time, as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise emission levels exceed the levels on which certification was based, the Administrator shall give the suppliers of such product written notice of this finding, publish such findings in the FEDERAL REGISTER and give the supplier an opportunity to make necessary repairs, adjustments or replacements. If no repairs, adjustments or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

§ 203.8 Recertification.

(a) A product for which a certificate has been issued may be recertified for the following year upon reapplication to the Administrator for this purpose upon such forms as the Administrator may deem appropriate.

(b) If the applicant supplies information establishing that:

(1) The data previously submitted continues to describe his product for purpose of certification;

(2) The low-noise-emission product criterion and "suitable substitute" criteria are to be the same during the period recertification is desired; and

(3) No notice has been issued under § 203.7,

then recertification will be made within 30 days after receipt of an appropriate recertification application by the Administrator.

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PART IV

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

AIRPORT AID PROGRAM

Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 152]

[Docket No. 13545; Notice No. 74-7]

AIRPORT AID PROGRAM

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Part 152 of the Federal Aviation Regulations to implement certain revised requirements for administering grants-in-aid to State and local governments under the Airport and Airway Development Act of 1970.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before March 25, 1974, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The basis for these proposed revised administrative requirements is Office of Management and Budget (OMB) Circular A-102 dated October 19, 1971 (with supplementing Transmittal Memorandums dated January 25, 1972 and September 8, 1972), and OMB Circular A-87 dated May 9, 1968 (amended by Transmittal Memorandum No. 1 dated June 17, 1970).

OMB Circular A-102 promulgated Attachments A through O containing standards for establishing consistency and uniformity among Federal agencies in the administration of grants to State and local governments. Also included in the Circular are standards to insure the consistent implementation of sections 202, 203, and 204 of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101).

By memorandum of March 27, 1969, to the Office of Management and Budget, and to ten Federal agencies engaged in domestic grant-in-aid programs, the President ordered a three-year effort to simplify, standardize, decentralize and otherwise modernize the Federal grant machinery. The standards subsequently developed and included in the attachments to OMB Circular A-102 will replace a multitude of varying and sometimes conflicting requirements in the same or similar subject matters which have been burdensome to State and local governments. Inherent in this standardization process is the concept of placing greater reliance on State and local governments. In addition, The Intergovernmental Cooperation Act of 1968 was passed, in part, for the purposes of: (1) Achieving the fullest cooperation, and coordination of activities among levels of government; (2) improving the administration of grants-in-aid to the States; and (3) establishing coordinated intergovernmental policy and administration of Federal assistance programs. This Act provided certain basic policies pertaining to administrative requirements to be imposed upon the States as a condition to receiving Federal grants. The implementing instructions of these policies was initially issued in OMB Circular A-96 dated August 29, 1969. OMB Circular A-102 modifies these instructions in the interest of achieving further consistency in implementing that Act.

OMB Circular A-102 includes 15 attachments, Attachments A through O, each of which prescribes standards for a separate area of grant administration, as follows:

Attachment A—Cash Depositories.
Attachment B—Bonding and Insurance.
Attachment C—Retention and Custodial Requirements for Records.
Attachment D—Waiver of "Single" State Agency Requirements.
Attachment E—Program Income.
Attachment F—Matching Share.
Attachment G—Standards for Grantee Financial Management Systems.
Attachment H—Financial Reporting Requirements.
Attachment I—Monitoring and Reporting of Program Performance.
Attachment J—Grant Payment Requirements.
Attachment K—Budget Revision Procedures.
Attachment L—Grant Closeout Procedures.
Attachment M—Standard Forms for Applying for Federal Assistance.
Attachment N—Property Management Standards.
Attachment O—Procurement Standards.

OMB Circular A-87 promulgates principles and standards for determining costs applicable to grants and contracts with State and local governments. They are designed to provide the basis for a uniform approach to the problem of determining costs and to promote efficiency and better relationships between grantees and their Federal counterparts.

To the extent that OMB Circulars A-102 and A-87 are directive upon the FAA, those requirements have been, or will be, implemented by internal directive or policy guidance. Standards and requirements applicable to sponsors or grantees are proposed to be implemented by amendments to appropriate sections of Part 152 of the Federal Aviation Regulations, and by including certain of the material as appendices to Part 152. For convenience and clarity, OMB Circular A-87 and Attachments G, N, and O of OMB Circular A-102, have been edited and appear as Appendix J, K, L, and M, respectively, of Part 152. In general, only those portions which are directive upon Federal agencies have been deleted as superfluous for the purposes of Part 152.

This amendment proposes a number of significant changes in grant administration. A brief discussion of major changes is set forth below:

Appendix J, which is derived from OMB Circular A-87, prescribes principles and standards for determining costs applicable to grants and contracts with State and local governments, and would allow under the Planning Grant Program certain indirect costs, principally certain administrative costs, and require sponsors to support such costs by means of a cost allocation plan or indirect cost proposal.

Appendix K, which is derived from Attachment G to OMB Circular A-102, prescribes standards for financial management systems required to be established and maintained by sponsors.

Appendix L, which is derived from Attachment N to OMB Circular A-102, prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments.

Appendix M, which is derived from Attachment O of OMB Circular A-102, provides standards for use by State and local governments in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal grant funds.

New application and payment forms are proposed by this Notice. The grant agreement form now in use would continue to be used.

Revised grant payment procedures are proposed herein. Generally, reimbursement up to the full amount of the grant without audit may be made where allowability of costs can be determined prior to audit, and partial grant payments could be made as advance payments, under certain conditions, up to 90 percent of the estimated United States' share of project costs or the grant amount.

Provisions for withholding of grant payments under certain conditions, and for suspension and termination of grants for cause or convenience, and for requesting reconsideration of suspension or termination actions by the Administrator are proposed.

Information and data previously required to be submitted in the summary of project costs and in periodic cost estimates would be submitted in periodic financial reports (requests for payment) and in program performance reports.

Under the planning grant program, advance payments could be made by letters of credit or by Treasury check, under certain conditions, up to the full amount of the grant agreement.

Real property donated to the sponsor by another public agency, and previously not an allowable project cost, would be an allowable project cost.

Copies of OMB Circular A-102 and OMB Circular A-87 may be obtained from FAA District Airport offices and FAA Regional offices.

By Executive Order dated May 9, 1973, the President transferred certain functions of the Office of Management and Budget relating to financial and property management to the Secretary of Commerce and the Administrator of the General Services Administration. Pursuant to that Order (which supersedes

Executive Order 11541 of July 1, 1970 to the extent that it is inconsistent therewith) the program adminstration standards promulgated by OMB Circulars A-87 and A-102 are now administered by the Administrator of the General Services Administration.

In the interest of Government-wide grant-in-aid program uniformity, deviation from the requirements of OMB Circular A-102 and A-87 will be permitted only in exceptional cases and where adequate justification can be presented to the Administrator of the General Services Administration. However, recommendations for change or amendment will be carefully considered, and to the extent that such changes or amendments are permitted by existing law and appear to offer benefits in program administration, recommendations will be made to the Office of the Secretary of Transportation.

This amendment is proposed under the authority of sections 11 through 27 of the Airport and Airway Development Act of 1970 (84 Stat. 220-233), and § 1.47(g) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.47(g)).

In consideration of the foregoing, it is proposed to amend Part 152 of the Federal Aviation Regulations as set forth below.

Issued in Washington, D.C., on February 14, 1974.

CLYDE W. PACE, Jr.,
Director, Airports Service.

1. By amending § 152.23 as follows:

* * * * *

a. By amending the caption, adding a new paragraph (a)(1), by renumbering paragraphs (a) (1), (2), (3), (4), (5), (6), (7) as (a) (2), (3), (4), (5), (6), (7), (8) respectively and by amending subparagraph (a)(4)(i) by changing the reference "FAA Form 5100-3" to "FAA Form 5100-30."

§ 152.23 Procedures: preapplication for aid; accompanying information.

(a) *Preapplication for aid.* An eligible sponsor that desires to obtain Federal aid for eligible airport development must submit to the appropriate FAA office (Airports District Office having jurisdiction over the area where the sponsor is located, or, where there is no such office, the regional office having that jurisdiction) a preapplication on FAA Form 5100-30, accompanied by the following:

(1) A list of the items of airport development requested for programming, incuding an itemized estimated cost of such work. A sketch or sketches of the airport layout should be prepared indicating thereon by appropriate legend, the location of each item of work proposed, using the same item numbers as set forth in the itemization listing.

§ 152.25 [Amended]

2. By amending subparagraph (a) of § 152.25 by changing the reference to "FAA Form 5100-10" to "FAA Form 5100-100."

§ 152.29 [Amended]

3. By amending paragraph (a) of § 152.29 by deleting the word "contains" in the second sentence and by substituting in lieu thereof the words "must include."

4. By amending § 152.47 as follows:

a. By amending paragraph (a)(8) by deleting the word "specifically."

b. By deleting paragraph (b)(5) and by renumbering paragraph (b)(6) as paragraph (b)(5).

c. By adding a new paragraph (c)(6) to read as follows:

§ 152.47 Project costs.

* * * * *

(c) *Allowable project costs.* * * *

(6) Be a direct cost determined in accordance with the cost principles for States and local governments in Appendix J of this part.

5. By amending § 152.51 as follows:

a. By amending the caption and by inserting a new paragraph (a) and by deleting paragraph (b) and by redesignating paragraph (a) as paragraph (b) to read as follows:

§ 152.51 Contracting requirements: performance of construction work; general requirements.

(a) *Contracting requirements.* Each contract under a project must meet the requirements of local law and the requirements and standards contained in Appendix M of this part. The sponsor shall establish procedures for procurement of supplies, equipment, construction, and other services funded under the project which meet the requirements of Appendix M.

6. By amending § 152.53 as follows:

a. By amending paragraph (a) by deleting the figures "$2,000" that appear in the first sentence and by substituting in lieu thereof the figures "$2,500."

b. By deleting the words "and that the contract conforms to the sponsor's grant agreement with the United States" which appear at the end of the first sentence in paragraph (e).

c. By amending paragraph (e) by adding the following at the end thereof:

§ 152.53 Performance of construction work: letting of contracts.

* * * * *

(e) * * * A sponsor's proposed contract must have preaward review and approval of the FAA in any of the following circumstances:

(1) The sponsor has not complied with the standards of Appendix M of this part.

(2) The contract is proposed to be awarded on a sole-source basis and is expected to exceed $5,000.

(3) The proposed contract is expected to exceed $500,000.

(4) The sponsor has not previously received a grant from the Department of Transportation.

(5) The FAA requests that the proposed contract be submitted for preaward review and approval.

7. By amending § 152.63 to read as follows:

§ 152.63 Financial management systems: accounting and audit of sponsor and contractor records.

(a) *Financial management system.* Each sponsor shall establish and maintain a financial management system that meets the standards of Appendix K of this Part.

(b) *Accounting records.* Each sponsor shall establish and maintain, for each individual project, an adequate accounting record to allow appropriate personnel of the FAA to determine all funds received (including funds of the sponsor and funds received from the United States or other sources), and to determine the allowability of all incurred costs of the project. The sponsor shall segregate and group project cost so that it can furnish, on due notice, cost information in the following cost classifications:

(1) Purchase price or value of land.

(2) Cost of relocation payment and assistance.

(3) Incidental costs of land acquisition.

(4) Costs of contract construction.

(5) Costs of force account construction.

(6) Engineering costs of plans and designs.

(7) Engineering costs of supervision and inspection.

(8) Other administrative costs.

(c) *Documentary evidence.* The sponsor shall obtain and retain, for a period of three (3) years after the date of the final payment request, documentary evidence such as invoices, cost estimates, and payrolls supporting each item of project costs.

(d) *Retention of evidence of payment.* The sponsor shall retain, for a period of three (3) years after the date of the final payment request, evidence of all payments for items of project costs including vouchers, cancelled checks or warrants, and receipts for cash payment.

(e) *Availability of records.* The sponsor shall allow the Administrator and the Comptroller General of the United States, or an authorized representative of either of them, access to any of its books, documents, papers, and records that are pertinent to grants received under the Airport Development Aid Program for the purposes of accounting and audit. Appropriate FAA personnel may make progress audits at any time during the project, upon notice to the sponsor. If audit findings have not been resolved, records shall be retained until such findings have been resolved. Records for nonexpendable property which was acquired with Federal funds shall be retained for 3 years after final disposition of the property. Microfilm copy of original records may be substituted for original records with the approval of the FAA. If the FAA determines that certain records have long-term retention value, the sponsor shall transfer custody of those records to the FAA on request.

(f) *Availability of contractor's records.* The sponsor shall include in each contract of the cost-reimbursable type a clause which allows the Administrator and the Comptroller General of the

United States, or an authorized representative of either, access to the contractor's records pertinent to the contract for the purposes of accounting and audit.

(g) *Property management standards.* The sponsor shall establish and maintain property management standards for the utilization and disposition of property furnished by the Federal government or acquired in whole or in part with Federal funds by the sponsor in accordance with Appendix L of this part.

8. By adding a new § 152.64 to read as follows:

§ 152.64 Noncompliance with conditions of grant: suspension or termination of grant.

(a) *Suspension of grant.* If the sponsor fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor, suspend the grant and withhold further payments pending corrective action by the sponsor or a decision to terminate the grant. After receipt of notice of suspension, the sponsor may not incur additional obligations of grant funds during the suspension. All necessary and proper costs which the sponsor could not reasonably avoid during the period of suspension will be allowed, if such costs are in accordance with Appendix J of this Part.

(b) *Termination for cause.* If the sponsor fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor, terminate the grant in whole, or in part. The notice of termination will contain the reasons for termination and the effective date of termination. After receipt of the notice of termination the sponsor may not incur additional obligations of grant funds. Payments to be made to the sponsor or recoveries of payments by the FAA under the grant shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated in whole, or in part, upon mutual agreement of the FAA and the sponsor. Agreement will be made upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. In such case the sponsor shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many obligations, relating to the terminated portion, as possible. The sponsor will be allowed full credit for the Federal share of the noncancellable obligations which were properly incurred by the sponsor prior to the termination.

(d) *Request for reconsideration.* In any case of suspension or termination, the sponsor may request the Administrator to reconsider the suspension or termination. Such request for reconsideration shall be made within 45 days after receipt of the notice of suspension or termination.

9. By amending § 152.65 by amending paragraph (a) to read as follows:

§ 152.65 Grant payments: General.

(a) *Application.* Except in those instances where the sponsor has secured prior approval by the FAA for the use of FAA Form 5100-61, an application for a grant payment is made on FAA Form 5100-60, accompanied by any supporting information, including appraisals of property interests, that the FAA needs to determine the allowability of any costs for which payment is requested.

* * * * *

10. By adding a new § 152.66 to read as follows:

§ 152.66 Reporting requirements.

(a) *Reporting on accrual basis.* Sponsors shall submit all financial reports on an accrual basis. If records are not maintained on an accrual basis, reports may be based on analysis of records or best estimates.

(b) *Report of Federal cash transactions.* When funds are advanced to a sponsor by Treasury check, the sponsor shall submit FAA Form 5100-62 within 15 working days following the end of each quarter.

(c) *Monitoring and reporting of program performance.* The sponsor shall monitor performance under the project to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being accomplished, and that other performance goals are being achieved. Reviews shall be made for each item of development included in the project and other work to be performed as a condition of the grant agreement. The sponsor shall submit a performance report, on a quarterly basis, which must include—

(1) A comparison of actual accomplishments to the goals established for the period. Where applicable, a comparison will be made on a quantitative basis related to cost data for computation of unit costs;

(2) Reasons for slippage in those cases where established goals are not met; and

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(d) *Notice of delay or acceleration.* The sponsor shall promptly notify the FAA of conditions or events which may delay or accelerate accomplishment of the project. In the event that delay is anticipated, a statement of actions taken or contemplated and Federal assistance required must be included.

(e) *Budget revision.* If any performance review conducted by the sponsor discloses a need for change in the budget estimates, the sponsor shall submit a request for budget revision on FAA Form 5100-100. Such request for prior approval for budget revision shall be made promptly by the sponsor whenever:

(1) The revision results from changes in the scope or objective of the project; or

(2) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(f) The sponsor shall promptly notify the FAA whenever the amount of the grant is expected to exceed the needs of the sponsor by more than $5,000 or 5 percent of the grant amount, whichever is greater.

11. By amending § 152.69 to read as follows:

§ 152.69 Grant payments: Partial and semifinal.

(a) *General.* Subject to the final determination of allowable project costs as provided in § 152.71 of this Part, partial grant payments for project costs may be made to a sponsor upon application. Unless previously agreed otherwise, a sponsor may apply for partial payments on a monthly basis. The payments may be paid, upon application made on FAA Form 5100-60, on the basis of the costs of airport development that is accomplished, or, with the prior approval by FAA for the use of FAA Form 5100-61, on the basis of the estimated costs of airport development expected to be accomplished.

(b) *Reimbursements.* When allowability of costs can be determined, grant payments are made in amounts large enough to bring the aggregate amount of all partial payments to the estimated United States' share of the project costs of the airport development accomplished under the project as of the date of the sponsor's latest application for payment.

(c) *Advance payments.* With prior FAA approval, and if the sponsor applies, partial grant payments may be made as advance payments in an amount large enough to bring the aggregate amount of all partial payments to the estimated project costs of the airport development expected to be accomplished within 30 days after the date of the sponsor's application for advance payment. However, no such advance payment may be made in an amount that would bring the aggregate amount of all partial payments for the project to more than 90 percent of the estimated United States' share of the total estimated cost of all airport development included in the project, but not including contingency items, or 90 percent of the maximum obligation of the United States as stated in the grant agreement, whichever amount is the lower. In determining the amount of a partial grant payment, those project costs that the Administrator considers to be of questionable allowability are deducted both from the amount of project costs incurred and from the amount of the estimated total project cost.

(d) *Withholding of payments.* Payment to the sponsor may be withheld at any time during the grant period if the sponsor has failed to comply with the program objectives, grant award conditions, or Federal reporting requirements, or the sponsor is indebted to the United States and collection of the indebtedness will not impair accomplishment of any grant program sponsored by the United States.

12. By amending § 152.71 to read as follows:

§ 152.71 Grant closeout requirements.

(a) *Program income.* Sponsors that are units of local government shall return all interest earned on advances of grant-in-aid funds to the Federal Government in accordance with a decision of the Comptroller General (42 Comp. Gen. 289). All other program income (gross income) earned by grant-supported activities during the grant period shall be retained by the sponsor and, in accordance with the grant agreement:

(1) Added to funds committed to the project by the FAA and the sponsor and used to further eligible program objectives; or

(2) Deducted from the total project cost for the purpose of determining the net costs on which the Federal share of costs will be based.

(b) *Payment for cost incurred.* When the project is completed in accordance with the grant agreement, the sponsor may apply for payment for incurred costs up to the maximum amount of the grant agreement. When allowability of costs can be determined under § 152.47, payment may be made to the sponsor if—

(1) A final inspection of all work at the airport site has been made jointly by the appropriate FAA office and representatives of the sponsor and the contractor, unless that office agrees to a different procedure for final inspection;

(2) The sponsor has furnished final "as-constructed" plans, unless otherwise agreed to by the Administrator; and

(3) The FAA is satisfied that the project is completed.

(c) *Financial reports.* The sponsor shall furnish within 90 days after the date of completion of a grant all financial, performance, and other reports required as a condition of the grant.

(d) *Property accounting reports.* The sponsor shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of Appendix L of this Part.

(e) *Final determination of U.S. share.* Based upon the final audit, the Administrator determines the total amount of the allowable project costs and makes settlement for any upward or downward adjustments to the Federal share of costs.

§ 152.73 [Amended]

13. By amending paragraph (a) of § 152.73 by changing the reference to "(FAA Form 5100-3)" to "(FAA Form 5100-30)."

14. By amending § 152.75 to read as follows:

§ 152.75 Forms.

(a) *General.* The forms used for the purposes of Subparts B and C of this Part are as follows:

(1) *Preapplication for Federal Assistance. FAA Form 1500-30.* This form establishes formal communication between the sponsor and the Federal Aviation Administration. It contains four parts:

(i) *Part I.* For pertinent information regarding the sponsor and type of assistance being requested.

(ii) *Part II.* For pertinent information regarding ancillary statutory and administrative requirements which have to be considered in approval of a project.

(iii) *Part III.* Project Budget. Identification of the source and amounts of funds to be used in accomplishing the project.

(iv) Part IV. Program Narrative Statement. For pertinent information describing the need, objectives, method of accomplishment, the geographical location of the project, and the benefits expected to be obtained from the assistance.

(2) *Project Application, FAA Form 5100-100.* A formal application for Federal aid to carry out a project under Subparts B and C. It contains five parts:

(i) *Part I.* For pertinent information regarding the sponsor and type of assistance being requested.

(ii) *Part II.* Project Approval Information. For pertinent information regarding ancillary statutory and administrative requirements which have to be considered in approval of project.

(iii) *Part III.* For pertinent budget information necessary for calculation of the Federal grant.

(iv) *Part IV.* Program narrative required for all new grant programs.

(v) *Part V. Assurances.* The applicant assures and certifies that he will comply with certain regulations, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for the proposed federally assisted project.

(3) *Grant Agreement, FAA Form 5100-13.*—(1) *Part I.* Offer by the United States to pay a specified percentage of the allowable costs of the project, as described therein, on specified terms relating to the undertaking and carrying out of the project, determination of allowability of costs, payment of the United States' share, and operation and maintenance of the airport in accordance with assurances in the project application.

(ii) *Part II.* Acceptance of the offer by the sponsor, execution of the acceptance by the sponsor, and certification by its attorney.

(4) *Application for Grant Payment; FAA Form 5100-60, FAA Form 5100-61.* The Outlay Report and Request for Reimbursement, FAA Form 5100-60, provides a detailed breakout of costs incurred by the sponsor, as well as certification provisions to be executed by the sponsor. Item 12. a. should be executed by a sponsor's representative authorized to make the payment request. Item 12. b. should be executed by a sponsor's representative qualified to make such certification. The Request for Advance or Reimbursement, FAA Form 5100-61, does not provide a detailed breakout of incurred costs; the certification is completed by the sponsor's authorized official. The use of FAA Form 5100-61 requires prior approval of FAA.

(5) *Report of Federal Cash Transactions, FAA Form 5100-62.* When funds are advanced to a sponsor through the use of FAA Form 5100-61 the sponsor submits an original and two copies of the Report of Federal Cash Transactions, FAA Form 5100-62 no later than 15 working days following the end of each quarter.

(b) *Availability of forms.* Copies of the forms listed in paragraph (a) of this section, and assistance in completing them are available from FAA offices.

15. By amending § 152.123 to read as follows:

§ 152.123 Application requirements.

(a) *General.* An eligible sponsor that desires to obtain Federal aid for eligible airport master planning or airport system planning, must submit to the appropriate FAA office a completed Application for Federal Assistance (Nonconstruction Programs), FAA Form 5100-101, signed by an authorized representative of the sponsor.

(b) *Coordination.* Evidence of coordination with other agencies and the appropriate state and area-wide clearinghouses, as required by OMB Circular No. A-95, must be attached to the application.

(c) *Budget information.* The budget information required with the application must be sub-divided into the following functions or activities, if appropriate, and the basis for computation of these costs must be included in the submission:

(1) Third party contracts;

(2) Sponsor force account costs; and

(3) Administrative costs.

(d) *Program narrative.* The program narrative submitted with the application must contain at least the following items:

(1) Objective of study: a description of the purpose and objectives of the planning study.

(2) Results and benefits expected: a summation of the results and benefits anticipated as a result of the study.

(3) Work Statement: a detailed description of the proposed project work. This statement must include a description of each work element, a list of organizations, consultants, or other key individuals who will work on the project, and the nature of their contribution, and a proposed schedule of work accomplishment.

(4) Geographic Location: the location of the airport or the boundaries of the planning area.

(e) *Sponsor force account.* If the sponsor proposes to accomplish the project work with its own forces, or those of another public or planning agency, it must request approval from the appropriate FAA office. In requesting this approval, the sponsor must submit, as part of the program narrative, assurance that adequate competent personnel are available to satisfactorily accomplish the proposed planning.

16. By amending paragraph (b)(1) of § 152.125 to read as follows:

§ 152.125 Sponsor eligibility.

* * * * *

(b) *Eligibility requirements.* * * *

(1) Make the certifications, representations, and warranties required in the Application for Federal Assistance (FAA Form 5100-101).

§ 152.129 [Amended]

17. By amending paragraph (c)(18) of § 152.129 by changing the reference to "Office of Management and Budget Circular No. A-87" to "Appendix J of this part."

§ 152.131 [Amended]

18. By amending paragraph (b)(14) of § 152.131 by changing the reference to "Office of Management and Budget Circular No. A-87" to "Appendix J of this Part."

19. By adding a new § 152.136 to read as follows:

§ 152.136 Contracting requirements.

Each contract under a project must meet the requirements of local law and the requirements and standards contained in Appendix M of this Part.

§ 152.137 [Amended]

20. By amending paragraph (e) of § 152.137 by changing the reference to "Office of Management and Budget Circular No. A-87" to "Appendix J of this Part."

21. By adding a new § 152.140 to read as follows:

§ 152.140 Reporting requirements.

(a) *Reporting on accrual basis.* Sponsors shall submit all financial reports on an accrual basis. If records are not maintained on an accrual basis, reports may be based on analysis of records or best estimates.

(b) *Report of Federal cash transactions.* When funds are advanced to a sponsor by letters of credit or Treasury check, the sponsor shall submit FAA Form 5100-62 within 15 working days following the end of each quarter.

(c) *Monitoring and reporting of program performance.* The sponsor shall monitor performance under the project to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. Reviews shall be made for each work element included in the project and other work to be performed as a condition of the grant agreement. The sponsor shall submit a performance report, on a quarterly basis, which must include—

(1) A comparison of actual accomplishments to the goals established for the period. Where applicable, a comparison will be made on a quantitative basis related to cost data for computation of work element costs;

(2) Reasons for slippage in those cases where established goals are not met; and

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high work element costs.

(d) *Notice of delay or acceleration.* The sponsor shall promptly notify the FAA of conditions or events which may delay or accelerate accomplishment of the project. In the event that delay is anticipated, a statement of actions taken or contemplated and Federal assistance required must be included.

(e) *Financial status report.* The sponsor shall submit a financial status report on FAA Form 5100-63 at the completion of the project. In the case of a project more than one year in duration, the report shall be submitted at the end of the first year after issuance of the grant and annually thereafter, and at completion of the project.

22. By amending § 152.141 to read as follows:

§ 152.141 Grant payments.

(a) *Methods of payment.* Grant payments to sponsors will be made by letter of credit, advance by Treasury check, or reimbursement by Treasury checks.

(b) *Letter of credit funding.* Letter of credit funding may not be used unless:

(1) There is or will be a continuing relationship between a sponsor and the FAA for at least a 12-month period and the total amount of advances to be received within that period is $250,000 or more;

(2) The sponsor has established or demonstrated to the FAA the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee; and

(3) The sponsor's financial management system meets the standards for fund control and accountability prescribed in Appendix K of this part.

(c) *Advance by Treasury check.* Advance of funds by Treasury check may be made if the sponsor meets the requirements of § 152.141(b) (2) and (3).

(d) *Reimbursement by Treasury check.* Reimbursement by Treasury check shall be made if the sponsor does not meet the requirements of § 152.141(b) (2) and (3).

(e) *Request for payment.* Except when grant payment is to be made by letter of credit, requests for payment must be made on FAA Form 5100-61, Request for Advance or Reimbursement.

(f) *Withholding of payments.* Payment to the sponsor may be withheld at any time during the grant period if a sponsor has failed to comply with the program objectives, grant award conditions, or Federal reporting requirements, or the sponsor is indebted to the United States and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the United States.

23. By adding a new § 152.142 to read as follows:

§ 152.142 Noncompliance with conditions of grant: suspension or termination of grant.

(a) *Suspension of grant.* If the sponsor fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor, suspend the grant and withhold further payments pending corrective action by the sponsor or a decision to terminate the grant. After receipt of notice of suspension, the sponsor may not incur additional obligations of grant funds during the suspension. All necessary and proper costs which the sponsor could not reasonably avoid during the period of suspension will be allowed, if such costs are in accordance with Appendix J of this part.

(b) *Termination for cause.* If the sponsor fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor, terminate the grant in whole, or in part. The notice of termination will contain the reasons for termination and the effective date of termination. After receipt of the notice of termination the sponsor may not incur additional obligations of grant funds. Payments to be made to the sponsor or recoveries of payment by the FAA under the grant shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated in whole, or in part, upon mutual agreement of the FAA and the sponsor. Agreement will be made upon the termination conditions, including the effective date and, in the case of partial terminations the portion to be terminated. In such case the sponsor shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many obligations, relating to the terminated portion, as possible. The sponsor will be allowed full credit for the Federal share of the noncancellable obligations which were properly incurred by the sponsor prior to the termination.

(d) *Request for reconsideration.* In any case of suspension or termination, the sponsor may request the Administrator to reconsider the suspension or termination. Such request for reconsideration shall be made within 45 days after receipt of the notice of suspension or termination.

24. By amending § 152.143 as follows:

1. By amending the caption and paragraph (b) by deleting the words "final grant payment," which appears in the first sentence, and by substituting in lieu thereof the words "final financial status report,".

2. By amending paragraph (c) and by adding new paragraphs (e) and (f) to read as follows:

§ 152.143 Financial management system; accounting; and audit of sponsor and contractor records.

* * * * *

(c) *Availability of records.* (1) The sponsor shall allow the Administrator and the Comptroller General of the United States, or an authorized representative of either of them, access to any of its books, documents, papers, and rec-

ords that are pertinent to grants received under the Planning Grant.

(2) Program for the purposes of accounting and audit. Appropriate FAA personnel may make progress audits at any time during the project, upon notice to the sponsor. If audit findings have not been resolved, records shall be retained until such findings have been resolved. Records for nonexpendable property which was acquired with Federal funds shall be retained for 3 years after final disposition of the property. Microfilm copy of original records may be substituted for original records with the approval of the FAA. If the FAA determines that certain records have long-term retention value, the sponsor shall transfer custody of those records to the FAA on request.

* * * * *

(e) *Financial management system.* Each sponsor shall establish and maintain a financial management system that meets the standards of Appendix K of this Part.

(f) *Property management standards.* Each sponsor shall establish and maintain property management standards for the utilization and disposition of property furnished by the Federal government, or acquired in whole or in part with Federal funds by the sponsor, in accordance with Appendix L of this Part. The sponsor shall account for any property acquired with grant funds, or received from the Federal government, in accordance with Appendix L.

25. By adding a new § 152.145 to read as follows:

§ 152.145 Grant closeout requirements.

(a) *Notice of completion.* When a project has been completed and the final project report has been received and accepted by the FAA, a notice of project completion will be furnished to the sponsor by the FAA.

(b) *Reports.* The sponsor shall submit to the FAA within 90 days after receipt of the notice of completion all financial, performance, and other reports required as a condition of the grant.

(c) *Program income.* Sponsors that are units of local government shall return all interest earned on advances of grant-in-aid funds to the Federal Government in accordance with a decision of the Comptroller General (42 Comp. Gen. 289).

(d) *Final audit and settlement.* Based upon a final audit, the Administrator determines the total amount of the allowable project costs and makes settlement for any adjustments to the Federal share of costs.

26. By adding new appendices J, K, L, and M as set forth below:

APPENDIX J

There is set forth below principles for determining costs applicable to grants and contracts with State and local governments under the Airport and Airway Development Act of 1970:

PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH STATE AND LOCAL GOVERNMENTS

PART I—GENERAL

A. *Purpose and scope.* 1. *Objectives.* This Appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal, and State, or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended. Under § 152.47, indirect costs are not allowable costs for Airport Development Projects.

2. *Policy guides.* The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that Federally assisted program funds have been expended and acounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.* These principles are applicable in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) under the Airport and Airway Development Act of 1970.

B. *Definitions.* 1. Approval or authorization of the grantor Federal agency means documentation evidencing consent prior to incurring specific cost.

2. Cost allocation plan means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. Cost, as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. Cost objective means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. Federal agency means the Federal Aviation Administration.

6. Grant means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. Grant program means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. Grantee means the department or agency of State or local government which is responsible for administration of the grant.

9. Local unit means any political subdivision of government below the State level.

10. Other State or local agencies means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. Services, as used herein, means goods and facilities, as well as services.

12. Supporting services means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service, and the like.

C. *Basic guidelines*—1. *Factors affecting allowability of costs.* To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs.* a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this Appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits.* a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program

involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. *Composition of cost.* 1. *Total cost.* The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. *Direct costs*—1. *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application.* Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in Section G. of these principles.

F. *Indirect costs*—1. *General.* Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Grantee departmental indirect costs.* All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this Appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs.* A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect costs.

b. *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs.* a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this Appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this Appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. *Cost incurred by agencies other than grantee*—1. *General.* The cost of service provided by other agencies may only include allowable direct costs of the service plus a prorata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost.* In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a specific service during the fiscal year involved.

a. *Standard indirect rate.* An amount equal to ten percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.* A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. *Cost incurred by grantee department for others*—1. *General.* The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

J. *Cost allocation plan*—1. *General.* A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.* The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the Federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Instructions for preparation of cost allocation plans.* The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level as well as indirect cost proposals of individual grantee departments.

4. *Negotiation and approval of indirect cost proposals for States.* a. The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

b. At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in a. above for the negotiation, approval and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. Questions concerning the cost allocation plans approved under a. and b. above should be directed to the agency responsible for such approvals.

5. *Negotiation and approval of indirect cost proposals for local governments.* a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

b. A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for

necessary negotiation, approval and audit of the indirect cost proposal.

6. *Resolution of problems.* To the extent that problems are encountered among the Federal agencies in connection with 4. and 5. above, the Office of Management and Budget will lend assistance as required.

PART II—STANDARDS FOR SELECTED ITEMS OF COST

A. *Purpose and applicability*—1. *Objective.* This part of Appendix J provides standards for determining the allowability of selected items of cost.

2. *Application.* These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in Part I of this Appendix.

B. *Allowable costs*—1. *Accounting.* The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

2. *Advertising.* Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.* Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.* The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.* Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.* Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.* The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.* Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service, and similar expenses are allowable.

10. *Compensation for personal services*—a. *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) is reasonable for the services rendered, (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable; and (3) is determined and supported as provided in b. below. Compensation for employees engaged in Federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the Federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution of time.* Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances.* a. Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate, property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.* The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.* Costs identified under a. and b. below are allowable to to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) Provided pursuant to an approved leave system, and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employers' contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health and welfare costs.* The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy, are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.* Cost of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.* The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.* The cost of materials and supplies necessary to carry out

the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities*—a. *Memberships.* The cost of membership in civic, business, technical and professional organizations is allowable provided:

(1) The benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services or benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.* The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.* Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.* The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

21. *Payroll preparation.* The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards and related activities for grant programs, are allowable.

23. *Printing and reproduction.* Cost for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature, are allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.* The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities, and services for grant programs, is allowable.

25. *Taxes.* In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.* The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.* Costs incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

28. *Travel.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

C. *Costs allowable with approval of grantor agency.* 1. Automatic data processing. The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.* The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.* The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.* The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.* Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (section C.3.) are allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.* These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or lease with option-to-purchase agreement.* The cost of space procured under such arrangements is allowable when specifically approved by the Federal grantor agency.

3. *Capital expenditures.* The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are (a) sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.* a. Costs of insurance required, or approved and maintained pursuant to the grant agreement, is allowable.

b. Costs of other insurance in connection with the general conduct of activities is allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property is unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d. above.

5. *Management studies.* The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.* Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.* Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.* Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. *Unallowable costs.*—1. *Bad debts.* Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.* Unallowable.

4. *Entertainment.* Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.* Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.* The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.* Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.* Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

APPENDIX K

There is set forth below standards for grantee financial management systems applicable to grants under the Airport and Airway Development Act of 1970.

STANDARDS FOR GRANTEE FINANCIAL MANAGEMENT SYSTEMS

1. This appendix prescribes standards for financial management systems of grant-supported activities of State and local governments under the Airport and Airway Development Act of 1970.

2. Grantee financial management systems shall provide for:

a. Accurate, current, and complete disclosure of the financial results of each grant program in accordance with Federal reporting requirements. When a Federal grantor agency requires reporting on an accrual basis and the grantee's accounting records are not kept on that basis, the grantee should develop such information through an analysis of the documentation on hand or on the basis of best estimates.

b. Records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

c. Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

d. Comparison of actual with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the grantor agency.

e. Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawdowns from the U.S. Treasury through his commercial bank as close as possible to the time of making the disbursements.

f. Procedures for determining the allowability and allocability of costs in accordance with the provisions of Appendix J of this Part.

g. Accounting records which are supported by source documentation.

h. Audits to be made by the grantee or at his direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The grantee will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

i. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

3. Grantees shall require subgrantees (recipients of grants which are passed through by the grantee) to adopt all of the standards in paragraph 2 above.

APPENDIX L

There is set forth below property management standards applicable to grants under the Airport and Airway Development Act of 1970.

PROPERTY MANAGEMENT STANDARDS

1. This Appendix prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this Appendix are included.

2. The following definitions apply for the purpose of this Appendix.

a. *Real property.* Real property means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

b. *Personal property.* Personal property means property of any kind, except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

c. *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

d. *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

e. *Excess property.* Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs.

3. Each Federal grantor agency shall prescribe requirements for grantees concerning the use of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

a. The grantee shall use the real property for the authorized purpose of the original grant as long as needed.

b. The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

c. When the real property is no longer needed as provided in a. and b., above, the grantee shall return all real property furnished or purchased wholly with Federal grant funds to the control of the Federal grantor agency. In the case of property purchased in part with Federal grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

4. Standards and procedures governing ownership, use, and disposition of nonexpendable personal property furnished by the Federal Government or acquired with Federal funds are set forth below:

a. *Nonexpendable personal property acquired with Federal funds.* When nonexpendable personal property is acquired by a grantee wholly or in part with Federal funds, title will not be taken by the Federal Government except as provided in paragraph 4a(4), but shall be vested in the grantee subject to the following restrictions on use and disposition of the property:

(1) The grantee shall retain the property acquired with Federal funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Federal funds. When there is no longer a need for the property to accomplish the purpose of the grant program, the grantee shall use the property in connection with other Federal grants it has received in the following order of priority:

(a) Other grants of the same Federal grantor agency needing the property.

(b) Grants of other Federal agencies needing the property.

(2) When the grantee no longer has need for the property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards:

(a) *Nonexpendable property with an acquisition cost of less than $500 and used four years or more.* The grantee may use the property for its own official activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) *All other nonexpendable property.* The grantee may retain the property for its own use provided that a fair compensation is made to the original grantor agency for the latter's share of the property. The amount of compensation shall be computed by applying the percentage of Federal participation in the grant program to the current fair market value of the property.

(3) If the grantee has no need for the property, disposition of the property shall be made as follows:

(a) *Nonexpendable property with an acquisition cost of $1,000 or less.* Except for that property which meets the criteria of (2)(a) above, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed in accordance with (iii) below.

(b) *Nonexpendable property with an acquisition cost of over $1,000.* The grantee shall request disposition instructions from the grantor agency. The Federal agency shall determine whether the property can be used to meet the agency's requirement. If no requirement exists within that agency, the available of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal grantor agency shall issue instructions to the grantee within 120 days and the following procedures shall govern:

(i) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee's participation in the grant program to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the grantee is instructed to otherwise dispose of the property, he shall be reimbursed by the Federal grantor agency for such costs incurred in its disposition.

(iii) If disposition instructions are not issued within 120 days after reporting, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed by applying the percentage of Federal participation in the grant program

to the sales proceeds. Further, the grantee shall be permitted to retain $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(4) Where the grantor agency determines that property with an acquisition cost of $1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, it may reserve title to such property, subject to the following provisions:

(a) The property shall be appropriately identified in the grant agreement or otherwise made known to the grantee.

(b) The grantor agency shall issue disposition instructions within 120 days after the completion of the need for the property under the Federal grant for which it was acquired. If the grantor agency fails to issue disposition instructions within 120 days, the grantee shall apply the standards of 4a(1), 4a(2)(b), and 4a(3)(b).

b. *Federally-owned nonexpendable personal property.* Unless statutory authority to transfer title has been granted to an agency, title to federally-owned property (property to which the Federal Government retains title including excess property made available by the Federal grantor agencies to grantees) remains vested by law in the Federal Government. Upon termination of the grant or need for the property, such property shall be reported to the grantor agency for further agency utilization or, if appropriate, for reporting to the General Services Administration for other Federal agency utilization. Appropriate disposition instructions will be issued to the grantee after completion of Federal agency review.

5. The grantees' property management standards for nonexpendable personal property shall also include the following procedural requirements:

a. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage of Federal funds used in the purchase of property; location, use, and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the grantor agency for its share.

b. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

c. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

d. Adequate maintenance procedures shall be implemented to keep the property in good condition.

e. Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

6. When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal grant purposes, the grantee may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with 4a(2)(b).

7. Specific standards for control of intangible property are provided as follows:

a. If any program produces patents, patent rights, processes, or inventions, in the course of work aided by a Federal grant, such fact shall be promptly and fully reported to the grantor agency. The grantor agency shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and Statement of Government Patent Policy as printed in 36 FR 16889).

b. Where the grant results in a book or other copyrightable material, the author or grantee is free to copyright the work, but the Federal grantor agency reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

APPENDIX M

There is set forth below procurement standards applicable to grants under the Airport and Airway Development Act of 1970.

PROCUREMENT STANDARDS

1. This Appendix provides standards for use by the State and local governments in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive orders.

2. The Standards contained in this Appendix do not relieve the grantee of the contractual responsibilities arising under its contracts. The grantee is the responsible authority, without recourse to the grantor agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

3. Grantees may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that procurements made with Federal grant funds adhere to the standards set forth as follows:

a. The grantee shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal grant funds. Grantee's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee officers, employees, or agents, or by contractors or their agents.

b. All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

c. The grantee shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(1) Proposed procurement actions shall be reviewed by grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(4) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (6) below is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price and other factors considered. (Factors such as discounts, transportation costs, taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the grantee. Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(6) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the grantee if:

(a) The public exigency will not permit the delay incident to advertising;

(b) The material or service to be procured is available from only one person or firm; (All contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the grantor agency for prior approval.)

(c) The aggregate amount involved does not exceed $2,500;

(d) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institutions;

(e) The material or services are to be procured and used outside the limits of the United States and its possessions;

(f) No acceptable bids have been received after formal advertising;

(g) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or

equipment requiring standardization and interchangeability of arts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture;

(h) Otherwise authorized by law, rules, or regulations. Notwithstanding the existence of circumstances justifying negotiation, completion shall be obtained to the maximum extent practicable.

(7) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(8) Procurement records or files for purchases in amounts in excess of $2,500 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(9) A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

4. The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subgrants:

a. Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contracts terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts, amounts for which are in excess of $2,500, shall contain suitable provisions for termination by the grantee, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. In all contracts for construction or facility improvement awarded in excess of $100,000, grantees shall require a performance bond and a payment bond on the part of the contractor, each for 100 percent of the contract price.

d. All contracts and subgrants in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, entitled, "Equal Employment Opportunity," as supplemented in Department of Labor Regulations (41 CFR Part 60). Each contractor or subgrantee shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, sex, and age and which specifies goals and target dates to assure the implementation of that plan. The grantee shall establish procedures to assure compliance with this requirement by contractors or subgrantees and to assure that suspected or reported violations are promptly investigated.

e. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

f. When required by the Federal grant program legislation, all construction contracts awarded by grantees and subgrantees in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

g. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

h. Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Federal grantor agency and the grantee. The contractor shall be advised as to the source of additional information regarding these matters.

i. All negotiated contracts (except those of $2,500 or less) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

j. Each contract of an amount in excess of $2,500 awarded by a grantee or subgrantee shall provide that the recipient will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the recipient that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the grantee shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Violations shall be reported to the grantor agency and the local Internal Revenue Service field office.

k. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.

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