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federal register

THURSDAY, DECEMBER 29, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for January are being accepted for the free workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202–523–3517.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
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	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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[3195-01]

Title 3—The President

Proclamation 4543 • December 27, 1977

Modifying Proclamation No. 3279, as Amended, Relating To Imports of Petroleum and Petroleum Products, and Providing for the Long-Term Control of Imports of Petroleum and Petroleum Products Through a System of License Fees

By the President of the United States of America

A Proclamation

It is necessary that the United States complete the establishment of a Strategic Petroleum Reserve as quickly as possible.

The imposition of license fees on imports of crude oil and products for such Reserve would not carry out the purposes of Proclamation No. 3279, as amended, and could create administrative and other problems with respect to the expeditious completion of the Reserve.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), do hereby proclaim that, effective as of October 1, 1977, Proclamation No. 3279, as amended, is further amended as follows:

Clauses (i) and (ii) of subparagraph (1) of paragraph (a) of Section 3 are revised to read as follows:

"(i) with respect to imports of crude oil (other than that imported by the Department of Energy, or by another person or agency of the Federal Government acting on behalf of the Department, for the Strategic Petroleum Reserve Program) and natural gas products over and above the levels of imports established in Section 2 of this Proclamation, such fees shall be $0.21 per barrel;

(ii) with respect to imports of motor gasoline, unfinished oils, and all other finished products (except ethane, propane, butanes, asphalt and finished products imported by the Department of Energy, or another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program), over and above the levels of imports established in Section 2 of this Proclamation, such fees shall be $0.63 per barrel;".

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of December, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-37191 Filed 12-27-77;3:55 pm]

[3195–01]

Executive Order 12032 • December 27, 1977

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V and Section 604 of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*; 88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, in order to modify, as provided by Section 504(c) of the Trade Act of 1974 (88 Stat. 2070, 19 U.S.C. 2464(c)), the limitations on preferential treatment for eligible articles from countries designated as beneficiary developing countries, and to adjust the original designation of eligible articles taking into account information and advice received in fulfillment of Sections 503(a) and 131–134 of the Trade Act of 1974, it is hereby ordered as follows:

SECTION 1. In order to subdivide existing items for purposes of the Generalized System of Preferences (GSP), the Tariff Schedules of the United States (TSUS) are modified as provided in Annex I, attached hereto and made a part hereof.

SEC. 2. Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is further amended as provided in Annex II, attached hereto and made a part hereof.

SEC. 3. Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in General Headnote 3(c)(iii) of the TSUS, is amended as provided in Annex III, attached hereto and made a part hereof.

SEC. 4. General Headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite those articles, is amended as provided in Annex IV, attached hereto and made a part hereof.

SEC. 5. (a) The amendment made by Annex IV, paragraph (a) of this Order with respect to item 613.18, TSUS, made part hereof by Section 4 above, shall be effective with respect to articles that are both: (1) imported on or after January 1, 1976, and (2) entered for consumption, or withdrawn from warehouse for consumption, on or after March 1, 1977.

(b) The other amendments made by this Order shall be effective with respect to articles that are both: (1) imported on or after January 1, 1976, and (2) entered or withdrawn from warehouse for consumption, on or after January 1, 1978.

THE WHITE HOUSE,
December 27, 1977.

Jimmy Carter

ANNEX I

GENERAL MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

NOTES:

1. Bracketed matter is included to assist in the understanding of proclaimed modifications.

2. The following items, with or without preceding superior descriptions, supersede matter now in the Tariff Schedules of the United States (TSUS). The items and superior descriptions are set forth in columnar form and material in such columns is inserted in the columns of the TSUS designated "Item", "Articles", "Rates of Duty 1", and "Rates of Duty 2", respectively.

Subject to the above notes the TSUS is modified as follows:

1. Item 121.58 is superseded by:

	[Leather, in the rough, partly finished, or finished:]		
	[Other:]		
	[Other:]		
	[Not fancy:]		
"121.56	Reptilian	5% ad val	25% ad val.
121.59	Other	5% ad val.	25% ad val."

2. Item 653.50 is superseded by:

	[Stoves, central-heating furnaces and burners, ranges, cookers, grates, space heaters, and similar heating or cooking apparatus, all the foregoing, of base metal, not electrically operated, of types used in the household, hotels, restaurants, or offices; and parts thereof, of base metal:]		
"653.47	Fireplace grates and parts thereof, wholly or almost wholly of cast-iron	6% ad val.	45% ad val.
653.49	Stoves and stove parts wholly or almost wholly of cast-iron	6% ad val.	45% ad val.
653.51	Other	6% ad val.	45% ad val."

3. Item 653.95 is superseded by:

	[Articles not specially provided for of a type used for household, table or kitchen use;...:]		
	[Articles, wares, and parts, of base metal, not coated or plated with precious metal:]		
	[Of iron or steel:]		
	[Not enameled or glazed with vitreous glasses:]		
	"Other:		
653.93	Cooking ware, and parts thereof, wholly or almost wholly of cast-iron	8.5% ad val.	40% ad val.
653.94	Other	8.5% ad val.	40% ad val."

4.(a) Item 685.25 is superseded by:

	[Radiotelegraphic and radio telephonic transmission and reception apparatus;...:]		
	[Radiotelegraphic,...:]		
	[Other:]		
"685.26	Low-power radio telephonic transceivers operating on frequencies from 49.82 to 49.90 megahertz	6% ad val.	35% ad val.
685.28	Other	6% ad val.	35% ad val."

(b) Conforming change: Headnotes of part 5, Schedule 6 are modified by adding therein:

"3. For the purpose of this part 'transceivers' are combinations of radio transmitting and receiving equipment in a common housing, employing common circuit components for both transmitting and receiving, and which are not capable of simultaneously receiving and transmitting."

5.(a) Item 732.36 is superseded by:			
	[Parts of bicycles:]		
"732.35	Coaster brakes designed for single-speed bicycles	15% ad val.	30% ad val.
732.37	Other parts of bicycles	15% ad val.	30% ad val."
(b) Conforming change: Item 912.10 of the Appendix to the Tariff Schedules of the United States is amended by deleting "(provided for in item 732.36, part 5C, schedule 7)" and by substituting therefor "(provided for in items 732.35 and 732.37, part 5C, schedule 7)."			
6. Item 745.63 is superseded by:			
	[Clasps, handbag, and similar frames incorporating clasps,...:]		
	[Valued not over 20¢ per dozen pieces or parts:]		
	"Sew-on fasteners and parts thereof:		
745.61	Of plastics, in clips suitable for use in a mechanical attaching device	27.5% ad val.	60% ad val.
745.62	Other	27.5% ad val.	60% ad val."

ANNEX II

Annex II to Executive Order No. 11888, as amended by Executive Orders Nos. 11906, 11934, and 11974, is amended--

(a) by deleting the following TSUS item numbers:

653.50
653.95
734.97

(b) by adding in sequence, the following TSUS item numbers:

121.56
613.18
653.51
653.94
685.26
732.35
734.99
745.62

ANNEX III

Annex III to Excutive Order No. 11888, as amended by Executive Orders. Nos. 11906, 11934, and 11974, is amended--

(a) by deleting the following TSUS item number:

613.18
685.25

(b) by adding in sequence, the following TSUS item numbers:

653.47
653.49
653.93
685.28

ANNEX IV

General Headnote 3(c)(iii) of the TSUS, as amended by Executive Orders Nos. 11906, 11934, 11974, is amended--

(a) by deleting the following TSUS item number and country set opposite that number:

613.18	Israel
685.25	Republic of China

(b) by adding in numerical sequence the following TSUS item numbers and countries set opposite these numbers:

653.47	Republic of Korea
653.49	Republic of China
653.93	Republic of China
685.28	Republic of China

[FR Doc.77-37335 Filed 12-28-77;12:11 pm]

rules and regulations

[3128–01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 210—GENERAL ALLOCATION AND PRICE RULES

Amendment to Extend 1973 Recordkeeping

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting an amendment to the recordkeeping requirements of the General Allocation and Price Rules. The amendment extends for six months the period of time during which firms subject to its requirements must retain the records needed to show that prices charged or amounts sold by the firm during the calendar year 1973 complied with the requirements of the mandatory price and allocation regulations.

The Rules currently provide that such records generally must be maintained and preserved for a period of 4 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred or the property was acquired by that firm, whichever is later. The purpose of the amendment is to require, on an interim basis, the continued maintenance and preservation of certain records of transactions occurring during calendar year 1973 while consideration is given to a Notice of Proposed Rulemaking, issued simultaneously herewith, to extend on a permanent basis the period for which records must be maintained and preserved.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Phil White (Office of Enforcement), Economic Regulatory Administration, 2000 M Street, NW., Room 5204, Washington, D.C. 20461, 202–254–6990.

Noah S. Baer (Office of General Counsel), Department of Energy, 2000 M Street, NW., Room 5308, Washington, D.C. 20461, 202–254–8700.

SUPPLEMENTARY INFORMATION: A. Background; B. Discussion; C. Other matters.

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

A. Background

Recordkeeping requirements for firms which are, or have been, subject to the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) and the Mandatory Petroleum Price Regulations (10 CFR Part 212) are contained in Subpart G of the General Allocation and Price Rules (10 CFR Part 210). Additional recordkeeping requirements are contained in Subparts I and L of the Mandatory Petroleum Price and Allocation Regulations, respectively. Section 210.92 requires regulated firms to keep records sufficient to demonstrate that the prices charged or the volumes of product sold are in compliance with the regulations. Such records are required to be made available for inspection at any time upon the request of a representative of the ERA. Any firm which increases its price or takes any action pursuant to the allocation provisions must, upon request of a representative of the ERA, make available to that representative the records it is maintaining to justify the firm's actions. All records are to be maintained for at least 4 years after the last day of the calendar year in which transactions appearing in that record occurred or a property was acquired by the firm, whichever is later.

B. Discussion

Thus, under 10 CFR 210.92, records of regulated transactions themselves must be maintained for at least 4 calendar years. Ruling 1976–6 (42 FR 1035, January 5, 1977), however, clarified that that section nevertheless requires firms to maintain indefinitely all records necessary for the establishment of historical prices or volumes which serve as the basis for determining the prices or volumes of any subsequent regulated transaction, regardless of how much time has elapsed since the base period. Therefore, producers of crude oil, for example, are required to preserve records from which the "base production control level" of a property can be determined (generally records of production and sale of crude oil for all months since January 1, 1972) not just for 4 years, but for at least 4 years beyond the last day on which the volumes of new crude oil from a property are determined by such data. Similarly, since current maximum allowable prices for producers, refiners, resellers and retailers, and gas plant operators, are established by reference to prices during or prior to May 1973, records of those prices must be maintained for at least 4 calendar years after the last regulated transaction for which such data must be used to determine the maximum lawful price. This principle also applies to prices based, even in part, upon "banks" of unrecouped costs incurred during a prior year. Similar principles apply to the Part 211 allocation regulations.

Therefore, records necessary to establish historical prices or volumes, or to establish "banks" carried over to a subsequent year are required to be maintained for at least 4 calendar years after the year in which the last regulated transaction occurred to which those historical records are applicable. However, as to records related solely to the regulated transactions themselves, the Ruling might be construed to require record maintenance only for the 4 calendar year period noted above, and therefore to permit the destruction after December 31, 1977 of such records of regulated transactions occurring during calendar year 1973.

The ERA has now determined that in order to assure the satisfactory completion of audits currently in process or under consideration it is necessary to require by regulation that full and adequate records be maintained of those regulated transactions themselves for at least an additional six months beyond the period of time already required. The clarification embodied in Ruling 1976–6 and discussed above is unaffected by this amendment.

The ERA is issuing simultaneously with this Final Rule, a Notice of Proposed Rulemaking to extend on a permanent basis the time period for which records must be maintained. The Notice contains additional proposed amendments to 10 CFR § 210.92 which would exempt certain firms from the full extension proposed and provide procedures by which permission may be obtained from the ERA under certain circumstances to destroy records prior to the prescribed time periods. The Notice of Proposed Rulemaking provides procedures for the receipt of written comments and information concerning a hearing.

Since written comments will be received and a hearing held on the Notice of Proposed Rulemaking to extend on a permanent basis the period for which records must be maintained, and since this amendment will merely require that certain records already required to be maintained continue to be so maintained on an interim basis for a short additional period of time, the ERA finds that no substantial issue of law or fact exists regarding this rule and that it is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

Moreover, the ERA has determined that it is necessary to amend § 210.92 prior to January 1, 1978, in order to assure the continued maintenance of those records while the proposed rule is being considered. Accordingly, the ERA finds that giving 30 days notice prior to promulgation of this Final Rule would be impracticable, unnecessary, or contrary to the public interest, and that good cause exists for amending § 210.92, effective immediately.

C. OTHER MATTERS

Since this rule is not a regulation affecting the quality of the environment, the provisions of section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, have been determined to be inapplicable to it.

NOTE.—The ERA has also determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107.

In accord with section 404 of the DOE Organization Act, Pub. L. 95-91, the Federal Energy Regulatory Commission was notified that the Administrator intended to promulgate this rule, and the Commission determined that the regulation would not significantly affect any function within its jurisdiction.

Additionally, the ERA has determined that this rule is not subject to the requirement in the Federal Reports Act, as amended, 44 U.S.C. 3509, for submission of certain proposed revisions in plans or forms concerning the collection of information to the Director, Office of Management and Budget. Nevertheless, a copy of this Notice has been sent to the Director.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, Part 210 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., December 23, 1977.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 210.92 is amended in paragraph (d) to read as follows:

§ 210.92 Records.

* * * * *

(d) *Period for keeping records.*

Each firm required to keep a record under this paragraph shall maintain and preserve that record for at least 4 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred or the property was acquired by that firm whichever is later, except that records relevant solely to transactions or other events occurring during calendar year 1973 shall be maintained at least until June 30, 1978.

[FR Doc.77-37010 Filed 12-23-77;12:32 pm]

[3128-01]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule and notice of continuation of rulemaking.

SUMMARY: Effective January 1, 1978, this final rule establishes a new regulatory system in the Mandatory Petroleum Price Regulations applicable to the pricing of crude oil by resellers and refiners. In general, the amendments permit resellers to charge any price with respect to sales of crude oil as long as the reseller's average markup for all crude oil sales in a month does not exceed its historical average markup and provided that the reseller does not unreasonably discriminate among purchasers.

These amendments for the first time also permit recovery of increases in certain specified ordinary and necessary operating expenses incidental to crude oil resales.

While the amendments provide crude oil resellers more flexibility in pricing and permit recovery of costs not previously permitted to be passed through, they continue to require that resellers certify the volumes of lower tier, upper tier, and stripper (or other exempt) crude oil sold to buyers. Under the amendments, resellers are expressly required to make refunds in the event of improper certifications.

ERA is issuing these amendments effective January 1, 1978. However, the rulemaking will be continued for the purpose of determining whether modifications of these amendments are necessary. In this regard, ERA will solicit comments from the Federal Trade Commission and the Antitrust Division of the United States Department of Justice with respect to whether these amendments are adequate to encourage competition among crude oil resellers. Comments will be received through January 31, 1978.

The Department of Energy is preparing a further notice with regard to the proper application of the price rules in effect before January 1, 1978.

DATES: Effective January 1, 1978. Further comments due on or before January 31, 1978, 4:30 p.m.

ADDRESS: Send comments to: Office of Regulations Management, Room 2214, 2000 M St., NW., Department of Energy, Box NV, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street, NW., Washington, D.C. 20461, 202-254-5201.

Ed Vilade (Media Relations), Department of Energy, Room 3104, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-9833.

Daniel J. Thomas (Office of Price Regulations), Economic Regulatory Administration, Room 2310, 2000 M Street, NW., Washington, D.C. 20461, 202-254-7477.

Alan Hechtkopf or Samuel M. Bradley (Office of the General Counsel), Department of Energy, Room 5138, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On October 14, 1976, the Federal Energy Administration (FEA) issued a Notice of Proposed Rulemaking and Public Hearing entitled "Clarifications to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil" (41 FR 47077, October 27, 1976). The purpose of the October 14 Notice was to consider clarifying the application of Subpart F of 10 CFR Part 212 to crude oil resellers and to ascertain whether modification and/or clarification of Subpart F might be appropriate to recognize the unique aspects of crude oil reselling. In the October 14 Notice, FEA recognized that while Subpart F is, by its own terms, applicable to each sale of a covered product (other than the first sale of domestic crude oil), its application to crude oil resellers has raised interpretive questions because of certain significant respects in which the historic business methods of crude oil resellers differ from those generally employed by resellers of other covered products.

More than forty comments were received in response to the October 14 Notice, and a public hearing was held on November 19, 1976, at which oral statements were received from eighteen interested persons. After consideration of all the comments received, FEA determined to request additional written and oral comments before taking final action with respect to resolution of the issues set forth in the October 14 Notice. Accordingly, on August 9, 1977, FEA issued a Further Notice of Proposed Rulemaking and Public Hearing (42 FR 41256, August 15, 1977) in which FEA proposed specific amendments to the price rules applicable to crude oil resellers. In the August 9 Notice, FEA stated its intention to issue at the conclusion of the rulemaking proceeding a formal Ruling applicable to the provisions of Subpart F in effect prior to the adoption of the amendments proposed in that proceeding or, alternatively, to consider whether to apply those amendments retroactively. In this regard, FEA solicited additional comments addressed to the interpretive questions contained in the October 14, 1976 Notice.

Public hearings on the August 9 proposal were held in Dallas, Texas on September 15, 1977 and in Washington, D.C., on September 20, 1977, at which a total of 20 persons presented oral statements. In addition, FEA received a total of 91 written comments in response to its proposal.

Effective October 1, 1977, all functions previously performed by the FEA were transferred to the Department of Energy (DOE) pursuant to the Department of Energy Organization Act (DOE Act, Pub. L. 95–91) and Executive Order No. 12009 (42 FR 46267, September 15, 1977). Section 705(b)(1) of the DOE Act provides in part that:

> The provisions of this Act shall not affect any proceedings * * * pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings * * * to the extent that they relate to functions so transferred, shall be continued * * *.

Pursuant to the above provision, this rulemaking proceeding, begun by the FEA prior to the activation of the DOE, was transferred and continued.

In addition, by DOE Delegation Order No. 0204–4, the Secretary of Energy delegated to the Administrator of the Economic Regulatory Administration (ERA) the authority to take such action, including the adoption of rules, as is necessary and appropriate to administer several functions, among which are the allocation and pricing of crude oil and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973 (EPAA, Pub. L. 93–159).

II. Discussion of the Proposal, Comments Received and Rationale for Rule Adopted

A. *Price Rule in General.*—1. *The Proposal.* The amendments proposed in the August 9 notice represented a departure from the regulatory scheme in Subpart F. Under Subpart F, increases in the seller's product costs above May 15, 1973 levels may be passed through equally among all classes of purchaser on a dollar-for-dollar basis; increases in certain of the seller's non-product costs may be passed through only to the extent permitted by 10 CFR 212.93(b). No authority for the passthrough of increased non-product costs by crude oil resellers is set forth in that section.

In contrast with the price rule in Subpart F, under the proposal a reseller's maximum permissible price in any sale would be based on current costs plus the reseller's May 1973 margin. The proposed price rule treated sales of crude oil from a reception station and "direct sales" separately. With respect to crude oil sold from a reception station, a reseller would base its maximum permissible price on the following three factors:

(1) *"Cost of gathered crude oil"*. For each reception station the reseller would determine a per-barrel "cost of gathered crude oil" consisting of two elements: weighted average per-barrel acquisition cost of all crude oil of similar quality purchased and gathered to that reception station in a particular month, and the weighted average per-barrel acquisi- associated with gathering crude oil to that station in that month.

(2) *"Permissible margin"*. The reseller would determine its "permissible margin" to be the weighted average per-barrel margin applicable to all sales of crude oil by the particular reseller in the month of May 1973.

(3) *"Transportation allowance"*. In each sale, the reseller would determine a "transportation allowance" to represent the cost of transportation, if any, associated with moving the "gathered crude oil" to the point of sale.

In any transaction, the maximum permissible price under the proposal would be the sum of these three factors.

On the other hand, where a transaction involves crude oil purchased in the first sale from the producer and transported directly to the point of sale by the reseller, without having passed through any reception station, the proposed rules defined the maximum permissible price as the "cost of gathered crude oil" for that month, plus the reseller's "permissible margin." In such transactions, the reseller would determine a weighted average "cost of gathered crude oil" for all crude oil of a similar grade, purchased and gathered by the reseller in that month, and delivered directly to the purchaser.

Under the proposal, gathering costs for both kinds of transactions would include the expenses associated with owning and operating trucks, pipelines, and reception stations, but would not include depreciation expense, general and administrative expenses or any expenses associated with producer services or with locating or acquiring sources of crude oil. FEA solicited comments, however, as to whether resellers should be permitted to pass through these other expenses associated with trucking, gathering line and reception station operation and maintenance.

With respect to the proposed margin, FEA requested comments on whether individual margins would more appropriately be determined and applied on a station-by-station or other basis, rather than a firm-wide basis, and whether resellers should have the option to select a firm-wide or station-by-station margin. FEA also solicited comments on whether controls should be applied only to the firm-wide average margin. Under such an alternative, resellers would be permitted to charge margins above the average in individual transactions provided that the firm-wide average margin did not exceed the limit.

2. *Comments Received.* Although many commenters supported various aspects of FEA's proposed price rule, the majority of the comments were opposed in principle to the proposal because it required resellers to determine a maximum permissible price in each transaction. The principal arguments that were raised in opposition to the proposed price rule were (1) that resellers have traditionally operated on margins which vary from transaction to transaction, region to region, or station to station depending upon different levels of services and market conditions; and (2) that resellers require the flexibility to account for their acquisition and gathering costs on a transaction or other (statewide or regional) basis in order to maintain a competitive position in the market, irrespective of whether the crude oil is gathered to a reception station for resale or delivered directly to a refiner. The comments in opposition to the proposed price rule generally reflected the consensus that prices in crude oil resale transactions are negotiated between the reseller and purchaser in light of prevailing market conditions and do not necessarily reflect actual costs incurred by the reseller.

Some resellers also commented that it was not practical to base their prices on actual gathering costs attributable to each reception station because the costs attributable to operating low-volume stations in inaccessible areas are prohibitively high, while the costs attributable to operating other stations are comparatively low. It was contended that the proposal would require that such low-volume stations be operated at a loss, inasmuch as purchasers from these stations would be unwilling to absorb actual costs. Other resellers, who have historically determined gathering costs on a transaction-by-transaction basis, argued that if resellers are required to compute a single weighted average gathering cost for all crude oil delivered to a reception station in a month, purchasers that receive a specific grade of crude oil from a field near the reception station would in effect subsidize purchasers that receive another grade of crude oil from a more distant field.

The commenters were virtually unanimous in their opposition to the exclusion

of depreciation as an allowed expense in gathering and transporting crude oil. It was stated that the business of gathering and reselling crude oil is capital intensive, and that the allowance for depreciation of capital expenditures was essential for expansion and replacement of obsolete equipment. In this regard, many of the comments indicated that since domestic crude oil production is declining, resellers must make substantial capital investments in new gathering systems in order to obtain the new production needed simply to maintain their operations at historic volume levels.

A number of commenters claimed that the exclusion of depreciation expense and general and administrative expenses would unfairly discriminate against crude oil resellers as compared with refiners and product resellers, which are permitted to recover certain specified non-product costs, and common carrier pipeline companies, which are permitted to earn a rate of return on their investment under Interstate Commerce Commission regulations.

The comments also raised nearly unanimous opposition to the requirement in the case of direct sales that resellers determine a single, firm-wide, weighted average acquisition cost for all crude oil sold each month and apply it to each individual transaction. A majority of commenters stated that direct sales occur on a transaction-by-transaction basis and should be accounted for on that basis. It was claimed that where different grades of crude oil are produced and sold from a single field, the requirement of a weighted average acquisition cost reflecting all purchases would cause significant price distortions. Similarly, as to resellers with a large number of transactions over a large geographical area involving different grades of crude oil from many fields, commenters claimed that the FEA proposal would create huge distortions in the value of the crude oil being sold.

A substantial number of resellers' comments favored the alternative suggested by FEA of applying controls only to a firm-wide average margin in each month, without regard to margins received in individual transactions. Many such comments reflected the concern that inasmuch as the proposed regulation would not permit a reseller to pass through nonproduct costs and depreciation expense, inflation would have eroded most May 1973 margins. Many of the comments recommended that, in lieu of requiring each reseller to use its May 1973 margin, FEA either use a different historical period for establishing margins or establish an absolute ceiling on per-barrel margins, based on an industry-wide average or simply prescribed as an amount that would be adequate in all cases to cover increased non-product costs and depreciation. Recommendations in the latter regard ranged from thirty cents per barrel to sixty-three cents per barrel. As a further alternative to the proposal in the August 9 Notice, a number of the comments recommended that a reseller's markup be a percentage of the dollar amount of the reseller's sales (e.g., the ratio of gross profit or net profit to sales) rather than a fixed dollar amount.

Comments that supported FEA's proposed price rule to continue historical margins on a transaction-by-transaction basis, most of which were submitted by refiners, generally contended that a reseller should be required to identify actual costs at each reception station to ensure that purchasers from a reception station are charged only those expenses which are actually attributable to the gathering and acquisition of the crude oil purchased. However, these comments recommended that the proposal be modified to ensure that value differences among different regulatory categories (lower tier, upper tier and exempt), and among different grades and qualities of crude oil be maintained, and that the price rule permit recovery of all nonproduct costs.

3. *Rule Adopted.* Although ERA believes that the proposed rule could be modified to resolve most of the concerns outlined above, it has been determined that a rule should be adopted that will provide crude oil resellers more flexibility in pricing individual transactions in response to market conditions, resulting in substantially fewer regulatory, reporting, and administrative burdens for all concerned. ERA believes that the inflexibility inherent in the proposed amendments might have effectively prevented resellers from negotiating prices in response to market conditions, thereby lessening competition in the industry. Moreover, the record supports the conclusion that the present rules restricting the passthrough of increased costs place many crude oil resellers at a competitive disadvantage compared to common carrier crude oil pipelines. Inasmuch as the amendments adopted today are intended to permit resellers to compete vigorously and to pass through virtually all ordinary and reasonable costs and expenses, they should help "preserv[e] an economically sound and competitive petroleum industry," the policy stated in section 4(g)(1)(D) of the EPAA.

The price rule adopted today will permit crude oil resellers to recover all costs of gathering and transporting crude oil, as well as certain other specified general and administrative costs and depreciation expense. Further, it will provide crude oil resellers with the flexibility to determine acquisition and gathering costs on either a transaction or other (e.g., state-wide or regional) basis, in accordance with historical accounting practices. The rule adopted today will permit crude oil resellers to charge any price with respect to sales of crude oil in individual transactions, as long as the reseller's average markup for a month does not exceed its permissible average markup, which is defined in the rule as its average markup in May 1973, adjusted if necessary to reflect only lawful revenues received in that month (i.e., revenues permitted under price controls, if any, applicable to the firm on that date), and provided the reseller does not unreasonably discriminate among purchasers or grant any purchaser an unreasonable preference.

The amendments adopted here are aplicable to all crude oil resellers, including those which had no sales before or during May 1973. As explained more fully below, the price rule provides for determination of the permissible average rule markups of such new resellers.

The amendments adopted today are effective January 1, 1978. However, inasmuch as the amendments represent a substantial departure from existing regulations in Subpart F, ERA will continue this rulemaking for the purpose of determining whether further modifications to the price rules applicable to crude oil resellers are necessary. Comments will be received through January 31, 1978. ERA is particularly interested in receiving comments addressed to whether, notwithstanding the evidence demonstrating that the reselling of crude oil is highly competitive in general, noncompetitive conditions exist in certain circumstances or in particular geographical areas, and, if so, whether the pricing flexibility reflected in these amendments is appropriate in such circumstances. In addition, ERA solicits comments on whether sufficient competition does exist, or will be fostered by these amendments, to protect purchasers (particularly small and independent refiners) from discriminatory pricing which may result from the increased pricing flexibility afforded by these amendments. Further, ERA solicits comments, particularly from refiners, addressed to the relationship that these amendments will have with the supplier/purchaser rule, which became effective December 1, 1977 (42 FR 54261, October 5, 1977). In this context, comments should address the extent to which substantial market distortions may, or are predicted to, occur as a result of the price rule adopted today. Finally, ERA requests comments regarding the adequacy of the provisions of this new rule governing the pricing of crude oil by new entrants into the crude oil reselling business.

A more detailed description of the issues on which comments are solicited is provided in Section IV below.

B. *Transportation Cost.* Under the amendments proposed in the notices of October 14, 1976 and August 9, 1977, a reseller would have been permitted to pass through a transportation allowance reflecting the expenses associated with transporting the crude oil from its reception station to the point of sale. Where the transportation was by common carrier, the reseller would be permitted to include a transportation allowance equal to the tariff actually charged by the common carrier. Where the crude oil was transported through the reseller's pipeline, the transportation allowance would not be permitted to exceed a comparable common carrier tariff. FEA solicited comments as to the feasibility and manner of determining such "comparable" tariffs.

Many of the comments contended that establishing a comparable common carrier tariff would be unduly burdensome and frequently impossible. Several commenters stated that the limitation would be a disincentive to future construction of pipelines in high risk areas. On the other hand, many commenters recommended that crude oil resellers be permitted to charge a comparable common carrier tariff irrespective of their actual transportation charges.

On the basis of the comments, ERA has determined to modify the proposed definition of transportation cost to provide that, where the crude oil is transported through facilities owned by the reseller that are not common carriers, the reseller will be permitted to pass through its actual transportation costs without regard to the comparable common carrier tariff.

A substantial number of comments contended that the costs incident to the transportation function performed by crude oil resellers should be exempted from the price regulations or, alternatively, as indicated above, that resellers should be permitted to charge comparable common carrier tariffs irrespective of actual transportation costs. Arguments advanced in support of this position were (1) that the EPAA is inapplicable to transportation and gathering services; (2) that competition among crude oil resellers is sufficient to prevent transportation charges from increasing unduly; and (3) that exemption of the transportation function is essential to encourage investment in the construction of pipelines to connect to new sources of domestic crude oil.

ERA is not persuaded that the transportation function performed by crude oil resellers should be exempted from the price regulations. The EPAA requires ERA to specify prices (or the manner for determining prices) for crude oil, and inasmuch as transportation costs appear to represent a significant and typically inseparable element of the price charged by crude oil resellers to refiners for delivered crude oil, it appears to be necessary under authority of the EPAA to regulate such costs in the context of the crude oil reseller price controls. Further, while there is substantial evidence in the record in this proceeding to support increased pricing flexibility, subject to the overall average markup restriction, as provided in the price rule adopted today, there is insufficient evidence in the record to date to support total deregulation of transportation charges subject only to the restraints that market forces might impose on such charges. Moreover, the present record does not provide a sufficient basis for a determination that deregulation of transportation charges is essential to encourage investment in new pipelines and gathering systems. However, in light of the incompleteness of the record with regard to these issues, ERA is soliciting additional comments and data as discussed in Section IV.

C. *Resales of Imported Crude Oil.* Under the proposed amendments, resales of imported crude oil would have been treated in the same manner as resales of domestic crude oil. The majority of the commenters opposed the proposal, suggesting that the use of a weighted average acquisition cost in the pricing of imported crude oil would not reflect the different qualities and grades of crude oil imported, thereby creating distortions in the value of the crude oil sold. Several commenters recommended that resales of imported crude oil be exempted from the price regulations because competition in the imported crude oil market is sufficient to ensure equitable prices.

It is ERA's conclusion from the record in this proceeding that there is an insufficient basis upon which to exempt from the price regulations resales of imported crude oil while maintaining controls on resales of domestic crude oil. Accordingly, resales of imported crude oil as well as resales of domestic crude oil will be taken into account in determining a firm's permissible firm-wide average markup. However, in Section IV below, ERA requests comments on whether the amendments adopted should be modified with respect to the regulation of resales of imported crude oil.

D. *Resales of Crude Oil by Refiners.* With respect to the pricing of crude oil sold by refiners, FEA proposed that entities of refiners that purchase crude oil from third parties and gather and transport it for resale to other third parties would be accorded the same price treatment as other crude oil resellers. However, a separate price rule was proposed for certain sales by a refiner, qua refiner, such as accommodation and inventory adjustment sales, which would limit the refiner in each sale to a maximum permissible selling price equal to the sum of the actual price paid for the crude oil involved in the sale, plus any gathering and transportation expenses actually incurred with respect to the crude oil involved in that sale. Recovery of a markup or margin on such sales would not be permitted.

The majority of the comments generally supported FEA's proposal. Opposition to the proposal reflected concern that it may be interpreted to require refiners to establish a separate legal entity for crude oil reselling, thereby precluding the use of the same internal department or personnel for both accommodation and inventory resales and crude oil reselling operations. Relatively few comments recommended that refiners should be permitted to recover a margin on accommodation and inventory adjustment sales.

On the basis of the oral statements and written comments, the proposal has been modified to make clear that a refiner would not be required to establish a separate legal "entity" to handle its crude oil reselling operations. Although a refiner will not be permitted to recover a margin on accommodation and inventory adjustment sales, the amendments adopted also make clear that a refiner will be permitted to recover its acquisition cost plus any transportation cost incurred by the refiner to transport the crude oil from the point at which the refiner takes title to the crude oil to the point of sale.

E. *Brokers, "Layering" and Crude Oil Exchanges.* In the August 9 Notice, FEA requested comments addressed to whether refiners should be permitted to pass through increased brokerage fees. Relatively few comments addressed this issue, and ERA has determined that the price regulations should not be amended to permit the passthrough of such fees by refiners.

FEA solicited comments on whether regulatory amendments or interpretive rulings were necessary to make it clear that the practice known as "layering," described in the August 9 Notice, is not permitted under the price regulations. Several of the comments opposed a special rule on layering on the grounds that (1) the existing regulations make it clear that layering is prohibited; (2) competition among resellers is sufficiently strong to inhibit layering; and (3) an express provision regarding layering may interfere with crude oil exchanges between resellers. However, a relatively large number of comments offered proposals to restrict layering, and information available to ERA indicates that there may be a significant number of instances of layering. Accordingly, the rule adopted today includes a provision which is intended to discourage layering but which should not interfere with normal transactions among resellers.

With respect to crude oil exchanges, FEA stated in the August 9 Notice that it had tentatively concluded that exchanges of crude oil by resellers should be treated in the same manner as is currently provided for under 10 CFR 211.67 (g) of the entitlements program. However, FEA solicited comments on this issue and on the manner in which exchange differentials are calculated and charged, and whether corresponding adjustments in permissible selling prices should be made to reflect such differentials.

The comments on the treatment of exchange differentials were relatively evenly divided. A number of firms contended that the exchange differentials represent the reseller's profit on an exchange and therefore no adjustment in a reseller's costs to account for exchange differentials should be required. Other comments stated that a reseller should be required to make appropriate adjustments in its selling price to reflect such differentials. On the basis of the comments, ERA has concluded that permitting a reseller to recover a margin on a barrel-for-barrel exchange or matching purchase and sale having the same effect as an exchange would unduly inflate the price of crude oil delivered to refiners. Accordingly, the amendments adopted require a reseller, in determining its ac-

quisition cost, to make appropriate adjustments to reflect the receipt or payment of any exchange differential.

F. *Recordkeeping, Reporting and Certifications.* FEA proposed to require resellers to maintain records with respect to the cost and revenue data used by resellers in calculating their allowable selling prices under the price regulations. In addition, FEA solicited comments as to the feasibility of, as well as the need for, requiring crude oil resellers in each sale to certify cost data to purchasers.

The majority of the comments opposed the proposed recordkeeping requirement with respect to resellers' cost and revenue data as unnecessary and unduly burdensome. In addition, with the exception of one party, nearly all the commenters were opposed to requiring resellers to certify their cost data to their purchasers. It was contended that these data are proprietary and that resellers' customers frequently are their competitors as well.

ERA is not adopting the requirement that resellers complete the worksheets set forth in the August 9 Notice because they are not compatible with the regulatory scheme adopted today. However, since certain costs and revenue data will be essential to ERA in monitoring the effect on the industry of the amendments adopted today, ERA is developing and will issue in the near future reporting forms and instructions and is requiring resellers to maintain certain ordinary business records. The reporting forms will require the separate reporting of transportation costs in order to assist the ERA in determining whether additional amendments are required to deal with such costs, as discussed above. With respect to the certification to purchasers of proprietary cost and revenue data, the ERA has concluded that the proposal should not be adopted for the reasons stated in the comments.

Although the August 9 Notice did not specifically address the certification requirement in § 212.131(b), ERA emphasizes that a reseller's certifications for a particular month must correspond exactly with the volumes of lower tier, upper tier and exempt crude oil which the reseller purchased during the month, plus any volume of each regulatory category drawn from inventory during the month, and minus any volume added to inventory during the month. ERA intends to continue to audit for improper certifications and will take appropriate remedial action in the event violations are identified. In addition, as discussed in Section III in connection with overcharges, ERA is adopting a provision to buttress § 212.131(b) by expressly requiring refunds by crude oil resellers in the event of improper certifications.

G. *Exemption of Crude Oil Resellers from the Price Regulations.* In the August 9 Notice FEA requested preliminary comments as to whether or to what extent FEA might consider exempting crude oil resellers from the Mandatory Petroleum Price Regulations.

The major refiners and some independent refiners generally opposed exemption of crude oil resellers from the price regulations. These firms argued that the forces of competition, crude oil price controls, and the entitlements program would not operate as an effective restraint on crude oil reseller margins for a significant portion of domestic production. Specifically, it was contended that small refiners would be in a position to pay a premium price for domestic crude oil, due to the small refiner bias, thereby creating upward pressure on the delivered cost of all domestic crude oil sold to refiners.

The comments in support of an exemption, most of which were submitted by resellers and some small refiners, generally contended that competition in the crude oil reseller industry is sufficient to restrain price increases and that exemption would eliminate inefficiencies resulting from the regulations. A number of comments recommended that ERA evaluate the possibility of exempting only small crude oil resellers from the price regulations, inasmuch as small resellers operate on a very low profit margin.

Although it is ERA's conclusion from the record in this proceeding that there is no justification for exemption of crude oil resellers from the price regulations at this time, it will evaluate the data received from the reporting form and such other information as may be available on the impact of the amendments adopted to determine whether sufficient competition exists to warrant proposing at some future time the exemption of crude oil resellers.

III. Description of the Amendments Adopted

A. *Price Rule.* ERA is adopting a price rule which permits crude oil resellers to charge any price with respect to individual transactions as long as the firmwide average markup for a particular month does not exceed the reseller's permissible average markup. In addition, the rule prohibits unreasonable discrimination or preference in price among a reseller's customers. The distinguishing characteristic of the price rule is that it provides the means whereby prices are controlled on the basis of total permissible revenues in any month and not, as provided in Subpart F of 10 CFR Part 212, on the basis of a maximum permissible price in each sale. Thus, subject to the prohibition of unreasonable preferences and discrimination and the overall limitation on average margin, a reseller has freedom to negotiate with the buyer to establish the price for each transaction.

With respect to the prohibition of unreasonable preference and discrimination, resellers and their customers are reminded that Section 2 of the Clayton Act, 15 U.S.C. § 13 (commonly known as the Robinson-Patman Act), generally prohibits discrimination in price between different purchasers of commodities of like grade and quality, where such discrimination may substantially lessen competition or tend to create a monopoly in any line of commerce. The Robinson-Patman Act permits price differentials, however, where the seller can show that the differentials are cost justified or necessary to meet competition. A price which contravenes these general principles of the Robinson-Patman Act—even though the Robinson-Patman Act itself may not be strictly applicable in that particular transaction for various reasons—is unlawful under the price rule hereby adopted.

1. *Average markup.* The amendments defined a reseller's "average markup" as the reseller's total revenues for a particular month less the total costs and expenses associated with sales of crude oil during the month, divided by the number of barrels sold in the month. The costs comprising the reseller's total costs and expenses associated with sales of crude oil are the lawful acquisition cost of the crude oil sold in the month, the total transportation and gathering costs associated with the crude oil sold in the month, and certain specified general and administrative expenses allocated to the crude oil sold in the month in accordance with generally accepted accounting principles consistently and historically applied by the reseller.

2. *Permissible average markup.* The reseller's "permissible average markup" is defined as the reseller's total lawful revenues from sales of crude oil in May 1973 less all of the reseller's costs and expenses associated with sales of crude oil in that month, divided by the number of barrels sold in that month. The reference in the definition to "lawful" revenues reflects the fact that some resellers may have been subject to price controls in May 1973. It is intended that such a reseller's permissible average markup will not include any portion of its revenues resulting from prices charged unlawfully in the base period. The definition of a reseller's permissible markup also requires the deduction of all costs and expenses associated with sales of crude oil in the computation of the permissible markup. This requirement will prevent a reseller from inflating its unit markup by excluding some of its May 1973 costs.

3. *Acquisition cost.* A seller's acquisition cost for a particular month is the total of the prices actually paid by the seller for crude oil sold in the month, adjusted to reflect any differentials paid or received in connection with exchanges and matching purchase and sale transactions having the same effect as exchanges. The amendment permits the reseller to continue to use any generally accepted accounting practice it has consistently and historically used in determining the acquisition cost of crude oil sold, as long as the reseller (1) accounts separately each month for the acquisition costs of lower tier, upper tier, and exempt crude oil purchased and sold; (2) uses actual prices paid as the basis of the costs; and (3) uses the same

method of valuing its inventory of crude oil that it used in May 1973.

Under the amendments adopted today, a crude oil exchange or matching purchase and sale transaction having the same effect as an exchange is not a sale. Therefore, the amendments require a reseller to adjust its acquisition cost for crude oil sold in a particular month to reflect exchange differentials in the following manner. If a reseller receives any cash differential pursuant to an exchange involving crude oil sold, the amount of cash differential must be subtracted from the total of the prices paid by the reseller for crude oil during the month. Similarly, in a matching purchase and sale transaction, if the reseller receives an amount in excess of the amount paid to the exchange partner, the excess amount must be subtracted from the total of the prices paid for crude oil sold during the month. Further, any differential paid by a reseller pursuant to an exchange or matching purchase and sale transaction having the same effect as an exchange must be added to the total of the prices paid by the reseller for crude oil sold in determining the permissible average markup.

ERA wishes to make clear that exchanges are to be treated as is currently provided for under § 211.61(g) of the entitlements program. That section provides that, with respect to exchanges of crude oil as to which only quality and location differentials are given effect in calculating the exchange ratio, or with respect to any matching purchase and sale transaction having the same effect as such an exchange, no volumes of domestic crude oil will be deemed to have been transferred.

4. *Transportation and gathering cost.* A reseller's transportation and gathering cost is the expense associated with moving crude oil from the reseller's acquisition points to its points of sale, including the expenses associated with transportation to and from reception stations. The expenses constituting transportation and gathering cost are common carrier tariffs actually paid by the reseller to transport crude oil from points of acquisition or reception stations to points of sale; expenses associated with the operation and maintenance of trucks, pipelines, and other modes of transportation used to transport crude oil from points of acquisition to reception stations and/or points of sale; and expenses associated with the operation and maintenance of reception stations. Expenses associated with trucks which the rule allows to be passed through as transportation and gathering cost include fuel, repairs and maintenance, drivers' salaries, truck rentals, and depreciation. Pipeline and reception station expenses include fuel, operators' salaries, repairs and maintenance, rental payments, and depreciation, and the expense incurred in upgrading crude oil to meet pipeline quality specifications, such as the reduction of basic sediment and water, the reduction of impurities, and the adjustment of viscosity and gravity. Depending on the particular circumstances, transportation and gathering cost may include costs of certain lease services, such as cleaning and measuring of crude oil and maintenance of lease tanks, where such services are actually provided by the reseller. In adopting the two tier price system applicable to all domestic crude oil on February 1, 1976 (41 FR 4931, February 3, 1976), FEA made it clear that in establishing ceiling prices for lower tier and upper tier crude oil by reference to May 15, 1973 and September 30, 1975 highest posted prices, a producer must include all services that were included in the reference posted price and that a reduction in services without a corresponding reduction in price constitutes an unlawful means to obtain a price in excess of the ceiling price. However, where the reference posted price provided that such services were to be excluded from the posted price, and a reseller actually provides such services, the reseller's expenses associated with such services may be included as an element of transportation and gathering costs. ERA seeks to emphasize that where, pursuant to the ceiling price rule, such services are required to be provided by the producer, expenses associated with such services will not be permitted to be passed through by the reseller, regardless of whether actually incurred by the reseller or not. For purposes of this rule, transportation and gathering costs do not under any circumstances include expenses associated with locating or acquiring sources of crude oil, such as, for example, the purchase of options to buy lease production. Only those transportation and gathering expenses attributable to crude oil sold in a particular month are to be included in the determination of average markup for that month.

In the August 9 Notice, FEA proposed separate definitions of "gathering cost" and "transportation allowance." However, since gathering is essentially a transportation function, ERA concluded that the definitions of the terms should be consolidated in these amendments.

5. *General and administrative expense.* The amendments enumerate certain general and administrative expenses which a reseller will be required to deduct from its total revenues in computing its May 1973 unit markup. These expenses are limited to the ordinary, necessary, and reasonable expenses incurred for the operation of the reselling business. They include depreciation or lease of office buildings and office equipment; insurance for office buildings, equipment, and vehicles; utilities for buildings and equipment; fuel for vehicles; wages and salaries, except salaries of owner-managers; taxes other than corporation income taxes; interest; supplies; legal fees; accounting fees; maintenance of office buildings, equipment, and vehicles; and license and other fees paid to a local, state, or federal government. Salaries of owner-managers and their relatives are expressly excluded, since a portion of such salaries may represent profits rather than expenses. Also excluded are expenses included in acquisition cost, gathering cost, and transportation cost. Only those general and administrative expenses properly allocated to sales of crude oil in a particular month in accordance with generally accepted accounting practices historically and consistently applied may be used in the determination of the reseller's unit markup.

B. *Overcharges.* If in any month a reseller's average markup exceeds its permissible average markup, the reseller must refund to each firm which purchased crude oil from the reseller during the month the amount by which the average markup exceeded the permissible average markup multiplied by the number of barrels purchased by the purchaser. The refunds must be either in the form of cash or credit memorandum and must be made by the end of the second month following the month of the overcharges. Notwithstanding this provision for self-correcting of overcharges, the amendments adopted today provide that overcharges during three consecutive months constitute a per se violation of the price rule.

ERA considered adopting a rule providing for correction of overcharges through reduced prices in a later period as suggested in a number of comments. However, ERA determined that such a rule would not be as equitable or operate with the same degree of precision as the rule adopted. Under a rule providing for reduced prices in later months, a purchaser in the month of an overcharge could be served by a new reseller by the time overcharges were corrected, as a result of the substitution of a new reseller for the overcharging reseller and therefore would not receive the restitution due him. By the same token, reduced prices to compensate for overcharges would confer an unearned windfall on new purchasers since the overcharge occurred. The possibility of this occurring is enhanced as a result of the recent amendment of the supplier/purchaser rule set forth in 10 CFR 211.63, which facilitates substitution of resellers by producers. Moreover, a rule allowing for correction of overcharges through later reduced prices may be difficult to implement because the average margin frequently cannot be determined with certainty for a future month, thereby making it difficult for the reseller to be certain that overcharges will be completely offset by a specified date. In view of these factors, ERA has concluded that refunds, in the form of cash or credit memoranda to the firm's purchasers during the period of over charge, should be the only permissible method for correcting overcharges.

FEA requested comments addressed to whether to adopt a provision permitting resellers to "bank" costs which were not recouped in the month in which they were incurred. After consideration of this issue, ERA has determined that a banking provision is not necessary for crude oil resellers and would only result

in undue administrative complexity. Unlike refiners and product resellers, for which banking provisions are currently afforded by the price regulations, crude oil resellers do not operate in a market in which there are factors (e.g., seasonality) which necessitate a banking provision. Although some comments contained suggestions for such provisions, the ERA has determined that the record in this proceeding does not support the need for banking of unrecovered costs by crude oil resellers, and accordingly, no such provision is adopted.

As discussed above, the amendments adopted today expressly require resellers to make refunds directly to the purchaser adversely affected in the event lower tier crude oil is improperly certified as upper tier or stripper (or other exempt) crude oil, or in the event that upper tier crude oil is improperly certified as stripper or other exempt crude oil. In the event that any crude oil is sold without a certification, a refund will also be required. ERA emphasizes that in the event of an audit, the burden is on the reseller to establish that crude oil has been properly certified.

C. *Resales by Refiners.* Under the price rule adopted today, refiners that conduct a reselling business—that is, gathering and transporting crude oil for the purpose of resale—are treated in the same manner as independent crude oil resellers. However, sales by a refiner, qua refiner, such as accommodation sales and sales to adjust inventory, are priced according to a separate price rule. Under this rule the refiner is required in each sale to determine a maximum permissible selling price to be the sum of the actual price paid for the crude oil involved in the sale, plus any gathering and transportation expenses actually incurred with respect to the crude oil involved in the sale. A refiner will not be permitted to charge a markup in connection with accommodation sales and sales to adjust inventory.

ERA recognizes that many refiners that conduct a reselling business also make accommodation sales and sales to adjust inventory and that the operations of the reselling business and the procurement department are not necessarily segregated. The price rule does not require such a refiner to establish a separate legal entity for its reselling business. However, the rule does require separate accounting for the two businesses, and the prices charged in the reselling business must be based on only those costs and revenues attributable to the reselling business.

D. *Resales of Imported Crude Oil.* As indicated in the discussion of comments, the amendments require resellers to price sales of imported crude oil in the same manner as sales of domestic crude oil.

E. *Recordkeeping and Reporting.* The amendments require each firm engaged in the resale of crude oil to maintain specified records and submit periodic reports to ERA with respect to the firm's costs and revenues. For purposes of determining whether further adjustments in the price rule will be appropriate to deal properly with transportation costs, ERA will require such costs to be reported separately. As indicated in the discussion of comments, ERA is developing and will issue in the near future appropriate forms and instructions concerning the reporting requirement. In connection with the continuation of this rulemaking proceeding, the recordkeeping requirement adopted today is subject to possible modification, and in this regard ERA will receive comments until January 31, 1978, addressed to the feasibility of complying with it and any burden likely to be imposed by it.

F. *Certifications.* ERA has determined that the regulatory approach adopted today necessitates amendment of § 212.131(b), which requires certifications with respect to the regulatory categories of crude oil sold by a reseller. The last sentence of § 212.131(b)(1) provides: "The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part." Inasmuch as the price rule adopted today does not establish maximum permissible prices in individual transactions, the provision is no longer applicable to resales of crude oil by resellers. Accordingly, the sentence is amended to read: "The certification shall also contain a statement that the price charged has been determined in accordance with the requirements of Subpart L of this part."

G. *New resellers.* The amendments provide for the determination of the permissible average markup for any reseller which did not resell crude oil before or during May 1973.

In accordance with the new item rule set forth in § 212.111, a reseller which entered the crude oil reselling business after May 31, 1973 but prior to January 1, 1978, was required to determine an imputed May 15, 1973 price to each class of purchaser, for each grade and quality of lower tier, upper tier and exempt crude oil, with reference to the price charged at the nearest comparable outlet for such crude oil on the day the new reseller first offered such crude oil for sale. The price so established, adjusted for the passthrough of increased product costs incurred since the date the item was first offered for sale, was the maximum permissible price in all subsequent resales to the class of purchaser.

Under the amendments adopted today, resellers which entered the crude oil reselling business after May 1973 but before December 1, 1977 are required to determine an imputed permissible average markup, rather than just an imputed May 15, 1973 selling price. Such markup will be deemed to be the reseller's total lawful revenues (based upon an imputed May 15, 1973 price determined pursuant to § 212.111) from sales of crude oil in the month of November 1977, less the reseller's total costs and expenses associated with sales of crude oil in that month, divided by the number of barrels sold in that month; plus the unrecovered per-barrel increase in general and administrative expense and transportation and gathering cost incurred since the reseller's date of entry. The month of November 1977 is chosen as the base period, rather than the first month of crude oil sales or some other earlier month, because it is more likely to reflect accurately the lawful prices of a new entrant after it has had a chance to establish itself. This method of calculating an imputed permissible average markup will to the maximum possible extent put new entrants since May 1973 on an equal footing with firms in existence on that date.

With respect to firms which enter the reselling business on or after December 1, 1977, a more difficult problem is presented, since existing firms' prices, upon which a new entrant would have to rely in order to apply the new item rule, may be in a state of transition beginning January 1, 1978, since they will no longer be subject to pricing rules providing for a maximum permissible price applicable to each transaction. Thus, ERA has determined that a new entrant, on or after December 1, 1977 will be subject to a permissible average markup to be established by ERA on the basis of data collected from the industry. ERA will determine a permissible average markup for all such resellers or, if appropriate, separate permissible average markups for different classes of such resellers, from data submitted pursuant to the reporting requirements. In the latter case, the permissible average markup applicable to a particular reseller may depend on factors such as the nature of the reseller's operations (e.g., whether the reseller gathers and transports crude oil or is a trader), the geographic areas served by the reseller, the reseller's sales volume and whether the reseller sells domestic or imported crude oil.

The data necessary to determine the permissible average markups for new crude oil resellers will require at least 3 months for ERA to collect and assemble. In the interim, a new entrant will not be subject to any particular ceiling price. However, it will be required to make appropriate refunds, if in any month during the interim period the average markup charged by the new entrant exceeds the ERA-determined permissible average markup applicable to it, unless it demonstrates that the prices charged by it for each grade of lower tier crude oil, upper tier crude oil, and stripper well and other exempt crude oil were not in excess of the prices charged for such crude oil by the nearest comparable reseller. This rule should not result in excessive prices being charged during the interim period or a later burden on a new entrant to make massive refunds after its permissible average markup is determined, since in most cases a new entrant must be highly competitive in the first months of operation in order to acquire customers. Moreover, although it is the policy of ERA and the recently-adopted changes to the supplier/purchaser rule to encourage new entry into the crude reseller business, it is not expected that a substantial number of firms will make their entry into this business during the few months it will require ERA to deter-

mine the permissible average markup or markups.

H. *Layering.* The amendments provide that a firm which performs no service or other traditional reseller function in a sale may not charge a price in excess of the firm's cost of the crude oil sold.

IV. Additional Comments Requested

ERA is soliciting further comments through Janury 31, 1978 on specific items set forth above and the following matters to determine whether modifications to the amendments adopted today are necessary, and, in addition to determine whether a new rulemaking proceeding should be instituted with respect to crude oil resellers' transportation charges:

1. Whether transportation charges of crude oil resellers are exempt or should be exempted from inclusion as a nonproduct cost to be taken into account in determining a reseller's permissible average markup, which would effectively exempt such charges from any form of control. ERA solicits comments addressed to whether there are adequate market forces that would prevent resellers from charging excessive amounts for transportation and consequently indirectly increasing the cost of crude oil to refiners beyond what could lawfully be charged under the price rules. ERA also requests information as to the nature and likely effectiveness of such forces, if any. In addition, ERA requests comments and data which will enable it to determine whether and to what extent transportation charges of resellers would rise in the event of effectively exempting resellers' transportation charges from the Mandatory Petroleum Price Regulations. ERA also requests comments and data on whether and to what extent resellers' permissible average markups would be higher or lower if ERA exempted their transportation charges from the price regulations.

2. Whether, if transportation costs are not effectively exempted from controls, crude oil resellers should be permitted to use comparable common carrier tariffs to determine their transportation costs either irrespective of or as an alternative to using their actual transportation costs. Comments are solicited as to whether there are adequate market forces to prevent resellers from establishing excessive transportation costs if they are permitted to base such costs on common carrier tariffs in lieu of actual costs. Comments are also requested with respect to the effect of such an approach on enforcement of the reseller price regulations by ERA. Information as to the number and complexity of common carrier tariffs is requested, as well as data which will enable ERA to compare current common carrier rates with current reseller charges in specific instances. In addition, ERA solicits comments and data on whether and to what extent permitting resellers to base transportation costs on common carrier tariffs regardless of actual cost would raise or lower resellers' permissible average markups. Finally, ERA requests information on whether resellers would have difficulty determining their permissible average markups if such an approach were adopted.

3. Whether, if transportation costs are not effectively exempted from controls, crude oil resellers' profits from the sale of crude oil provide them an adequate return on investment in transportation facilities, and, if not, the manner in which an adequate return might be provided. Commenters are specifically requested to address whether a separate rate of return on investment in transportation facilities is essential to encouraging investment in the construction of new pipelines and gathering systems and, if so, what rate of return would be appropriate and how it should be calculated. In addition, commenters are requested to submit data with respect to their investments in new pipelines and gathering systems since the imposition of the Mandatory Petroleum Price Regulations.

4. Whether it would be desirable or feasible to require crude oil resellers to state prices for crude oil and charges for transportation separately on invoices provided customers.

5. Whether different rules should apply to firms that entered the crude reselling business after May 1973 but before December 1, 1977 and those firms that first entered after December 1, 1977, and, if so, how regulations with respect to these two classes should differ from each other and from those adopted here. ERA also solicits comments addressed to whether the permissible average markup rule adopted here applicable to resales by new entrants after December 1, 1977 is appropriate. ERA is particularly interested in knowing whether use of the average of all resellers' markups or the average markup of different classes of resellers would be too restrictive for new entrants and, if so, what the appropriate level should be, taking into consideration the cost passthroughs permitted under these rules.

6. Whether the use of the November *lawful* markup as the permissible average markup is appropriate for new entrants after May 1973 but before December 1977. Comments particularly should be addressed to whether it will be prohibitively difficult for firms affected by this rule to determine whether their November 1977 margins reflected a lawful application of the new item rule. Comments are also requested on whether the rule for determining maximum permissible markups for entrants after December 1, 1977 should be applied to new entrants before that date but after May 1973 or to crude resellers generally.

7. Whether an average markup limitation based upon industry-wide historical data should be applied to all crude oil resellers, regardless of the date they entered the business and regardless of the actual average markup of each individual firm.

8. Whether a reseller's markup should be a percentage of the dollar amount of the reseller's sales (e.g., the ratio of gross profit or net profit to sales) rather than a fixed dollar amount. A number of comments recommended this approach as an alternative to the proposal in the August 9 Notice, which did not provide for the recovery of increases in depreciation or general and administrative expenses. ERA requests additional comments on the percentage markup, in light of the amendments adopted today, for the purpose of determining whether to initiate a rulemaking proceeding on this proposal.

9. Whether the amendments adopted should be modified to require determination of separate average markups and separate permissible markups for domestic crude oil and imported crude oil sold by a reseller.

Written comments will be accepted and considered if received by January 31, 1978. Comments should be submitted to Executive Communications, Room 3317, Department of Energy, Box NV, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Crude Oil Resellers." Fifteen copies should be submitted. ERA requests that parties submitting comments provide detailed data and, where appropriate, examples, in support of their comments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 204.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. ERA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

V. Other Matters

ERA is adopting these final amendments effective January 1, 1978 to provide immediate guidance and information with respect to the pricing of crude oil by resellers necessitated by the recent amendments to the supplier/purchaser rule set forth in 10 CFR 211.63, announced in a notice issued September 30, 1977 (42 FR 54261, October 5, 1977). This action is taken because of the legitimate concerns, as FEA stated in the September 30 Notice, that competition in the reseller industry would not be practicable under the price regulations in Subpart F applicable to crude oil resellers.

The DOE is aware that, even with the adoption of these rules for application after January 1, 1978, considerable confusion continues to exist as to the appropriate application of the rules of Subpart F to sales by crude oil resellers prior to January 1, 1978. In order to provide appropriate guidance DOE will soon issue a further notice on this issue.

In adopting this rule, ERA has considered, in accordance with Executive Order 11821, the economic impact of its action. Assuming that the prices previously charged by crude resellers were

lawful, prices will likely increase initially under these rules, since they now allow increases in transportation and other non-product costs to be passed through to purchasers. However, ERA has determined that this effect will be more than outweighed by the public benefits that will accrue in terms of increased competition in the crude oil reselling business and the removal of any restrictions on the construction of new gathering and transportation systems to connect new producing wells.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective January 1, 1978.

Issued in Washington, D.C., December 23, 1977.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 212.91 is amended to read as follows:

§ 212.91 Applicability.

This subpart applies to each sale of a covered product, other than crude oil, by resellers, reseller-retailers, and retailers. For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity.

2. Section 212.131 is amended in subparagraph (1) of paragraph (b) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

* * * * *

(b) (1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) Lower tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter);

(ii) Upper tier ("new") crude oil, exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) Crude oil transported through the trans-Alaska pipeline;

(iv) Stripper well crude oil; and

(v) Other domestic crude oils the first sales of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil has been determined in accordance with Subpart L of this part.

* * * * *

3. A new Subpart L is added to read as follows:

Subpart L—Resales of Crude Oil

Sec.
212.181 Applicability.
212.182 Definitions.
212.183 Price rule.
212.184 Inventory rule.
212.185 Corrections for overcharges.
212.186 Layering.
212.187 Reporting.
212.188 Depreciation.

Subpart L—Resales of Crude Oil

§ 212.181 Applicability.

This subpart applies to each sale of crude oil, other than the first sale.

§ 212.182 Definitions.

"Acquisition cost" means the total of the lawful prices actually paid by the reseller for crude oil sold by the reseller in a particular month, determined in accordance with generally accepted accounting practices consistently and historically applied by the reseller; less the amounts received in exchanges and the amounts received in excess of the amounts paid in matching purchase and sale transactions having the same effect as exchanges, plus the amounts paid in exchanges and the amounts paid in excess of the amounts received in matching purchase and sale transactions having the same effect as exchanges.

"Average mark up" means the total revenues in all sales of crude oil by the reseller in a particular month less the total costs and expenses associated with sales of crude oil in the month, divided by the number of barrels of crude oil sold by the reseller in the month.

"Costs and expenses associated with sales of crude oil" means the sum of the following items determined in accordance with generally accepted accounting practices consistently and historically applied by the reseller:

(a) The acquisition cost of the crude oil sold in the month;

(b) The transportation and gathering cost associated with the crude oil sold in the month;

(c) The general and administrative expense allocated to the crude oil sold in the month.

"General and administrative expense" means ordinary, necessary, and reasonable official business expenses paid or incurred for rental or depreciation of office buildings, office equipment and vehicles; insurance for office buildings, office equipment, and vehicles; utilities for buildings and equipment; fuel for vehicles; wages and salaries, excluding salaries of persons owning any interest in the reseller and occupying a managerial position or serving as a director of the reseller, and excluding salaries of persons related to such a person by blood or marriage; federal, state, and local property, excise, franchise, and other similar taxes, but not federal, state, and local income taxes; interest; supplies; legal fees; accounting fees; maintenance of office buildings, office equipment, and vehicles; and license fees and fees paid to a local, state or federal government. "General and administrative expense" does not include any expense included in acquisition cost or transportation and gathering cost.

"Month" means calendar month.

"Permissible average markup" means, with respect to a reseller which sold crude oil before or during May 1973, the total lawful revenues in all sales of crude oil by the reseller in May 1973 less all allowed costs and expenses associated with sales of crude oil in that month, divided by the number of barrels of crude oil sold by the reseller in that month. With respect to a reseller which sold crude oil before December 1, 1977, but not before or during May 1973, "permissible average markup" means the total lawful revenues from sales of crude oil received by such reseller during the month of November 1977, less the total costs and expenses associated with sales of crude oil for that month, divided by the number of barrels of crude oil sold in that month; plus the unrecovered per-barrel increase in general and administrative expense and transportation and gathering cost incurred since such reseller's first month of crude oil sales. With respect to a reseller which did not sell crude oil before December 1, 1977, "permissible average markup" means, the permissible average markup established by ERA applicable to such reseller.

"Reception station" means a facility to which crude oil is gathered for resale, generally consisting of storage tanks and associated equipment, including a facility used to upgrade crude oil to meet pipeline quality specifications.

"Sale" unless otherwise specified means a sale other than the first sale. For purposes of this subpart, the term does not include an exchange or matching purchase and sale transaction having the same effect as an exchange.

"Transportation and gathering cost" means (a) any common carrier tariff actually paid by a reseller to transport crude oil from the reseller's reception station or point of acquisition to a point of sale, or (b) the actual expenses, including depreciation expense, associated with the operation and maintenance of trucks, pipelines, and other modes of transportation used to transport crude oil sold from the reseller's points of acquisition to points of sale directly or through reception stations, plus the expenses, including depreciation expense, associated with the operation and maintenance of reception stations.

§ 212.183 Price rule.

(a) *General.* A reseller may charge any price in a sale of crude oil, provided that the reseller's average markup for each month shall not exceed the reseller's permissible average markup, and provided that a reseller shall not unreasonably discriminate or grant unreasonable preferences in the pricing of crude oil among its purchasers.

(b) *Sales by a refiner.* Notwithstanding the provisions of paragraph (a) of this section, a refiner, in sales not made by a reselling business operated by the refiner, shall determine prices in sales of crude oil in accordance with the refiner's consistent and historical accounting practice, provided that the price charged in any sale of crude oil subject to this subpart shall not exceed the price paid by the refiner for the crude oil plus any transportation cost incurred by the refiner to transport the crude oil from the point at which the refiner takes title to the crude oil to the point of sale.

(c) *Resellers which did not sell crude oil before December 1, 1977.* If, in any month prior to the establishment by ERA of a permissible average markup applicable to a reseller which did not sell crude oil prior to December 1, 1977, such reseller's average markup exceeds its permissible average markup, the reseller shall nevertheless be deemed to have complied with the price rule set forth in paragraph (a) of this section, if the prices charged by the reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil did not exceed the prices at which such crude oil was priced in transactions of the nearest comparable reseller in the month.

§ 212.184 Inventory rule.

(a) The cost of crude oil sold by a reseller in a month shall be determined in accordance with the same accounting practice used by the reseller to determine the cost of crude oil sold during (i) May 1973 in the case of a reseller which sold crude oil before or during May 1973, (ii) November 1977 in the case of a reseller which sold crude oil before December 1, 1977, but not before or during May 1973, or (iii) the reseller's first month of sales in the case of a reseller which did not sell crude oil before December 1, 1977.

(b) For purposes of determination of acquisition cost, the cost of lower tier crude oil, upper tier crude oil, stripper well crude oil, and other crude oil exempt under this part shall each be determined separately.

§ 212.185 Corrections for overcharges.

(a) *Overcharges in a month.* If in any month, a reseller's average markup exceeds the reseller's permissible average markup, the reseller must refund to each purchaser which purchased from the reseller during the month an amount determined in accordance with the following formula:

$$R = (M_t - M_a)\ B_t$$

where,

t = The month during which the reseller's average markup exceeded its permissible average markup;

R = The amount of the refund required;

M_t = The average markup for the month t;

M_a = The permissible average markup and;

B_t = The number of barrels of crude oil sold to each purchaser in the month t.

The refunds required by this section shall be made by the end of the second month following month t.

(b) *Successive overcharges.* Notwithstanding the provisions of paragraph (a) of this section, a reseller may not charge prices which result in an average markup in excess of the reseller's permissible average markup during three consecutive months.

(c) *Improper certifications.* If with respect to any sale of crude oil a reseller (1) improperly certifies lower tier crude oil as upper tier or stripper (or other exempt) crude oil; (2) improperly certifies upper tier crude oil as stripper (or other exempt) crude oil; or (3) sells any crude oil without a proper certification as required under § 212.131; the reseller shall, within the first calendar month succeeding the month during which no certification was made or such improper certification was made, deliver to the purchaser to which such improper certification was made, a proper certification as required by § 212.131. With respect to any purchaser to which the reseller has failed to deliver a proper certification with respect to lower tier crude oil or has improperly certified lower tier crude oil as upper tier or stripper (or other exempt) crude oil, the reseller shall refund to such purchaser the difference between the price charged by the reseller to that purchaser for such improperly certified or uncertified crude oil and the reseller's weighted average acquisition cost of lower tier crude oil for the month during which no certification or such improper certification was made, times the number of barrels so improperly certified or not certified. With respect to any purchaser to which the reseller has failed to deliver a proper certification with respect to upper tier crude oil or has improperly certified upper tier crude oil as stripper (or other exempt) crude oil, the reseller shall refund to such purchaser the difference between the price charged by the reseller to that purchaser for such improperly certified or uncertified crude oil and the reseller's weighted average acquisition cost of upper tier crude oil for the month during which no certification or such improper certification was made, times the number of barrels so improperly certified or not certified. With respect to any purchaser to which the reseller has failed to deliver a proper certification with respect to stripper or other exempt crude oil, the reseller shall refund to such purchaser the difference between the price charged by the reseller for such crude oil and the reseller's weighted average acquisition cost of stripper and other exempt crude oil for the month during which no certification was made, times the number of barrels not certified. Refunds required by this paragraph shall accompany the proper certifications required by this paragraph.

§ 212.186 Layering.

The price for crude oil charged by a reseller which in a sale performs no service or other function traditionally and historically associated with the resale of crude oil shall not exceed the actual price paid by the reseller for the crude oil, less any amount received in an exchange and any amount received in excess of the amount paid in a matching purchase and sale transaction having the same effect as an exchange, plus any amount paid in an exchange and any amount paid in excess of the amount received in a matching purchase and sale transaction having the same effect as an exchange.

§ 212.187 Recordkeeping and reporting.

(a) *Recordkeeping.* Each reseller of crude oil shall, with respect to each transaction, maintain at its principal place of business, (1) original source documents (e.g. original invoices) substantiating average markup, acquisition cost (including certifications received for crude oil purchased and certifications given for crude oil sold), gathering and transportation cost, and general and administrative costs relative to the purchasing and selling of crude oil, (2) original company accounting worksheets substantiating the computation of average markup, acquisition cost, gathering and transportation cost, and general administrative costs, (3) for those firms engaged in other petroleum activities besides crude oil reselling, original company accounting worksheets substantiating the allocation of acquisition cost, gathering and transportation cost, and general and administrative costs to the crude reselling activity, (4) official inventory records showing monthly valuations of inventory in quantity and dollar amount with the monthly additions to and deletions from inventory, (5) official ledgers and supporting worksheets used to develop the reports required by the Department of Energy, (6) an itemized summary of all crude oil purchases containing with respect to each purchase, the supplier's name and invoice number, the date of purchase, and the number of barrels of crude oil of each regulatory category (lower tier, upper tier, and exempt crude oil) purchased in the month, (7) an itemized summary of all crude oil sales containing with respect to each sale, the purchaser's name, the sales invoice number, the date of sale, and the number of barrels of crude oil of each regulatory category sold in the month and (8) an itemized summary of all exchanges containing with respect to each exchange, the exchange partner's name, the invoice number, the date of the exchange, and the number of barrels of crude oil exchanged.

(b) Each firm engaged in the business of reselling crude oil shall submit to ERA periodic reports in accordance with forms and instructions issued by ERA.

§ 212.188 Depreciation.

For purposes of determining a reseller's costs and expenses associated with sales of crude oil, depreciation shall be determined in accordance with the accounting practice used by the reseller in preparing its Form 10-k filed with the Securities and Exchange Commission or an analogous report filed with a state regulatory agency covering the period which included (a) May 1973 in the case of a reseller which sold crude oil before or during May 1973; (b) November 1977 in the case of a reseller which sold crude oil before December 1, 1977, but not before or during May 1973; or (c) the first month of sales of crude oil in the case of a reseller which did not sell crude oil before December 1, 1977. If the reseller did not file a Form 10-k or such analogous report covering such period, depreciation shall be determined in accordance with the accounting practice applied by the reseller for a certified annual report covering such period prepared by an independent accounting firm. If the reseller neither filed a Form 10-k or an analogous report nor had a certified annual report prepared by an independent accounting firm, depreciation shall be determined in accordance with the accounting practice used by the reseller to determine depreciation for purposes of the reseller's income tax for the reseller's taxable year which included the month of May 1973, the month of November 1977, or the reseller's first month of sales, as applicable.

[FR Doc.77-37043 Filed 12-27-77;8:45 am]

[4810-33]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 1—INVESTMENT SECURITIES REGULATION

Securities Eligible for Purchase, Dealing in and Underwriting; Limitations on Holdings

AGENCY: Comptroller of the Currency, Treasury Department.

ACTION: Final rule.

SUMMARY: This amendment adds additional rulings on the application of the federal banking law and the regulations in this part to any security which a bank holds, desires to deal in, underwrite, or purchase for its own account.

EFFECTIVE DATE: These rulings are already in effect.

FOR FURTHER INFORMATION CONTACT:

Radcliffe Park, Associate Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: 12 CFR 1.9 provides that a bank may request the Comptroller to rule on the applicability of 12 CFR Part 1 or paragraph Seventh of 12 U.S.C. 24 to any security which it holds, or desires to deal in, underwrite, or purchase for its own account. The Administrative Procedure Act does not require public procedures and delayed effectiveness in connection with interpretive rulings. These rulings are issued from time to time as requested and each becomes effective on the date of the letter containing the ruling. Each ruling is published as a separate section of this part with the date of the corresponding letter indicated at the end of the section.

DRAFTING INFORMATION

The principal drafter of this document was Radcliffe Park, Associate Chief Counsel, Investment Securities.

ADOPTION OF AMENDMENT

The following new sections are added to 12 CFR Part 1:

Sec.

AUTHORITY: §§ 1.432-1.468 issued under R.S. 324 et seq., as amended, paragraph Seventh of R.S. 5136, as amended; 12 U.S.C. 1 et seq., 24(7), unless otherwise noted.

§ 1.432 Municipal Electric Authority of Georgia.

(a) *Request.* Ruling on the eligibility of the $300,000,000 Municipal Electric Authority of Georgia, Power Revenue Bonds, Series A, dated January 1, 1977, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Municipal Eletric Authority of Georgia is a public Corporation and an instrumentality of the State of Georgia created by an Act of the 1975 Georgia General Assembly. The Authority was created for the purpose of providing an economical wholesale supply of electricity to those political subdivisions of the State which own their own electrical distribution systems.

(2) The Authority is authorized to acquire, construction, and operate electric generating and transmission facilities to issue bonds to finance its ownership of such facilities. It is issuing these bonds for that purpose. The bond proceeds will be used to buy undivided interests in certain coal-fired and nuclear-fired power plants.

(3) The Authority has entered into power sales contracts with 46 Georgia Municipalities and Crisp County (the "Participants") which provide for each Participant to pay the Authority its share of the Authority's power costs, including debt service on its bond obligations resulting from the ownership, operation and maintenance of the electric facilities. Each participant has pledged its full faith and credit to make the payments required by its contract. The Act authorizes the Authority and each participant political subdivision to make such contracts and provides that the amounts contracted to be paid by the political sub-

division constitute general obligations for the payment of which the full faith and credit of the political subdivision may be pledged.

(c) *Ruling.* It is our conclusion that the $300,000,000 Municipal Electric Authority of Georgia, Power Revenue Bonds, Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Dec. 20, 1976.)

§ 1.433 The Palm Springs Civil Center Authority.

(a) *Request.* Ruling on the eligibility of the $3,400,000 Palm Springs Civic Center Authority Lease Revenue Bonds, Series 1977, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Palm Springs Civic Center Authority is a public entity created under the laws of California by an agreement between the City of Palm Springs and the County of Riverside. Under this agreement, the Authority is authorized to acquire, construct and lease public buildings and related facilities, to provide for the development of the Palm Springs Civic Center area and to issue bonds to finance the construction of the Civic Center improvements. The Authority is issuing these bonds to finance the construction of an addition to the existing county branch administrative center located in the Civic Center. The completed facility, which will house branch superior and municipal courts and related court facilities and the offices of the County Assessor, and the Health, Probation and Social Services Departments, will be leased to and operated by the County.

(2) The County has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to enable the Authority to meet annual interest and principal payments on these bonds as well as other necessary expenses. The County which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $3,400,000 Palm Springs Civic Center Authority Lease Revenue Bonds, Series 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Jan. 13, 1977.)

§ 1.434 Metro Tech Building Corporation, Technical Community College.

(a) *Request.* Ruling on the eligibility of the $2,380,000, Participation Certificates of Metro Tech Building Corporation for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Metro Tech Building Corporation, a Nebraska non-profit corporation, was organized to provide for, erect, own, lease and furnish buildings for the use or benefit of Metropolitan Technical Community College Area. MTCCA is a body corporate created as one of six such college areas into which the State of Nebraska is divided by an act of the Nebraska Legislature. The act grants to each college area the power to cause general ad valorem property taxes to be levied in the counties within its area.

(2) The Corporation has entered into a purchase agreement with MTCCA under which the Corporation has agreed to construct and sell to MTCCA a new building for which MTCCA has agreed to pay, in accordance with a schedule, the sum of $2,380,000 and interest thereon. The Participation Certificates evidence an interest in the payments to be made by MTCCA under the purchase agreement.

(c) *Ruling.* It is our conclusion that MTCCA is a political subdivision of the State of Nebraska, that the holders of the Participation Certificates hold a general obligation of a political subdivision of the State of Nebraska and that the $2,380,000 Participation Certificate of Metro Tech Building Corporation are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated Jan. 28, 1977.)

§ 1.435 Tri-City Hospital Authority.

(a) *Request.* Ruling on the eligibility of the $8,500,000 Tri-City Hospital Authority Lease Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Tri-City Hospital Authority is a public entity created under the laws of California by an agreement between the County of San Diego and Tri-City Hospital District. The Authority is authorized to finance the construction of a 60-bed addition and other improvements to the existing Tri-City Hospital. The completed project will be leased to and operated by the District.

(2) The Tri-City Hospital District is a municipal corporation created under the laws of California to provide hospital services within a district which includes the incorporated cities of Oceanside, Carlsbad and Vista as well as unincorporated territory in the northwestern portion of San Diego County.

(3) The District has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on the bonds. The District, which possesses powers of general property taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $8,500,000 Tri-City Hospital Authority, Lease Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24, and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Jan. 28, 1977.)

§ 1.437 Health and Educational Facilities Board, Nashville and Davidson County.

(a) *Request.* Ruling on the eligibility of $74,000,000 The Health and Educational Facilities Board of The Metropolitan Government of Nashville and Davidson County, Tennessee, Revenue Bonds, Series A (The Vanderbilt University) for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Ruling.* These bonds are issued by an agency of a State or a political subdivision for university purposes. In accordance with the Comptroller's rulings of August 4 and September 19, 1975, 12 CFR §§ 1.406 and 1.410, they are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by The Health and Educational Facilities Board of The Metropolitan Government of Nashville and Davidson County, Tennessee. (Letter dated Feb. 3, 1977.)

§ 1.437 Los Medanos Community Hospital District.

(a) *Request.* Ruling on the eligibility of the $12,600,000 Los Medanos Community Hospital District (Pittsburg Area) Hospital Building Corporation Bonds, Series of 1977, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Los Medanos Community Hospital District (Pittsburg Area) Hospital Building Corporation, a California non-profit corporation acting for the Los Medanos Community Hospital District was created to finance the construction of public hospital buildings and related facilities to be located in Pittsburg, California for the use and occupancy of the District. The Corporation is issuing these bonds for that purpose.

(2) The District has unconditionally promised in a lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $12,600,000 Los Medanos Community Hospital District (Pittsburgh Area) Hospital Building Corporation Bonds, Series of 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Feb. 10, 1977.)

§ 1.438 Connecticut Development Authority.

(a) *Request.* Ruling on the eligibility of the $10,525,000 Connecticut Development Authority, Industrial Project Bonds, Series 1977A through Series 1977L for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Ruling.* These bonds have the same legal basis and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks to the same extent as the 1975 bonds of the Authority which were the subject of the Comptroller's ruling of December 8, 1977, (12 CFR 1.411). (letter dated Mar. 1, 1977).

§ 1.439 Rhode Island Housing and Mortgage Finance Corporation.

(a) *Request.* Ruling on the application of the limitations and restrictions of 12 U.S.C. §§ 24 and 84, to certain obligations of the Rhode Island Housing and Mortgage Finance Corporation which may be acquired by the bank.

(b) *Opinion.* (1) We agree with the position taken by the bank that (a) Bond Anticipation Notes, 1976 Series 1, $2,925,000; Series 2, $455,000; Series 4, $3,120,000 and (b) Bond Anticipation Notes to be purchased by the Bank pursuant to a standby agreement to enable the Corporation to retire at maturity outstanding bond anticipation notes held by the public are not investment securities but are loans subject to the limitations of 12 U.S.C. 84.

(2) The notes of each of Series 1, 2 and 4 issued to finance the construction and rehabilitation of single housing projects, are issued in steps as the money is needed by the developers, for a maturity of two years or less from the date of issue, have been privately placed with the bank, are non-assignable and are redeemable at par at any time.

(3) The purpose of the standby agreement is to assure the Corporation a temporary takeout of its bond anticipation notes in times when bond market conditions are unfavorable or when market conditions preclude the issuance of bonds. Each note would be issued to a group of local banks which would be represented by the Bank acting individually and as agent for the other participating banks. The notes would be non-assignable and redeemable at par at any time.

(c) *Ruling.* (1) We also agree with the position taken by the Bank that Bond Anticipation Notes—1976 Series 3 and 5 which were publicly offered, are transferable without restrictions and are nonredeemable prior to maturity are investment securities as would be the bonds publicly offered to retire the notes of 1976 Series 1, 2 and 4.

(2) These investment securities are issued by an agency of a State for housing purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by the bank within the ten percent limitation of Section 24 with respect to aggregate holdings of obligations of the Corporation. (letter dated Mar. 9, 1977.)

§ 1.440 Parking Authority of the City of Richmond (California).

(a) *Request.* Ruling on the eligibility of the $1,100,000 Parking Lease Revenue Bonds, Series A, of the Parking Authority of the City of Richmond for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Richmond is a public corporate body created pursuant to the laws of California. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the Parking Authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and, where the principal of and the interest on the bonds are payable from rentals paid by the city under such lease.

(2) The Authority is issuing these bonds to finance the construction of a three-level parking structure having a minimum capacity of 225 parking spaces. The proposed parking structure would be located on a .68-acre site within Richmond Redevelopment Agency's downtown project. The site comprises the northern portion of the block bounded by Nevin Avenue and Macdonald Avenue between 11th Street and 12th Street. This site is near the center of the downtown project and will be used to meet the increasing demand for parking in the area. The completed facility will be leased by the Authority to the City.

(3) Under the lease-rental agreement, the City unconditionally promises to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City, which possesses general powers of taxation will thus commit its full faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,100,000 Parking Lease Revenue Bonds, Series A, of the Parking Authority of the City of Richmond are general obligations of a State or a political subdivision thereof, under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in underwriting and unlimited holding by national banks. (Letter dated Mar. 21, 1977.)

§ 1.441 Redevelopment Agency of the City of Sunnyvale (California).

(a) *Request.* Ruling on the eligibility of the $11,200,000 Parking Revenue Bonds, Series A, of the Redevelopment Agency of the City of Sunnyvale for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Redevelopment Agency of the City of Sunnyvale is a public body corporate and politic created under the California Redevelopment Law. The City Council has made the appropriate finding and, in accordance with the law, declared itself to be the Redevelopment Agency. Under the law, a redevelopment agency exercises governmental functions and possesses the power to issue revenue bonds to finance duly adopted redevelopment projects.

(2) The Redevelopment Agency is issuing these bonds to finance the acquisition of sites for public parking facilities within the Sunnyvale Central Core Redevelopment project. The Agency's Series B Bonds will be used to construct the facilities which when completed will be leased by the Agency to the City.

(3) The City has unconditionally promised in the lease rental agreement to pay annual rentals to the Agency in an amount sufficient to meet annual interest and principal payments on the Series A and Series B bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its full faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $11,200,000 Parking Revenue Bonds Series A, of the Redevelopment Agency of the City of Sunnyvale are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Apr. 15, 1977.)

§ 1.442 Redevelopment Agency of the City of Sacramento (California).

(a) *Request.* Ruling on the eligibility of the $2,700,000 Park Revenue Bonds of the Redevelopment Agency of the City of Sacramento for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Redevelopment Agency of the City of Sacramento is a public body corporate and politic created under the California Redevelopment Law. The City Council has made the appropriate finding and, in accordance with the law, declared itself to be the Redevelopment Agency. Under the law, a redevelopment agency exercises governmental functions and possesses the power to issue revenue bonds to finance duly adopted redevelopment projects.

(2) The Redevelopment Agency is issuing these bonds to reimburse the agency's reserve fund for the cost incurred in connection with the construction of a parking facility which is being leased to the City. The parking structure is located at the southern end of the Old Sacramento Historic Area. This facility has five-and-one-half levels which provide 480 parking spaces.

(3) The City has unconditionally promised in the lease rental agreement to pay annual rentals to the Agency in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its full faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $2,700,000 Parking Revenue Bonds of

the Redevelopment Agency of the City of Sacramento are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Apr. 20, 1977.)

§ 1.443 Parking Authority of the City of Long Beach (California), Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $10,215,000 1977 Refunding Lease Revenue Bonds of the Parking Authority of the City of Long Beach for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The proceeds from the sale of these bonds will be used on October 1, 1984, to redeem and to pay the call premium on outstanding 1974 bonds. The 1974 bonds are supported by an unconditional lease rental obligation of the City of Long Beach and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. Until the redemption of the 1974 bonds takes place, the proceeds will be invested in direct obligations of the United States maturing on or before October 1, 1984.

(2) During this initial period, the proceeds of the 1977 bonds and the obligations in which they are invested will be the sole security for the 1977 bonds. Upon retirement of the outstanding 1974 bonds, the 1977 bonds will be supported by the unconditional lease rental obligation which theretofore had supported the 1974 bonds. The 1977 bonds will thus be supported at all times either by an obligation of the United States or by a general obligation of a State or a political subdivision thereof.

(c) *Ruling.* It is our conclusion that the $10,215,000 1977 Refunding Lease Revenue Bonds of the Parking Authority of the City of Long Beach are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (letter dated Apr. 26, 1977.)

§ 1.444 Gwinnett County Water and Sewerage Authority Special Obligation Bonds and Water Revenue Bonds.

(a) *Request.* Ruling on the eligibility of the $21,000,000 Gwinnett County Water and Sewerage Authority Special Obligation Bonds, Series 1977 and the $43,500,000 Gwinnett County Water and Sewerage Authority Water Revenue Bonds, Series 1977 for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Special Obligation bonds will be supported by obligations of the United States. In accordance with the Comptroller's ruling of June 13, 1975, 12 CFR 1.403 these bonds are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

(c) *Ruling.* The Water Revenue bonds are supported by the contractual obligation of Gwinnett County to pay amounts which together with other available funds will be sufficient to pay the operating costs of the Authority, including debt service requirements, and to levy an unlimited ad valorem tax at such rate as may be necessary to produce the amounts required to be paid under the contract. The Water Revenue bonds accordingly are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Apr. 29, 1977.)

§ 1.445 Davis Joint Unified School District School Building Corporation.

(a) *Request.* Ruling on the eligibility of the $9,000,000 Davis Joint Unified School District School Building Corporation Series of 1977 bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Davis Joint Unified School District School Building Corporation, a California non-profit corporation acting for the Davis Joint Unified School District was created to provide financial assistance to the District by financing the acquisition and construction of public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of the Ralph Waldo Emerson Junior High School on a site owned by the District. Construction will include flexible classroom space as well as areas for science, fine arts, practical arts, physical education, administrative functions and multipurpose community functions. The completed school will be leased to and operated by the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $9,000,000 Davis Joint Unified School District School Building Corporation Series of 1977 Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated May 10, 1977.)

§ 1.446 North Dakota Municipal Bond Bank.

(a) *Request.* Ruling on the eligibility of the $15,000,000 North Dakota Municipal Bond Bank 1977 Series A Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The North Dakota Municipal Bond Bank was established in 1975 within the Bank of North Dakota by the North Dakota Municipal Bond Bank Act and constituted as an instrumentality of the State exercising public and governmental functions. The Act provides that the exercise by the Bond Bank of the powers conferred by the Act are deemed to be an essential governmental function of the State. The principal function of the Bank is to lend money to political subdivisions of the State through the purchases of their municipal securities (payable from taxes, rates, charges or assessments) and to issue its own bonds to provide funds for such purposes.

(2) These bonds will be secured by a portfolio of the municipal securities purchased. The municipal securities purchased with the proceeds of these bonds are required by the bond resolution to be general obligations of the political subdivisions. Under the laws of North Dakota improvement bonds and warrants will meet this requirement.

(3) The bonds will also be secured by a debt service reserve fund which will be established in an amount not less than the maximum amount of principal maturing and interest becoming due in any succeeding calendar year on the bonds. In order to assure the maintenance of the required debt service reserve in the reserve fund, the Act provides for the annual appropriation and payment from State funds for deposit in the reserve fund of such sum as is certified to be necessary to restore the fund to an amount equal to the required debt service reserve. The State, which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(4) The bonds will be further secured by a pledge of securities issued by the United States or an agency or instrumentality thereof having a par value of not less than 110 percent of the outstanding principal amount of the bonds. These securities, the property of the Bank of North Dakota, have been pledged by its governing body the Industrial Commission, and will be deposited with a New York bank as escrow agent, as collateral exclusively for the 1977 Series A Bonds. The Act and the general Bond Resolution authorize the Commission to pledge assets of the Bank of North Dakota as security for any bond series.

(c) *Ruling.* It is our conclusion that the $15,000,000 North Dakota Municipal Bond Bank 1977 Series A Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated May 13, 1977.)

§ 1.447 Macon-Bibb County Urban Development Authority (Georgia).

(a) *Request.* Ruling on the eligibility of $1,000,000 Macon-Bibb County Urban Development Authority Revenue Bonds Series 1977 for purchase, dealing in, underwriting and unlimited holding by national banks.

(b) *Opinion.* (1) The Macon-Bibb County Urban Development Authority is a public body corporate and politic created by an act of the General Assembly

of Georgia for the purpose of providing improvements for the public good of urban, central city, and downtown areas located within Bibb County.

(2) The Authority is authorized by an amendment to the Constitution of Georgia to issue bonds for the purpose of acquiring, constructing, equipping, maintaining, operating, extending, repairing and improving land, buildings and facilities for use by the County of Bibb and the City of Macon, either or both, for their governmental, proprietory or administrative functions. The Authority, the City and the County are authorized to enter into contracts and leases pertaining to the use of such facilities for terms not exceeding fifty years and obligating Bibb County and the City to pay such sums as may be agreed upon for the use of such facilities. Bibb County and the City are authorized to levy taxes in order to provide funds to make the payments required under any such contract or lease and to expend money derived from taxation or other available sources and pledge those taxes as provided in any such contract or lease with the Authority.

(3) The Authority is issuing these bonds to finance the acquisition of land, an eleven story office building, and related facilities located in downtown Macon which it has agreed to lease to the City for use as city offices. The City has agreed to lease the property and to pay the Authority amounts sufficient to enable the Authority to pay the maturing principal of and the interest becoming due on the bonds and other necessary expenses. The City also has agreed to levy an annual tax beginning with the year 1977 and from year to year thereafter on all taxable property located in the City at such rates as may be necessary to produce funds sufficient to enable the City to pay the amounts required pursuant to the terms of the Contract.

(c) *Ruling.* It is our conclusion that the $1,000,000 Macon-Bibb County Urban Development Authority Revenue Bonds Series 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing, underwriting and unlimited holding by national banks. (Letter dated May 23, 1977.)

§ 1.448 Rim of the World Unified School District Educational Facilities Corporation (California).

(a) *Request.* Ruling on the eligibility of the $4,825,000 Rim of World Unified School District Educational Facilities Corporation Bonds, Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Rim of the World Unified School District Educational Facilities Corporation, a California nonprofit corporation acting for the Rim of the World Unified School District was created to provide financial assistance to the District by financing the acquisition, construction, improvement and remodeling of public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of additions to Valley of Enchantment Elementary School, Running Springs Elementary School, Lake Arrowhead Elementary School and Mary P. Henck Intermediate School. The completed facilities will be leased to and operated by the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $4,825,000 Rim of the World Unified School District Educational Facilities Corporation Bonds, Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated June 3, 1977; similar letter for Series B Bonds dated Oct. 6, 1977.)

§ 1.449 San Diego Unified School District Public School Building Corporation, Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $28,300,000 San Diego Unified School District Public School Building Corporation 1977 Refunding Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The proceeds from the sale of these bonds and other available funds will be used on January 1, 1987, to redeem and to pay the call premium on outstanding 1975 bonds. The 1975 bonds are supported by an unconditional lease rental obligation of the San Diego Unified School District and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. Until the redemption of the 1975 bonds takes place, the proceeds will be invested in direct obligations of the United States.

(2) During this initial period, the proceeds of the 1977 bonds and the obligations in which they are invested will be the sole security for the 1977 bonds. Upon retirement of the outstanding 1975 bonds, the 1977 bonds will be supported by the unconditional lease rental obligation which theretofore had supported the 1975 bonds. The 1977 bonds will thus be supported at all times either by an obligation of the United States or by a general obligation of a State or a political subdivision thereof.

(c) *Ruling.* It is our conclusion that the $28,300,000 San Diego Unified School District Public School Building Corporation 1977 Refunding Bonds are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (letter dated Jun. 3, 1977.)

§ 1.450 Tennessee Housing Development Agency.

(a) *Request.* Ruling on the eligibility of the $48,250,000 Tennessee Housing Development Agency, Mortgage Finance Program Bonds, 1977 Series A for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) These bonds will be secured by a debt service reserve fund which will be established and maintained in an amount not less than the maximum annual debt service, including principal, interest and sinking fund requirements, for any succeeding year on all outstanding bonds of the Agency. In order to secure the maintenance of this fund, the Act creating the Agency provides that there "shall be annually apportioned and paid" for deposit in the fund of such sum as is certified to be necessary to restore the fund to the required level. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $48,250,000 Tennessee Housing Development Agency, Mortgage Finance Program Bonds, 1977 Series A, are obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated June 13, 1977.)

§ 1.451 County of Los Angeles Tax Anticipation Notes.

(a) *Request.* Ruling on the eligibility of the $350,000,000 County of Los Angeles 1977 Tax Anticipation Notes for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(1) *Ruling.* We have reviewed the Constitutional and Statutory authority for the issuance of these notes and the information which you and representatives of the County have submitted both through the official statement and in person concerning the financial resources of the County and particularly the monthly flow of receipts and disbursements throughout the year, and the moneys of the County, other than taxes, lawfully available for the payment of the Notes.

(2) It is our conclusion from this review that the $350,000,000 County of Los Angeles 1977 Tax Anticipation Notes are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated June 15, 1977.)

§ 1.452 Simi Valley Civic Center Authority (California).

(a) *Request.* Ruling on the eligibility of the $1,200,000 Simi Valley Civic Center Authority Administration Facilities Lease Revenue Bonds, Series 1977 for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Simi Valley Civic Center Authority is a public entity created under the laws of California by an agreement between the County of Ventura and the City of Simi Valley. Under this agreement the Authority is authorized to acquire, construct and lease public buildings and related facilities, and to issue bonds to finance the construction of the Civic Center. The Authority is issuing these bonds to finance the construction of an adminstration building which will be leased to and operated by the City.

(2) The City has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to enable the Authority to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,200,000 Simi Valley Civic Center Authority Administration Facilities Lease Revenue Bonds, Series 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated June 23, 1977.)

§ 1.453 County of San Diego Tax Anticipation Notes.

(a) *Request.* Ruling on the eligibility of the $30,000,000 County of San Diego 1977 Tax Anticipation Notes for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(1) *Ruling.* We have reviewed the Constitutional and Statutory authority for the issuance of these notes and the information submitted through the official statement concerning the financial resources of the County particularly the periodic flow of receipts and disbursements throughout the year, and the moneys of the County, other than taxes, lawfully available for the payment of the Notes.

(2) It is our conclusion from this review that the $30,000,000 County of San Diego 1977 Tax Anticipation Notes are general obligations of a State or a political subdivision thereof under Paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated June 30, 1977.)

§ 1.454 Community Development Administration of Maryland Housing Mortgage Revenue Bonds.

(a) *Request.* Ruling on the eligibility of a proposed issue of $65,000,000 Community Development Administration of the State of Maryland Housing Mortgage Revenue Bonds for purchase, dealing in, and underwriting by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Community Development Administration is a division of the Department of Economic and Community Development which is a principal department of government of the State of Maryland. The Administration is authorized to issue its revenue bonds to finance its housing mortgage finance program.

(c) *Ruling.* It is our conclusion that the proposed bonds would be issued by an agency of a State for housing purposes and would be eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national within the ten percent limitation with respect to aggregate holdings of obligations issued by the Community Development Administration. (Letter dated Jul. 12, 1977.)

§ 1.455 City of Los Angeles Public Facilities Corporation.

(a) *Request.* Ruling on the eligibility of the $64,500,000 City of Los Angeles Public Facilities Corporation Leasehold Mortgage Bonds, Issue of 1977, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The City of Los Angeles Public Facilities Corporation, a California non-profit corporation, was created to finance the construction of a technical and support facilities building for use by the City of Los Angeles. The Corporation is issuing these bonds to finance the construction of a three-story, 1,284,000 square foot technical support facility for the City to be known as the "Plaza Technical Center." The facility will provide for the needs of some 22 city departments and bureaus and will include shops, warehouse, printing services, garages and equipment repair services. The completed facilities will be leased to and operated by the City.

(2) The City has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $64,500,000 City of Los Angeles Public Facilities Corporation Leasehold Mortgage Bonds, Issue of 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated July 13, 1977.)

§ 1.456 Parking Authority of the City of Hawthorne (California), Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $19,375,000 Refunding Lease Revenue Bonds, Series 1977, of the Parking Authority of the City of Hawthorne for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Authority is issuing these bonds to provide for the establishment of an escrow account which will consist of obligations issued by or otherwise supported by the full faith and credit of the United States and will provide for the retirement of outstanding 1974 Series B bonds of the Authority as such bonds mature on April 15, 1978 through April 15, 1984, and by the redemption and payment on April 15, 1984, of bonds maturing on and after April 15, 1985 (including redemption premium), and all installments of interest which become due up to and including the dates of retirement.

(2) The 1974 Series B bonds and an outstanding 1974 Series A bonds are supported by an unconditional lease rental obligation of the City of Hawthorne and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

(3) Upon the establishment of the escrow account the 1974 Series B bonds will be defeased and 1977 refunding bonds (and the 1974 Series A bonds) will be supported by an appropriately amended unconditional lease rental obligation of the City of Hawthorne. The City, which possesses general powers of taxation, will thus commit its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $19,375,000 Lease Revenue Bonds, Series 1977, of the Parking Authority of the City of Hawthorne are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated July 18, 1977.)

§ 1.457 Illinois Health Facilities Authority (Memorial Medical Center, Springfield).

(a) *Request.* Ruling on the eligibility of the $29,950,000 Illinois Health Facilities Authority Revenue Bonds, Series 1975 (Memorial Medical Center) for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Illinois Health Facilities Authority is a body politic and corporate created by the Illinois Health Facilities Authority Act in 1972. The Act provides that the Authority is a public instrumentality and that the exercise of its powers shall be deemed to be the performance of an essential public function. The Authority is authorized by the Act to issue bonds to finance and refinance the construction of health facilities for participating health institutions.

(2) The Authority has issued these bonds to finance the cost of constructing of a health facility for the teaching of medical students and residents. The project is in keeping with the legislative policy of the State that new educational institutions established to educate future physicians should utilize existing hospital resources for clinical teaching. Students from the Medical School of Southern Illinois University, a State educational institution located at Carbondale, will receive clinical training at Memorial Medical Center, an Illinois not-for-profit corporation operating a 580

bed hospital located in Springfield. The facility has been constructed as a part of Memorial Medical Center.

(3) The bonds are supported by the first mortgage note of the Medical Center and by a guaranty by the Medical Center, for the benefit of the bondholders, of the full and prompt payment, when due, of the interest on and the principal of the bonds.

(c) *Ruling.* It is our conclusion that the $29,950,000 Illinois Health Facilities Authority Revenue Bonds, Series 1975 (Memorial Medical Center Project) are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Illinois Health Facilities Authority. (Letter dated July 20, 1977.)

§ 1.458 Illinois Health Facilities Authority (Rush-Presbyterian-St. Luke's Medical Center).

(a) *Request.* Ruling on the eligibility of the $31,750,000 Illinois Health Facilities Authority Revenue Bonds, Series 1976 (Rush-Presbyterian-St. Luke's Medical Center) for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Illinois Health Facilities Authority is a body politic and corporation created by the Illinois Health Facilities Authority Act in 1972. The Act provides that the Authority is a public instrumentality and that the exercise of its powers shall be deemed to be the performance of an essential public function. The Authority is authorized by the Act to issue bonds to finance and refinance the construction of health facilities for participating health institutions.

(2) The Authority has issued these bonds to refinance health facilities constructed for the Medical Center, an Illinois not-for-profit corporation organized exclusively for charitable, scientific and educational purposes. The Medical Center consists of a general hospital and Rush University, which includes Rush Medical College, the College of Nursing and the College of Health Sciences.

(3) The bonds are supported by the first mortgage note of the Medical Center and by a guaranty by the Medical Center, for the benefit of the bondholders, of the full and prompt payment, when due, of the interest on and the principal of the bonds.

(c) *Ruling.* It is our conclusion that the $31,750,000 Illinois Health Facilities Authority Revenue Bonds, Series 1976 (Rush-Presbyterian-St. Luke's Medical Center) are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Illinois Health Facilities Authority. (letter dated Jul. 20, 1977.)

§ 1.459 Atascadero Unified School District Educational Facilities Corporation (California).

(a) *Request.* Ruling on the eligibility of the $1,360,000 Educational Facilities Corporation Bonds, Series of 1977, of Atascadero Unified School District for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Atascadero Unified School District Educational Facilities Corporation, a California non-profit Corporation acting on behalf of the Atascadero Unified School District, was created to render financial assistance to the District by financing and constructing public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of classrooms, including an oversized classroom with kitchen facilities, showers and locker rooms at the Monterey Road Elementary School, Atascadero High School and Creston Union Elementary School. The completed project will be leased to and operated by the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,360,000 Atascadero Unified School District Education Bonds, Series of 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated July 22, 1977.)

§ 1.460 City of San Diego Tax Anticipation Notes.

(a) *Request.* Ruling on the eligibility of the $11,300,000 City of San Diego 1977 Tax Anticipation Notes for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(1) *Ruling.* We have reviewed the constitutional and statutory authority for the issuance of these notes and the information submitted through the official statement concerning the financial resources of the City, the periodic flow of receipts and disbursement for the balance of the calendar year, and the moneys of the City, other than property taxes, lawfully available for the payment of the Notes.

(2) It is our conclusion from this review that the $11,300,000 City of San Diego 1977 Tax Anticipation Notes are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated July 28, 1977.)

§ 1.461 South Texas Higher Education Authority.

(a) *Request.* Ruling on the eligibility of $20,000,000 South Texas Higher Education Authority, Inc., Student Loan Bonds, Series A for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(1) *Ruling.* The proceeds of these bonds will be used to finance a student loan program fully insured by the United States through the Department of Health, Education and Welfare.

(2) It is our conclusion that the $20,000,000 South Texas Higher Education Authority, Inc., Student Loan Bonds, Series A, are indirect obligations of the United States and are therefore eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated August 5, 1977.)

§ 1.462 Riverside Civic Center Authority (California), Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $9,000,000 Riverside Civic Center Authority 1977 Refunding Lease Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The proceeds from the sale of these bonds (less the cost of issuance) will be used on July 15, 1987, to redeem and to pay the call premium on outstanding 1974 bonds of the Authority. The 1974 bonds are supported by an unconditional lease rental obligation of the City of Riverside and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. Until the redemption of the 1974 bonds takes place, the proceeds will be invested in direct obligations of the United States.

(2) During this initial period, the proceeds of the 1977 bonds and the obligations in which they are invested will be the sole security for the 1977 bonds. Upon retirement of the outstanding 1974 bonds, the 1977 bonds will be supported by the unconditional lease rental obligation which theretofore had supported the 1974 bonds. The 1977 bonds will thus be supported at all times either by an obligation of the United States or by a general obligation of a State or a political subdivision thereof.

(c) *Ruling.* It is our conclusion that the $9,000,000 Riverside Civic Center Authority 1977 Refunding Lease Revenue Bonds are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated Aug. 8, 1977.)

§ 1.463 Redevelopment Agency of the City of Vallejo, (California), Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $3,425,000 Redevelopment Agency of the City of Vallejo, City Hall Refunding Lease Revenue Bonds, Series 1977, for purchase, dealing in, underwriting

and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Agency is issuing these bonds to provide for the establishment of an escrow account which will consist of obligations issued by or otherwise supported by the full faith and credit of the United States in an amount sufficient to pay principal of and interest on outstanding 1975 City Hall Lease Revenue Bonds of the Agency due on and prior to July 1, 1986 and to pay the principal of and redemption premiums on the remaining 1975 Bonds on July 1, 1986, the initial call date.

(2) The 1975 Bonds are supported by an unconditional lease rental obligation of the City of Vallejo and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

(3) Upon the establishment of the escrow account the 1975 Bonds will be defeased and 1977 refunding Bonds will be supported by an appropriately amended unconditional lease rental obligation of the City of Vallejo. The City, which possesses general powers of taxation, will thus commit its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $3,425,000 Redevelopment Agency of the City of Vallejo, City Hall Refunding Lease Revenue Bonds, Series 1977, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Aug. 26, 1977.)

§ 1.464 Municipal Assistance Corporation for the City of New York (Second General Bond Resolution).

(a) *Request.* Ruling on the eligibility of $200,000,000 Municipal Assistance Corporation for the City of New York 1977 Series 8 Bonds (Second General Bond Resolution) for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Municipal Assistance Corporation for the City of New York is a corporate governmental agency and instrumentality of the State of New York and a public benefit corporation created in June, 1975, by an act of the legislature of the State of New York, to assist the City in providing essential services to its inhabitants without interruption and in creating investor confidence in the soundness of the obligations of the City. To carry out such purposes, the Corporation is empowered, among other things, to issue and sell bonds and notes and to pay or lend funds received from such sale to the City and to exchange the Corporation's obligations for obligations of the City.

(2) Other laws of the State provide for the suspension of the New York City sales tax until all the notes and bonds of the Corporation shall have been fully paid; for the imposition of a State sales tax within the City of New York and for the appropriation of the net revenues of the tax to the Corporation to enable it to fulfill the terms of any agreement made with the holders of its notes and bonds and to carry out its corporate purposes including the maintenance of a capital reserve fund. The balance of the tax, if any, is to be appropriated to the City. Holders of bonds issued under the First General Bond Resolution have a claim prior to that of the holders of Second Resolution bonds on all amounts received by the Corporation from the State derived from this tax.

(3) Provision is also made in the act creating the Corporation for the gradual establishment (by 25% annual steps beginning in 1977 reaching the full requirement in 1980) and maintenance of a capital reserve fund and for the annual appropriation by the State and payment to the Corporation of the amount required to restore any deficiency in such fund. The reserve fund when fully established is to be in an amount not less than the amount of principal and interest maturing in the succeeding calendar year on bonds then to be issued and on all other outstanding bonds of the Corporation.

(4) The Comptroller in a letter dated June 26, 1975 (12 CFR 1.404) ruled that the 1975 Series A bonds of the Corporation, (issued under its First General Bond Resolution) were general obligations of a State under paragraph Seventh of 12 U.S.C. 24 and were eligible for purchase, dealing in, underwriting and unlimited holding by national banks. Amounts received by the Corporation from the State derived from the sales tax were pledged for the payment of the Series A bonds. The Comptroller concluded from a review of the act creating the Corporation and other laws providing for the appropriation of the net revenues of the sales tax to the Corporation for the purposes stated therein that the State had committed its faith and credit in support of the Series A bonds. At present the Corporation has outstanding $3.151 billion in First Resolution Bonds.

(5) The Corporation is issuing these bonds (Series 8) principally to provide a $140 million addition to the debt service reserve fund for bonds issued under the Second General Bond Resolution. As a result of this addition the fund will equal 100 percent of the debt service coming due in the calendar year 1979 (which is greater than debt service for 1978) on Second Resolution bonds including 1978 debt service on Series 8 and 9. This issue is also an integral part of a plan (the restructure agreement) to aid the financial condition of the City. The restructure agreement provides for the exchange of approximately $819 million in short term notes of the City, held by eleven New York Clearing House Banks and five City Pension Funds, for an equal principal amount of Second Resolution bonds (1977 Series 9) which will be substantially the same in maturity, interest rate and other respect as these Series 8 bonds. It also provides for the exchange of $1.55 billion of First Resolution bonds of the Corporation held by the Clearing House Banks and the Pension Funds for an equal principal amount of new First Resolution bonds with an increased interest rate and extended maturity. This will substantially reduce the annual debt service on First Resolution bonds. Furthermore the Corporation has agreed that it will not issue obligations under the First Resolution if such issuance would cause maximum annual debt service on all obligations issued under the First Resolution to exceed $425 million dollars (with certain adjustments with respect to small denomination notes).

(6) The State Finance law provides for the apportionment and payment into a special account for the Corporation of amounts of per capita aid appropriated by the legislature and otherwise payable out of the general fund of the State to the City subject to specified priority payments. The Corporation has pledged for the payment of Second Resolution bonds amounts derived from per capita aid received by the Corporation from the State and amounts derived from the sales tax after payment of amounts for funds established under the First Resolution. With the reduction of the annual debt service on the First Resolution Bonds resulting from the restructure it is expected that the amounts pledged will provide a coverage ratio of more than four on the Second Resolution Bonds. If per capita aid only were available the ratio would be slightly more than 1.5.

(7) The State Legislature has appropriated for the benefit of the Corporation the per capita aid, and the sales tax for the current fiscal year. It is expected that it will make such appropriations for subsequent fiscal years.

(8) These Second Resolution bonds have substantially the same legal basis as the First Resolution bonds. Both depend upon annual appropriations which the Legislature cannot be compelled to make. Failure to make such appropriations, however, would defeat the legislative purpose to create investor confidence in the soundness of the obligations of the City and to enable the Corporation to fulfill the terms of any agreement made with holders of its notes and bonds. Such failure would have a serious impact on the ability of the State, its agencies and public benefit corporations to raise funds in the public market. These economic sanctions support the conclusion that the State has committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $200,000,000 Municipal Assistance Corporation for the City of New York 1977 Series 8 Bonds (Second General Bond Resolution) are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Aug. 29, 1977.)

§ 1.465 Middlesex County Sewerage Authority (New Jersey).

(a) *Request.* Ruling on the eligibility of the $70,000,000 Middlesex County Sewerage Authority, 1977 Sewer Revenue Bonds for purchase, dealing in,

underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Middlesex County Sewerage Authority created under the laws of the State of New Jersey is a public body, politic and corporate and a political subdivision of the State. The Authority has power under New Jersey law to finance, construct, acquire and operate sewerage facilities in and around Middlesex County. It is issuing these bonds for that purpose.

(2) The Authority has entered into a service contract with various municipalities, various sewerage and utilities authorities, a joint sewer meeting and certain private companies (collectively the "Participants"). The service contract provides for the treatment and disposal by the Authority of sewage delivered into the Authority's system by the Participants and requires the Participants to pay for such service in accordance with rates established by the Authority which rates are required by law to provide amounts sufficient to permit the Authority to pay all expenses of operation and maintenance of the sewerage system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of the service contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority.

(3) The Authority and the Participants have full power and authority to enter into the service contract and are bound by the obligations imposed upon them therein. The Municipalities are obligated to make required payments to the Authority out of the first funds becoming legally available for this purpose. The Municipalities are obligated to provide the funds for such payments to the Authority, if not otherwise available, from the levy of ad valorem taxes upon the real property in the Municipalities without limitation as to rate or amount. Such required payments include any amount necessary to insure that the Authority derives sufficient revenues to meet all its obligations arising out of the bonds and the resolution, notwithstanding the failure of any other Participants to make any required payments to the Authority.

(c) *Ruling.* It is our conclusion that the $70,000,000 Middlesex County Sewerage Authority, 1977 Sewer Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Sept. 15, 1977.)

§ 1.466 Illinois Health Facilities Authority (Northwestern Memorial Hospital).

(a) *Request.* Ruling on the eligibility of the $70,690,000 Illinois Health Facilities Authority Revenue Bonds, 1977 Refunding Series (Northwestern Memorial Hospital) for dealing in, and underwriting by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Illinois Health Facilities Authority is a body politic and corporate created by the Illinois Health Facilities Authority Act in 1972. The Act provides that the Authority is a public instrumentality and that the exercise of its powers shall be deemed to be the performance of an essential public function. The Authority is authorized by the Act to issue bonds to finance and refinance the construction of health facilities for participating health institutions.

(2) The Authority is issuing these bonds to finance and refinance Northwestern Memorial Hospital's share of the cost of constructing a Health Sciences building and the full cost of renovating and remodeling various Hospital facilities.

(3) The Health Sciences building is being constructed pursuant to a joint venture agreement between Northwestern University and the Hospital on land owned by the University and leased to the Hospital and the University as cotenants. Portions of the building will be occupied exclusively by each party and portions will be used by both parties in common.

(4) The Hospital and the University have entered into an affiliation agreement which requires that the patients in all beds of the Hospital shall be available for bedside or clinical teaching by the faculty of the University's Medical School, if the patients and their private physicians consent thereto and consistent with the welfare of the patients; that members of the Hospital's medical and dental staffs also be members of the faculty of the University; and that the Chairman of the various clinical departments of the University's Medical and Dental Schools shall also serve as Chairmen of the corresponding clinical departments of the Hospital.

(5) The close affiliation between the Hospital and the University in the use of property, and in contractual and working relationships, warrant the conclusion the Hospital fulfills the needs of the University's Medical and Dental Schools.

(6) The bonds are supported by a first mortgage note of the Hospital and by a guaranty by the Hospital, for the benefit of the bondholders, of the full and prompt payment, when due, of the interest on and the principal of the bonds.

(c) *Ruling.* It is our conclusion that the $70,690,000 Illinois Health Facilities Authority Revenue Bonds, 1977 Refunding Series (Northwestern Memorial Hospital) are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Illinois Health Facilities Authority. (Letter dated Oct. 20, 1977.)

§ 1.467 Illinois Health Facilities Authority (Michael Reese Hospital and Medical Center).

(a) *Request.* Ruling on the eligibility of the $41,000,000 Illinois Health Facilities Authority Revenue Bonds Series 1977 (Michael Reese Hospital and Medical Center) for dealing in, and underwriting by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Illinois Health Facilities Authority is a body politic and corporate created by the Illinois Health Facilities Authority Act in 1972. The Act provides that the Authority is a public instrumentality and that the exercise of its powers shall be deemed to be the performance of an essential public function. The Authority is authorized by the Act to issue bonds to finance and refinance the construction of health facilities for participating health institutions.

(2) The Authority is issuing these bonds principally to finance the construction of a new Clinical Diagnostic Center building and to refinance outstanding Authority Notes which provided funds for the construction, equipping, renovation and remodeling of certain health care facilities at Michael Reese Hospital and Medical Center.

(3) The Clinical Diagnostic Center will include new patient admission and examination facilities; radiology facilities including classroom, office and laboratory space; and surgery facilities. The Clinical Center has been designed in part to ease the movement of patients, staff and visitors throughout the entire Michael Reese complex.

(4) Michael Reese Hospital and Medical Center (Michael Reese) located on Chicago's near south side, is an Illinois not for profit corporation. It is one of the largest private medical centers in the United States, with 1,008 beds and a staff of more than 600 physicians and dentists, supported by 300 interns, residents and fellows, and 1,200 nurse and nursery personnel. It is a center of primary as well as specialty care, basic and clinical research and medical education.

(5) In 1969, Michael Reese entered into an affiliation agreement with the University of Chicago, the campus of which is located on the south side of Chicago. The affiliation agreement will be supplemented by a new affiliation agreement which is near final approval. The new agreement strengthens the relationship between Michael Reese and the University by providing for Michael Reese physicians to have faculty appointments at the University, a unified undergraduate medical educational program between the institutions and, where appropriate, joint programs in graduate medical education and patient care. One hundred sixty-five members of the Medical Staff of Michael Reese are members of the University's faculty, with additional appointments pending, and Michael Reese is the principal training hospital for approximately 100 of the University's undergraduate medical students annually. Eleven courses listed in the University's medical school catalogue for 1976 were offered at Michael Reese.

(6) In addition, Michael Reese conducts its own academic program through the Michael Reese School of Health Sciences (School) which was established in 1975 and now accommodates more than

1,600 students. The School grants college credit but is not a degree-granting institution in its own right. 1,205 students (consisting of 458 undergraduates, 226 interns and residents, 50 postgraduate fellows and 441 physicians in continuing education programs) participate in programs of the medical and scientific unit, while 160 students are in the School of Nursing and 271 participate in programs of the School's allied health unit. Students in the School of Nursing are eligible for certain federally insured student loans.

(7) Although a growing affiliation has existed for many years between Michael Reese and the University the augmented affiliation will benefit the University because it has been under increasing pressure to expand its hospital teaching base. Although the University owns and operates several hospitals its ability to provide clinical training has been severely limited. Michael Reese with its greater number of patients will provide medical students a broader experience of clinical problems. Such an affiliation indicates that both institutions have a common concern at the university level for the education and training of doctors and for health sciences education and research generally.

(8) The bonds are supported by a first mortgage note of Michael Reese and by a guaranty by Michael Reese, for the benefit of the bondholders, of the full and prompt payment, when due, of the interest on and the principal of the bonds.

(c) *Ruling.* It is our conclusion that the $41,000,000 Illinois Health Facilities Authority Revenue Bonds, Series 1977 (Michael Reese Hospital and Medical Center) are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Illinois Health Facilities Authority (Letter dated Nov. 16, 1977.)

§ 1.468 New York State Project Finance Agency.

(a) *Request.* Ruling on the eligibility of $244,200,000 New York State Project Finance Agency, Refunding Revenue Bonds, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The New York State Project Finance Agency is a corporate governmental agency of the State, constituting a public benefit corporation created in February, 1975, by the New York State Project Finance Agency Act. The single purpose of the agency was to provide long-term financing not otherwise available to the New York State Urban Development Corporation in order to assist UDC in the continuation of its operations and the completion of its projects. The Agency is authorized to receive funds from appropriations by the State and from the sale of its bonds and notes and to make such funds available to UDC through purchases of mortgages owned by UDC or loans to UDC secured by mortgages owned by UDC. Under the Act, the Agency is at present authorized to issue its bonds and notes in an aggregate principal amount not exceeding $305,000,000 excluding bonds and notes issued to refund or otherwise repay outstanding bonds and notes of the Agency or UDC.

(2) The Agency is issuing these Bonds to refund certain previously issued bonds of the Agency. The maximum annual debt service on the Bonds is estimated to be $20,005,000. Debt service on the Bonds will be payable from revenues consisting primarily of subsidy payments from the United States Department of Housing and Urban Development (HUD) which are currently being paid in an annual amount of $23,578,833. This amount is not less than 11 times the maximum annual debt service on the Bonds These payments are interest reduction subsidy payments made pursuant to contracts between UDC and HUD under Section 236(b) of the National Housing Act with respect to a group of 34 mortgages owned by the Agency or UDC which will be pledged to secure the Bonds.

(3) The Agency has convenanted that it will maintain this debt service coverage by pledging additional mortgages to increase the subsidy payments, purchasing or redeeming Bonds to reduce the debt service to be covered, or by investing in obligations of the United States to supplement the subsidy.

(4) The Bonds will be secured also by a debt service reserve fund which will be established in an amount not less than the maximum amount of principal and interest maturing and becoming due in the current or any succeeding calendar year on the Bonds. In order to assure the maintenance of debt service reserve funds, the Act provides for the annual apportionment and payment from State funds for deposit to each debt service reserve fund of such sum, if any, as is certified to be necessary to restore the fund to an amount equal to the capital reserve fund requirement. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $244,200,000 New York State Project Finance Agency, Refunding Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Nov. 22, 1977.)

Dated: December 23, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-37078 Filed 12-28-77;8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17042; Amdt. No. SFAR 27-3]

COMPLIANCE WITH EPA EXHAUST EMISSION (SMOKE) STANDARD FOR JT3D ENGINES MANUFACTURED ON OR AFTER JANUARY 1, 1978

SFAR 27—Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes

In the matter of Part 11—General Rule-Making Procedures, Part 21—Certification Procedures for Products and Parts, Part 45—Identification and Registration Marking, and Part 91—General Operating and Flight Rules.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment defines "date of manufacture" for purposes of the rule, establishes a requirement for marking each aircraft engine for which emission standards are prescribed, and ensures compliance with the exhaust emission (smoke) standards issued by the Environmental Protection Agency (EPA) that apply to new Pratt and Whitney JT3D engines manufactured on or after January 1, 1978. The issuance of this amendment is required by the Clean Air Act, as amended.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Emanuel M. Ballenzweig, Assistant Chief, High Altitude Pollution Staff (AEQ-10), Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-755-8933.

SUPPLEMENTARY INFORMATION:

History

On July 21, 1977, the FAA published Notice No. 77-13 in the Federal Register (42 FR 37413) proposing amendments of the aircraft emissions rules in Special Federal Aviation Regulation (SFAR) 27 in order to ensure compliance with the aircraft emission (smoke) standard issued by the Environmental Protection Agency (EPA) that is effective January 1, 1978. Comments were invited on the proposal.

Under § 232 of the Clean Air Amendments of 1970, Pub. L. 91-604, the FAA has a duty to issue regulations that ensure compliance with all aircraft emissions standards promulgated by EPA under § 231 of the Act, which are currently prescribed in EPA Regulations Part 87 (40 CFR Part 87) issued on July 6, 1973, and published in the Federal Register (38 FR 19038) on July 17, 1973.

Accordingly, on December 26, 1973, the FAA issued Special Federal Aviation Regulation (SFAR) 27, published in the Federal Register (38 FR 35437) on December 28, 1973. The purpose of SFAR 27 is to ensure compliance with aircraft and aircraft engine emission standards and test procedures issued by the EPA in EPA Part 87.

The SFAR, as originally issued, incorporated only those standards and procedures in EPA Part 87 that were effective beginning February 1, 1974. On December 23, 1974, the FAA issued Amendment SFAR 27-1 to SFAR 27 (39 FR 45008; December 30, 1974) which incorporated the fuel venting emission standards in EPA Part 87 that were effective beginning January 1, 1975. A second amendment, SFAR 27-2, was issued on November 23, 1975, and published in the Federal Register on November 28, 1975 (40 FR 55311). That amendment incorporated smoke emission standards in EPA Part 87 applicable to new and in-use aircraft turbofan or turbojet engines designed for subsonic airplanes that have a rated power of 29,000 pounds thrust or greater, effective January 1, 1976.

Discussion of Rule

As stated above, the FAA, in Notice No. 77-13, proposed to add to SFAR-27 the provisions of EPA Part 87 that apply, beginning January 1, 1978. These provisions apply to engines specified in § 87.21 (c) of EPA Part 87 (40 CFR 87.21(c)). That rule provides that the exhaust emissions of smoke from each new Class T3 engine (which, as defined in § 87.1(a) of EPA Part 87, is limited to engines of the JT3D model family) "manufactured" on or after January 1, 1978, shall not exceed a smoke number of 25 (as determined in accordance with the test procedures of EPA Part 87). Only four comments were received. The comments concerned the application of aircraft emission standards to airplanes being exported, and the method of identifying and approving engines. These comments are addressed in the following discussions.

Date of "Manufacture"

The notice proposed to amend §§ 15, 17, 21, and 25 by adding a reference to the January 1, 1978, EPA standards for all engines "manufactured" on and after that date. As stated in the preamble to the notice, the intent was to make it clear that the date of FAA approval of an engine for installation on an aircraft is the date that the FAA regards an engine as "manufactured" (as that term is used in EPA Part 87). Further review indicates that, in parallel fashion, a foreign manufactured engine should also be regarded as "manufactured" on the date that the foreign country of manufacture issues an approval equivalent to that issued by the FAA. Considering these factors, the word "manufactured," as used in the notice, is defined in a new § 12. Accordingly, in amended § 15, the phrase "manufactured on or after January 1, 1978" refers to engines which, on or after January 1, 1978, are originally approved by the FAA, or by a foreign country of manufacture, for installation on airplanes. The new definition in § 12 makes it clear that the date of approval of each individual engine, not the date of approval of the type design, is the controlling date. The words "original" and "originally" are used to make it clear that an in-use engine is approved for installation on airplanes, following rebuilding or maintenance, is not revelant. This discussion also applies to the amendments to §§ 17, 21, and 25.

For the same reasons, and consistent with the proposal to express date of "manufacture" in terms of approval dates, § 19 is also amended to make it clear that issuance of an original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent approval by a foreign country of manufacture) is contingent upon compliance with applicable emission standards. This applies with respect to any EPA standard that relates to the date of "manufacture" of an aircraft engine (as defined in § 12), and that is added later to this SFAR, not only the standard being incorporated by this amendment. See also the discussion below concerning the forms of FAA approval.

Forms of Engine Approval

The notice proposed to add the words "or other FAA approval for installation of an engine on aircraft" following the reference to "airworthiness approval tag" in § 19. This reflected the fact that FAA approvals of engines are not limited to airworthiness approval tags. Further review of this proposal indicates that all references to airworthiness approval tags can be deleted since they are clearly covered by the broad reference to "FAA approval for installation of an engine on an airplane." In addition, for engines manufactured in a foreign country with which the United States has an agreement for the acceptance of the engine (See § 21.500 of Part 21 of the Federal Aviation Regulations, 14 CFR Part 21), the FAA approval is exercised in the form of FAA acceptance of an approval issued by the country of manufacture. To prevent possible confusion, it is believed that this form of FAA approval should be clearly set forth. Accordingly, the provisions of § 19, as amended, refer to "original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent original approval issued by a foreign country of manufacture * * *)." The word "aircraft" (proposed in the notice) is changed to "airplane" since the definition of "aircraft" in § 87.1(a)(3) of EPA Part 87 is limited to "airplane."

Marking of Engines

The notice proposed to add new paragraphs (b) and (c) to § 19 to require that engines be permanently marked to identify the date of manufacture, and (for noncomplying engines) to require that the identification plate for the engine contain a statement that the "need for emission compliance must be determined before installation." FAA review of comments indicates that the intent of this proposal (which is to facilitate ready

identification of engines that should not be installed or operated in airplanes) can be expressed more clearly and achieved with less burden on manufacturers. Several comments indicate concern with the limited space available on an engine for placing identification data and with the proposed statement regarding the need to determine compliance with applicable standards before installation of the engine on an airplane. Some commenters noted that the proposed statement would not indicate the basis for the required determination. The FAA agrees that the rule as proposed would not result in the most efficient use of the available space for marking critical information on an engine. It is believed that the purpose of the proposal can be more efficiently achieved, with less impact on manufacturers, by requiring that the model designation (which is already required to be on the identification plate) correspond to approved type design data indicating whether applicable emission standards are complied with. As adopted, this identification requirement applies only to engines that are covered by FAA emission regulations that become effective on or after January 1, 1978. It should be noted that, like that proposed in the NPRM, this requirement is not limited to the new JT3D engines being added by this amendment, but also applies to engines subject to any emission standards that are added to SFAR 27 after January 1, 1978. Since a particular engine type may be required to comply with a series of emission standards during a long production run, this provision is intended to allow the installer (such as maintenance personnel and aircraft operators) to readily determine, by reference to the type certificate data for each model designation, whether a particular engine may be installed or operated after the compliance dates prescribed by EPA.

Continuing Compliance

As is the case under the current provisions in SFAR 27 concerning smoke emissions, compliance with the smoke emissions requirements for Class T3 engines manufactured on or after January 1, 1978, may, under this amendment, be shown by equipping the affected engines with approved combustors of a design that has been shown to result in the engine meeting the applicable smoke number, and by maintaining the engines in accordance with applicable airworthiness maintenance requirements. Accordingly, as proposed in the notice, the January 1, 1978, date is added to § 14(c) and the text of that paragraph is consolidated to eliminate duplication. If additional requirements to detect and prevent deterioration of smoke emissions charactertistics during the service life of an engine should become necessary, production line testing of sample engines, periodic testing of in-use engines, or similar regulations necessary to ensure compliance with these standards will be proposed by the FAA in a later rulemaking action.

Export Aircraft

One commenter discussed the applicability of SFAR 27 to the exporting of aircraft with standard airworthiness certificates (or their foreign equivalent) for use "exclusively" outside the U.S. when the importing country does not require emission controls. The commenter suggested that SFAR 27 be amended to state clearly that it applies only to foreign civil airplanes that are routinely operated within the United States. The commenter stated that the FAA could not make this change to SFAR 27 unless EPA first made a similar change to its Part 87. (A letter requesting such a change has been sent to EPA by the commenter.) The FAA, agrees that if EPA agrees with this request, the appropriate means of narrowing the applicability of SFAR 27, with respect to EPA standards already incorporated in it, would be to change EPA Part 87 by narrowing the application of the standards for aircraft emissions with respect to certain clearly specified classes of operation which are determined by EPA not to significantly affect air quality inside the United States. The FAA will continue to work with EPA to resolve this issue, since under Section 232 of the Clean Air Act, the Department of Transportation must "insure compliance with all standards" issued by EPA. In this connection, § 3 of SFAR 27 provides that, if EPA relaxes Part 87, that relaxation is incorporated in the SFAR automatically, without further action by FAA.

Effective Date

As stated above, the requirements of 40 CFR Part 87 that are incorporated in this amendment become effective beginning on January 1, 1978. Section 232 of the Clean Air Act, as amended (42 U.S.C. § 1857f–10), requires the FAA to prescribe regulations to ensure compliance with all standards prescribed under § 231 of that Act (42 U.S.C. § 1857f–9) which include the newly incorporated provisions of EPA Part 87. Accordingly, this amendment must be effective no later than January 1, 1978. Good cause, therefore, exists for making this amendment effective in less than 30 days after publication in the Federal Register.

Drafting Information

The principal authors of this document are Emanuel M. Ballenzweig, Office of Environmental Quality, and Richard W. Danforth, Office of the Chief Counsel.

Adoption of the Amendment

Accordingly, Special Federal Aviation Regulation (SFAR) 27 of the Federal Aviation Regulations is amended, effective January 1, 1978, as follows:

1. By adding a new section 12 to read as follows:

Section 12 Date of manufacture. As used in this SFAR, unless EPA Part 87 or the Clean Air Act, as amended, require otherwise, the date on which an aircraft engine is "manufactured" is the date on which that individual engine is originally approved by the FAA, or by a foreign country of manufacture, for installation on an aircraft.

2. By amending section 14(c) to read as follows:

Section 14 Compliance.

* * * * *

(c) Continued compliance with the exhaust emissions requirements of this SFAR that apply beginning February 1, 1974, January 1, 1976, and January 1, 1978, is shown, for engines for which the type design has been shown to meet those requirements, if the engine is maintained in accordance with applicable maintenance requirements of 14 CFR Chapter I.

* * * * *

3. By amending section 15(a), in the introductory clause, by substituting the words "(a)(5)" for the words "(a)(4)", and by adding a new paragraph (a)(5) to read as follows:

Section 15 Type certificates. (a) * * *

(5) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emission (smoke) requirement and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

* * * * *

4. By amending section 17(a), in the introductory clause, by substituting the words "(a)(5)" for the words "(a)(4)", and by adding a new paragraph (a)(5) to read as follows:

Section 17 Supplemental or amended type certificates. (a) * * *

(5) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emission (smoke) requirement and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

* * * * *

5. By amending section 19 to read as follows:

Section 19 Engine approvals. (a) On and after the dates specified in this paragraph, and notwithstanding Part 21 of the Federal Aviation Regulations, no original FAA approval for installation of an engine on an airplane covered by this SFAR (including FAA acceptance of an equivalent original approval issued on or after January 1, 1978 by a foreign country of manufacture) is made by the FAA: (1) For an engine of Class T4, unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(2) For an engine of Class T2 that has a rated power of 29,000 pounds thrust or greater, unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1976; and

(3) For an engine of Class T3 unless the engine complies with the exhaust emission requirement and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

(b) On and after January 1, 1978, notwithstanding Part 21 of the Federal Aviation Regulations, no original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent original approval issued on or after January 1, 1978, by a foreign country of manufacture) is made by the FAA, for an engine covered by FAA emission regulations that become effective on or after January 1, 1978,

unless the engine identification plate secured to the engine under § 45.11 of 14 CFR Part 45 contains a model designation that corresponds to approved type certification data indicating whether compliance has been shown with applicable emission standards.

6. By amending section 21, in the introductory paragraph, and by adding a new paragraph (e), to read as follows:

Section 21 Standard airworthiness certificates. Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of application, no standard airworthiness certificate is issued on and after the dates specified in paragraphs (a) through (e) of this section, for the airplane specified therein, unless:

* * * * *

(e) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emission requirement and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

7. By amending section 25, in the introductory paragraph, and by adding a new paragraph (e), to read as follows:

Section 25 Operation. On and after the dates specified in paragraphs (a) through (e) of this section, no person may, within the United States, operate an airplane specified in those paragraphs unless—

* * * * *

(e) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emission requirement and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

(Sec. 232, Clean Air Act, as amended December 31, 1970, Pub. L. 91-604 (42 U.S.C. § 1857f-10), as delegated (36 FR 8733); 40 CFR Part 87 (38 FR 19088); Secs. 307(c), 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348(c), 1354(a), 1421, and 1423; Sec. 6(c) Department of Transportation Act (49 U.S.C. § 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on December 21, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-36971 Filed 12-28-77;8:45 am]

[4910-13]

[Docket No. 17504; Amdt. 39-3108]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. Model DH/BH/HS-125 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement and safety wire locking of the bolts which attach the elevator control pulley bracket to the top of the fin rear spar on Hawker Siddeley Aviation, Ltd., Model DH/BH/HS-125 airplanes. This AD is necessary to correct a deficiency in production wherein bolts may have been installed of incorrect length which would not allow engagement of the locking feature and could result in loss of control of the aircraft.

DATES: Effective January 12, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from Hawker Siddeley Aviation Inc., Suite 206, Blake Building, 1025 Connecticut Avenue NW., Washington, D.C. 20036, telephone: 202-223-9350.

A copy of the service bulletin is contained in the Rules Docket for this amendment in room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There have been reports that the four bolts which attach the elevator control pulley bracket to the fin rear spar installed on Hawker Siddeley Aviation Limited DH/BH/HS-125 airplanes may have been of insufficient length which would not allow engagement of the locking feature provided in the nutplate secured to the fin rear spar. This condition could result in the bolts becoming detached with resultant hazardous effect on the elevator control system and possible loss of control of the aircraft. The manufacturer detected the deficiency during production inspection and since this condition is likely to exist or develop on all Hawker Siddeley, Limited BH/HS 125-600A aircraft and possibly on earlier DH/BH-125 aircraft, an AD is being issued which requires replacement and safety wire locking of the bolts.

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

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, F. H. Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

HAWKER SIDDELEY AVIATION, LIMITED. Applies to Model DH/BH/HS-125 airplanes, certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible detachment of the bolts securing the elevator control pulley bracket to the aircraft structure, accomplish the following:

(a) For BH/HS-125-600A aircraft, within 10 hours time in service after the effective date of this AD, replace the four bolts attaching the elevator control pulley bracket to the top of fin rear spar with 25-6CF 519 or NAS 1304-10H bolts and safety wire replacement bolts in pairs all in accordance with the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation, Ltd., Modification Service Bulletin 27-122(2578), dated March 31, 1977, or an FAA-approved equivalent.

(b) For all other DH/BH-125 aircraft, within 100 hours time in service after the effective date of this AD, replace the four bolts attaching the elevator control pulley bracket to the top of the fin rear spar in accordance with Paragraph (a) of this AD.

This amendment becomes effective January 12, 1978.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on December 21, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-36986 Filed 12-28-77;8:45 am]

[4910-13]

(Docket No. 77-EA-83; Amdt. 39-3104)

PART 39—AIRWORTHINESS DIRECTIVES

Leigh Systems ELT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule (AD) amends AD 74-20-10 applicable to Leigh Systems Sharc 7 ELTs. It will preclude a misidentification of lithium batteries and their elimination from inspection under AD 74-20-10. The manufacturer had shipped batteries which weighed in excess of the criteria found in AD 74-20-10. The amendment will increase the weight range for identifying lithium batteries.

EFFECTIVE DATE: December 30, 1977.

ADDRESSES: Leigh Systems Bulletins may be acquired from the manufacturer at Leigh Systems, Inc., 6081 Court Street Road, Syracuse, N.Y. 13206.

FOR FURTHER INFORMATION CONTACT:

M. Mavricos, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; Tel. 212-995-3372.

SUPPLEMENTARY INFORMATION: The manufacturer, Leigh Systems, has

released lithium batteries which are identified by tags indicating a weight of 1.8 pounds. AD 74-20-10 had identified such batteries as carrying tags stating weights of 1.5 or 1.7 pounds. The amendment increases the identifying range to cover 1.5 to 2.0 pounds and places the criterion in a "Note" so that the aircraft owner must still determine the presence of the lithium batteries using the note as a guide and not a sole criterion. Since the misidentification affects air safety, notice or public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are M. Mavricos, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 74-20-10, as follows:

1. Delete item 1.

2. Add the following at the end of the AD: Note: ELT's equipped with lithium batteries may be identified by inspecting the identification tags. Units marked in the weight range of 1.5 to 2.0 lbs. are lithium batteries.

Effective Date: This amendment is effective December 30, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on December 16, 1977.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-36983 Filed 12-28-77;8:15 am]

[4910-13]

[Docket No. 17052; Amdt. 39-3109]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections for wear, and replacement, as necessary, of the flame tube liners and suspension pins on Rolls Royce Dart engines, Series 525 and 526 to prevent possible overheating and failure of the turbine rotors on these engines.

DATES: Effective January 12, 1978. Compliance required as indicated.

ADDRESSES: The applicable service bulletin may be obtained from: Rolls Royce, Ltd., P.O. Box 31, Derby DE 2 8BJ, England.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, % American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections for wear, and replacement, as necessary, of the flame tube liners and suspension pins on certain Rolls Royce Dart engines, was published in the FEDERAL REGISTER at 42 FR 38336 on July 28, 1977. The proposal was prompted by reports of failures in the flame tube support system on certain Rolls Royce Dart engines that resulted in overheating and failure of the high pressure turbine rotor.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

ROLLS ROYCE LIMITED. Applies to Dart engines Series 525, 526, and variants, featuring Modifications 748, 1243, 1244, 1432, 1448, or 1607, used on, but not limited to, Viscounts 744, 745D, and 810 aircraft, and Armstrong Whitworth Argosy AW-650 series 101 aircraft.

Compliance is required as indicated.

To prevent excessive wear in flame tube liners and suspension pins that may result in loss of flame tube support causing overheating and failure of the turbine rotors, accomplish the following:

(a) Within the next 500 hours engine time in service after the effective date of this AD, unless already accomplished, inspect the flame tube liner and suspension pin for wear in accordance with the instructions contained in paragraph 4A of Rolls Royce Dart Alert Service Bulletin Da 72-417, dated August 29, 1975 (hereafter RR SB 72-417), or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, N.Y. 09667 (hereafter FAA-approved equivalent).

(b) If, during an inspection required by this AD, flame tube liner or suspension pin wear is found to exceed the limits given in paragraph 4A.2 of RR SB 72-417, or an FAA-approved equivalent, before further flight, except that the aircraft may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed, replace the affected part with a serviceable part and reinspect in accordance with either paragraph (c) or (d) of this AD, as applicable.

(c) If, during an inspection required by this AD, flame tube liner wear is in excess of 0.030 inches on any one flame tube of any engine in the operator's fleet, determine the flame tube time in service since new or overhauled, and establish a fleet Repetitive Inspection time interval in accordance with paragraph 4.A(3) of RR SB 72-417, or an FAA-approved equivalent.

(d) If, during an inspection required by this AD, flame tube liner wear does not exceed 0.030 inches on any one flame tube of any engine in the operator's fleet, replace, if necessary, the affected parts according to paragraph (b) of this AD and reinspect in accordance with paragraph 4D of RR SB 72-417, or an FAA-approved equivalent, at intervals not to exceed 2500 hours engine time in service from the last inspection.

(e) If, during a Repetitive Inspection required by paragraph (c) or (d) of this AD, flame tube liner wear exceeds 0.030 inches on any one flame tube of an engine in the operator's fleet, reduce the Repetitive Inspection Interval for all engines in the fleet in accordance with paragraph 4B of RR SB 72-417, or an FAA-approved equivalent.

(f) Record the repetitive inspection time intervals established pursuant to paragraphs (c), (d), and (e) in the aircraft maintenance records.

This amendment becomes effective January 12, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on December 21, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-36985 Filed 12-28-77;8:45 am]

[4910-13]

[Docket No. 77-SO-64-A]

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

Alteration of Huntsville, Alabama, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revocation.

SUMMARY: This action revokes a rule issued on November 11, 1977, and appearing in FR Doc. 77-33538 on page 60121 in the issue of Friday, November 25, 1977 (77-ASO-64). The editorial

change contained in the rule was unnecessary and therefore is being revoked.

EFFECTIVE DATE: 0901 GMT, March 23, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404–763–7646.

SUPPLEMENTARY INFORMATION: The FAA issued the final rule with an effective date of 0901 GMT, March 23, 1978, containing an editorial change involving the new name of a VORTAC. The change was unecessary and is being revoked. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Docket No. 77–SO–64, Altering the Huntsville, Alabama, Transition Area, is revoked, effective 0901 GMT, March 23, 1978, and the Huntsville, Alabama, transition area remains as it now appears in Part 71 of the Federal Aviation Regulations (14 CFR 71) Subpart G § 71.181 (42 FR 440).

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in East Point, Georgia, on December 16, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77–36987 Filed 12–28–77;8:45 am]

[4910–13]

[Docket No. 17523; Amdt. No. 91–144]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Minimum Navigation Performance Capability for Operations Over the North Atlantic

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that aircraft operated in certain airspace over the North Atlantic meet a specified level of navigation performance capability. The intended effect is to ensure that an adequate level of safety will be maintained when lateral traffic separation standards are reduced in the affected airspace in 1978. These changes are necessary in order to include in the Federal Aviation Regulations navigation performance standards adopted by the International Civil Aviation Organization.

DATES: Effective date: December 29, 1977. Comments by: March 1, 1978.

ADDRESSES: Submit comments to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202–755–8716.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to action by the Council of the International Civil Aviation Organization (ICAO), effective December 29, 1977, the following described airspace over the North Atlantic (NAT) will be designated as Minimum Navigation Performance Specifications (MNPS) airspace: that volume of airspace between flight level 275 and flight level 400 extending between latitude 27 degrees north and latitude 67 degrees north, bounded in the east by the eastern boundaries of flight information regions Santa Maria Oceanic, Shanwick Oceanic, and Reykjavik, and in the west by longitude 60 degrees west within flight information region New York Oceanic, the western boundary of flight information region Gander Oceanic; and the western boundary of flight information region Reykjavik. Pursuant to the ICAO action, the following navigation performance capability standards will apply to aircraft operating in the NAT MNPS airspace.

1. The standard deviation of lateral track errors shall be less than 6.3 NM (11.7 Km). By way of explanation, a standard deviation is a statistical measure of dispersion of data about a mean value. The mean is assumed to be zero. Under the MNPS concept, aircraft will be within 6.3 NM (11.7 Km) of cleared track 68 percent of the time of flight and within 12.6 NM (23.4 Km) of cleared track 95 percent of the time of flight.

2. The proportion of the total flight time spent by aircraft 30 NM (55.6 Km) or more off the cleared track shall be less than 5.3×10^{-4} (i.e., less than one hour in 1,887 flight hours).

3. The proportion of the total flight time spent by aircraft between 50 NM and 70 NM (92.6 Km and 129.6 Km) off the cleared track shall be less than 13×10^{-5} (i.e., less than one hour in 7,693 flight hours).

The NAT MNPS airspace is one of the most heavily used oceanic airspace areas in the world because of the large number of flights traveling between North America and Europe. The MNPS concept was developed by ICAO in order to permit more efficient use of the NAT MNPS airspace. This will be accomplished by reduction of the lateral traffic separation standard from the present 120 miles to 60 miles. It is anticipated that significant fuel savings will be achieved because the effect of the reduction in traffic separation will be to permit more flights to operate over the optimum tracks between North America and Europe. Thus, there are significant public interest benefits which are expected to result from implementation of the MNPS concept.

The traffic separation distance reduction is scheduled to take effect on October 5, 1978. However, pursuant to the ICAO action, the MNPS concept, including designation of airspace and implementation of MNPS navigational performance capability, will become effective December 29, 1977, in order to permit a thorough operational evaluation. This evaluation will ensure that safety will not be adversely affected when the planned reduction in traffic separation distance becomes effective.

Pursuant to the MNPS concept adopted by ICAO, each ICAO Contracting State is required to verify that aircraft registered in that state, which are intended to be operated in the NAT MNPS airspace, possess the navigational capability required to meet the MNPS standards. In addition, ICAO Contracting States which are responsible for providing air traffic control services in the NAT MNPS airspace, i.e., the United States, Canada, Denmark, Iceland, Portugal, and the United Kingdom, are required to monitor navigational performance in the NAT MNPS airspace in order to ascertain whether the required degree of navigational accuracy is achieved by persons operating aircraft in that airspace.

DESCRIPTION OF THE AMENDMENT

This amendment provides that no person may operate a civil aircraft of United States registry in the NAT MNPS airspace unless that aircraft has approved navigation performance capability meeting the standards adopted by ICAO. The rule provides that air traffic control (ATC) may permit deviations from the rule if ATC determines that a particular flight can be provided appropriate separation without MNPS navigational performance capability and that the flight will not interfere with, or impose a burden upon, the operations of other aircraft possessing MNPS navigational performance capability.

ADVISORY MATERIAL AVAILABLE

The FAA has developed advisory material which should prove helpful to operators in demonstrating that their aircraft have the navigation performance capability required for operations in the NAT MNPS airspace and obtaining the FAA's approval of that capability. This material may be obtained free of charge by request directed to the U.S. Department of Transportation, Publications Section, TAD 443.1, Washington, D.C. 20590. Operators certificated under Part 121 or 123 or operating large aircraft

under § 135.2 of the Federal Aviation Regulations, should request Advisory Circular No. 120-33. Air taxi operators of small aircraft under Part 135, or operators conducting operations under Part 91 of the Federal Aviation Regulations, should request Advisory Circular No. 91-49.

PRINCIPAL AUTHORS

The principal authors of this document are James I. Riddle, Flight Standards Service, and Richard C. Beitel, Office of the Chief Counsel.

NEED FOR IMMEDIATE ADOPTION

Details required for implementation of the MNPS concept were discussed in the meeting of the ICAO North Atlantic Systems Planning Group, held in Paris, France during September 1977. ICAO prepared a summary of that meeting which was distributed to Contracting States commencing October 4, 1977. In accordance with conclusions reached at that meeting, the United States issued a Notice to Airmen (NOTAM) on November 3, 1977, advising that the requirement for compliance with MNPS standards would become effective December 29, 1977, in the NAT MNPS airspace. Other States providing air traffic control services in that airspace, including the United Kingdom on November 1, 1977, issued similar NOTAM's. Since, pursuant to the action of the Council of ICAO, the United States of America and other ICAO Contracting States have agreed to implement the navigational performance capability standards for the NAT MNPS airspace effective December 29, 1977, and in view of the representations which have been made by Contracting States concerning that effective date, I find that notice and public procedure hereon are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than thirty days. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the 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 1, 1978, will be considered by the Administrator for discussion with the International Civil Aviation Organization. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended, effective December 29, 1977, as follows:

1. By amending § 91.1(b) by deleting the word "and" following the semi-colon in paragraph (b)(2), by changing the period following the word "Aviation" in paragraph (b)(3) to a semi-colon followed by the word "and", and by adding a new paragraph (4) to § 91.1(b) to read as follows:

§ 91.1 Applicability.

* * * * *

(b) * * *

(4) When over the North Atlantic within airspace designated as Minimum Navigation Performance Specifications airspace, comply with § 91.20.

* * * * *

2. By adding a new § 91.20 to read as follows:

§ 91.20 Operations Within the North Atlantic Minimum Navigation Performance Specifications Airspace.

Unless otherwise authorized by the Administrator, no person may operate a civil aircraft of U.S. registry in North Atlantic (NAT) airspace designated as Minimum Navigation Performance Specifications (MNPS) airspace unless that aircraft has approved navigation performance capability which complies with the requirements of Appendix C to this Part. The Administrator authorizes deviations from the requirements of this section in accordance with Section 3 of Appendix C to this Part.

3. By adding a new Appendix C to read as follows:

APPENDIX C—OPERATIONS IN THE NORTH ATLANTIC (NAT) MINIMUM NAVIGATION PERFORMANCE SPECIFICATIONS (MNPS) AIRSPACE

Section 1. NAT MNPS airspace is that volume of airspace between flight level 275 and flight level 400 extending between latitude 27 degrees north and latitude 67 degrees north, bounded in the east by the eastern boundaries of flight information regions Santa Maria Oceanic, Shanwick Oceanic, and Reykjavik, and in the west by longitude 60 degrees west within flight information region New York Oceanic, the western boundary of flight information region Gander Oceanic, and the western boundary of flight information region Reykjavik.

Section 2. The navigation performance capability required for aircraft to be operated in the airspace defined in § 1 of this Appendix is as follows:

(a) The standard deviation of lateral track errors shall be less than 6.3 NM (11.7 Km). Standard deviation is a statistical measure of data about a mean value. The mean is zero nautical miles. The overall form of data is such that the plus and minus one standard deviation about the mean encompasses approximately 68 percent of the data and plus or minus two deviations encompasses approximately 95 percent.

(b) The proportion of the total flight time spent by aircraft 30 NM (55.6 Km) or more off the cleared track shall be less than 5.3×10^{-4} (less than one hour in 1,887 flight hours).

(c) The proportion of the total flight time spent by aircraft between 50 NM and 70 NM (92.6 Km and 129.6 Km) off the cleared track shall be less than 13×10^{-5} (less than one hour in 7,693 flight hours).

Section 3. Air traffic control (ATC) may authorize an aircraft operator to deviate from the requirements of § 91.20 for a specific flight if, at the time of flight plan filing for that flight, ATC determines that the airthat flight, ATC determines that the aircraft may be provided appropriate separation and that the flight will not interfere with, or impose a burden upon, the operations of other aircraft which meet the requirements of § 91.20.

Secs. 307, 313(a), 601, 604, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1424, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on December 27, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc 77-37130 Filed 12-28-77;8:45 am]

[4910-13]

[Docket No. 17503; Amdt. No. 1101]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPS, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective February 23, 1978.*

Roseau, MN—Roseau Municipal, VOR Rwy 16, Amdt. 2.
Roseau, MN—Roseau Municipal, VOR-A, Amdt. 3.

** * * Effective February 9, 1978.*

Orlando, FL—Herndon, VOR Rwy 13, Amdt. 10.
Orlando, FL—Herndon, VOR Rwy 31, Amdt. 10.
Punta Gorda, FL—Charlotte County, VOR Rwy 33, Original.
Punta Gorda, FL—Charlotte County, VOR/DME Rwy 33, Amdt. 1, cancelled.
Winfield-Arkansas City, KS—Strother Field, VOR Rwy 35, Amdt. 1.
Bethpage, NY—Grumman-Bethpage, VOR-A (TAC), Amdt. 7.
Farmingdale, NY—Republic, VOR-A, Amdt. 6.
Wallace, NC—Henderson Fld, VOR/DME-A, Amdt. 2.
North Myrtle Beach, SC—Grand Strand, VOR/DME Rwy 5 (TAC), Original.
North Myrtle Beach, SC—Grand Strand, VOR/DME Rwy 23 (TAC), Orig.
Houston, TX—Houston Intercontinental, VOR/DME Rwy 14, Amdt. 6.
Houston, TX—Houston Intercontinental, VOR/DME Rwy 32, Amdt. 5.

** * * January 26, 1978.*

Lampasas, TX—Lampasas, VOR-A, Amdt. 1.

** * * December 7, 1977.*

Madera, CA—Madera Municipal, VOR Rwy 30, Amdt. 1.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective February 9, 1978.*

Orlando, FL—Herndon, LOC(BC) Rwy 25, Amdt. 12.
Farmingdale, NY—Republic, LOC(BC) Rwy 32, Amdt. 2.
Houston, TX—Houston Intercontinental, LOC/DME BC Rwy 32, Amdt. 3.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective February 23, 1978.*

Ashland, OH—Ashland County, NDB Rwy 18, Amdt. 2.
Van Wert, OH—Van Wert Municipal, NDB Rwy 9, Amdt. 3.

** * * Effective February 9, 1978.*

Orlando, FL—Herndon, NDB Rwy 7, Amdt. 9.
Winfield—Arkansas City, KS—Strother Field, NDB Rwy 35, Original.
Winfield—Arkansas City, KS—Strother Field, NDB (ADF) Rwy 35, Original, cancelled.
St. Paul, MN—Lake Elmo, NDB-A, Original.
South St. Paul, MN—South St. Paul Municipal Richard E. Fleming Field, NDB-B, Original.
Hickory, NC—Hickory, Muni., NDB Rwy 24, Orig.
Lexington, NC—Lexington Muni., NDB Rwy 8, Orig.
Morristown, TN—Moore-Murrell, NDB Rwy 5, Amdt. 3.
Houston, TX—Houston Intercontinental, NDB Rwy 8, Amdt. 4.

NOTE.—The FAA published a note in Docket No. 17338, Amdt. No. 1098 to Part 97 of the Federal Aviation Regulations (42 FR 59379; November 17, 1977) under Section 97.27 changing the effective date for Oxford, Ct., Waterbury-Oxford, NDB Rwy 18, Amdt. 1 to January 26, 1978. This amendment was previously published in Docket No. 17302, Amdt. No. 1094 to Part 97 of the Federal Aviation Regulations (42 FR 55449; October 17, 1977) under Section 97.27 effective December 1, 1977.) This amendment is hereby rescinded.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effectve February 9, 1978.*

Montgomery, AL—Dannelly Field, ILS Rwy 27, Amdt. 2.
Orlando, FL—Herndon, ILS Rwy 7, Amdt. 13.
Winfield-Arkansas City, KS—Strother Field, ILS Rwy 35, Original.
New Orleans, LA—New Orleans International (Moisant Field), ILS Rwy 1, Amdt. 6.
Farmingdale, NY—Republic, ILS Rwy 14, Amdt. 3.
Hickory, NC—Hickory MUNI., ILS Rwy 24, Amdt. 1.
Houston, TX—Houston Intercontinental, ILS Rwy 8, Amdt. 6.
Houston, TX—Houston Intercontinental, ILS Rwy 14, Amdt. 4.
Houston, TX—Houston Intercontinental, ILS Rwy 26, Amdt. 3.

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effectve February 9, 1978.*

Montgomery, AL—Dannelly Field, RADAR-1, Amdt. 6.
Beaufort, NC—Beaufort-Morehead City, RADAR-1, Original.
New Bern, NC—Simmons-Nott, RADAR-1, Original.

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective February 23, 1978.*

Holland, MI—Tulip City, RNAV Rwy 26, Original.

** * * Effective February 9, 1978.*

Punta Gorda, FL—Charlotte County, RNAV Rwy 27, Amdt. 2.
Cedar Rapids, IA—Cedar Rapids Muni., RNAV Rwy 31, Amdt. 3.
Winfield-Arkansas City, KS—Strother Field, RNAV Rwy 35, Amdt. 1.
Farmingdale, NY—Republic, RNAV Rwy 19, Amdt. 1.
Houston, TX—Houston Intercontinental, RNAV Rwy 26, Amdt. 3.
Houston, TX—Houston Intercontinental, RNAV Rwy 32, Amdt. 4.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by

Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on December 23, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-36982 Filed 12-28-77;8:45 am]

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

SUBCHAPTER A—GENERAL

ORGANIZATION AND FUNCTIONS

Issuance of Statement

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of Organization and Functions.

SUMMARY: In this document the Commission publishes a statement of its organization and functions, as required by the Administrative Procedure Act.

EFFECTIVE DATE: December 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Allen, Assistant General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 202-634-7770.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (5 U.S.C. 552 (a)) requires every Federal agency to publish in the FEDERAL REGISTER for the guidance of the public (1) a description of its organization and the means whereby the public may obtain information, make submittals or requests or obtain decisions, and (2) statements of the general course and method by which its functions are channeled and determined. Since this is a rule of agency organization, the requirements of the Administrative Procedure Act for public procedure and publication at least thirty days before the effective date do not apply. Therefore, the Consumer Product Safety Commission publishes the following document to amend Title 16, Chapter II of the Code of Federal Regulations by adding a new Part 1000 to read as follows:

Sec.

AUTHORITY: 5 U.S.C. 552(a), Administrative Procedure Act.

§ 1000.1 The Commission.

(a) The Consumer Product Safety Commission is an independent regulatory agency which was formed on May 14, 1973, under the provisions of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, et seq.)). The purposes of the Commission under the CPSA are:

(1) To protect the public against unreasonable risks of injury associated with consumer products;

(2) To assist consumers in evaluating the comparative safety of consumer products;

(3) To develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) To promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

(b) The Commission is composed of five members appointed by the President, by and with the advice and consent of the Senate, for terms of seven years.

§ 1000.2 Laws administered.

The Commission administers five acts:

(a) The Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, et seq.))

(b) The Flammable Fabrics Act (Pub. L. 90-189, 67 Stat. 111, as amended (15 U.S.C. 1191, et seq.))

(c) The Federal Hazardous Substances Act (Pub. L. 86-613, 74 Stat. 380, as amended (15 U.S.C. 1261, et seq.))

(d) The Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 84 Stat. 1670, as amended (15 U.S.C. 1471, et seq.))

(e) The Refrigerator Safety Act of 1956 (Pub. L. 84-930, 70 Stat. 953, 15 U.S.C. 1211, et seq.))

§ 1000.3 Addresses and hotline numbers.

(a) The principal offices of the Commission are in Washington, D.C. All written communications with the Commission should be addressed to the Consumer Product Safety Commission, Washington, D.C. 20207, unless otherwise specifically directed.

(b) The main headquarters of the Commission are at 1111 18th Street NW., Washington, D.C. At this location are the offices of the Chairman and Commissioners, Office of Administrative Law Judge, Office of Congressional Relations, Office of the General Counsel, Office of Media Relations, and Office of the Secretary. A public information room is maintained in room 312 at this location.

(c) The Executive Director and operating offices under his or her authority are located at 5401 Westbard Avenue, Bethesda, Md.

(d) The Commission operates, within the continental United States only, a toll-free Consumer Product Safety Hotline by which the public can communicate with the Commission. The telephone numbers are 800-638-2666 (in Maryland, 800-492-2937.)

(e) The Commission has 13 area offices which are located at the following addresses and which serve the states indicated:

(1) Atlanta Area Office, 1330 West Peachtree St. NW., Atlanta, Ga. 30309; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(2) Boston Area Office, 100 Summer St., room 1607, Boston, Mass. 02110; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(3) Chicago Area Office, 230 South Dearborn St., room 2945, Chicago, Ill. 60604; Illinois and Indiana.

(4) Cleveland Area Office, Plaza 9 Building, 55 Erieview Plaza, Cleveland, Ohio 44114; Michigan and Ohio.

(5) Dallas Area Office, 500 South Ervay, room 410C, Dallas, Tex. 75201; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(6) Denver Area Office, Guaranty Bank Bldg., Suite 938, 817 17th Street, Denver, Colo. 80202; Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

(7) Kansas City Area Office, Traders National Bank Bldg., 1125 Grand Avenue, Suite 1500, Kansas City, Mo. 64106; Iowa, Kansas, Missouri, and Nebraska.

(8) Los Angeles Area Office, 3660 Wilshire Blvd., Suite 1100, Los Angeles, Calif. 90010; Arizona and the following Counties in California: Imperial, Los Angeles, Orange, Riverside, San Bernadino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.

(9) Minneapolis Area Office, Federal Bldg., room 650, Fort Snelling, Twin Cities, Minn. 55111; Minnesota and Wisconsin.

(10) New York Area Office, 6 World Trade Center, Vesey Street, 6th Floor, New York, N.Y. 10048; New Jersey, New York, Puerto Rico, and Virgin Islands.

(11) Philadelphia Area Office, 400 Market Street, 10th Floor, Philadelphia, Pa. 19106; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

(12) San Francisco Area Office, 100 Pine Street, Suite 500, San Francisco, Calif. 94111; Hawaii, Nevada, and all Counties in California not covered by Los Angeles Area Office.

(13) Seattle Area Office, 392 Federal Bldg., 915 Second Avenue, Seattle, Wash. 98174; Alaska, Idaho, Oregon, and Washington.

§ 1000.4 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Any petition under the Consumer Product Safety Act must meet the requirements of 16 CFR Part 1110. Petitions regarding products regulated under the other acts the Commission administers are governed by the Administrative Procedure Act (5 U.S.C. 553(e)) and, where applicable, existing Commission procedures at 16 CFR 1607.4, 16 CFR 1500.82, 16 CFR 1500.201, and 21 CFR 2.65. However, the Commission encourages persons filing such petitions to follow as closely as possible the requirements and recommendations in 16 CFR 1110.7.

§ 1000.5 Commission decisions and records.

(a) Each decision of the Commission, acting in an official capacity as a collegial body, is recorded as a Record of Commission Action. Copies of a Record of Commission Action may be obtained upon written request from the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Requests should identify the subject matter of the Commission action and the approximate date of the Commission action, if known.

(b) Other records in the custody of the Commission may be requested in writing from the Office of the Secretary pursuant to the Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act (16 CFR Part 1015, 42 FR 10490, February 22, 1977, or as amended).

§ 1000.6 Advisory opinions and interpretations of regulations.

(a) *Advisory opinions.* Upon written request, the General Counsel provides written advisory opinions interpreting the acts the Commission administers. Advisory opinions represent the legal opinions of the General Counsel and may be changed or superseded by the Commission. Requests for issuance of advisory opinions should be sent to the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Requests for copies of particular previously issued advisory opinions or a copy of an index of such opinions should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

(b) *Interpretations of regulations.* Upon written request, the Associate Executive Director for Compliance and Enforcement will issue written interpretations of Commission regulations pertaining to the safety standards and the enforcement of those standards. Requests for such interpretations should be sent to the Associate Executive Director for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207. Requests for interpretations of administrative regulations (e.g., Freedom of Information Act regulations) should be sent to the Secretary, Consumer Product Safety Commission, 20207.

§ 1000.7 Meetings and hearings.

(a) The Commission may meet and exercise all its powers in any place.

(b) Meetings of the Commission are held as ordered by the Commission and, unless otherwise ordered, are held at the principal office of the Commission at 1111 18th Street, N.W., Washington, D.C. Meetings of the Commission for the purpose of jointly conducting the formal business of the agency, including the rendering of official decisions, are generally announced in advance and open to the public, as provided by the Government in the Sunshine Act (Pub. L. 94-409, 5 U.S.C. 552(b)) and the Commission's Meetings Policy (16 CFR Part 1012, 42 FR 14683, March 16, 1977, or as amended).

(c) The Commission may conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States and it must publish notice of any proposed hearing in the FEDERAL REGISTER and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

§ 1000.8 Quorum.

Three members of the Commission constitute a quorum for the transaction of business.

§ 1000.9 Delegation of functions.

The Commission may delegate any of its functions and powers, other than the power to issue subpenas under Section 27(b)(3) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(3)), to any officer or employee of the Commission.

§ 1000.10 The Chairman and Vice Chairman.

(a) The Chairman is the principal executive officer of the Commission and, subject to the general policies of the Commission and to such regulatory decisions, findings, and determinations as the Commission is by law authorized to make, he or she exercises all of the executive and administrative functions of the Commission.

(b) The Commission annually elects a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the Office of the Chairman.

§ 1000.11 Organization structure.

The Consumer Product Safety Commission is composed of the principal units listed in this section.

(a) The following units report directly to the Chairman of the Commission:

(1) Office of the General Counsel;

(2) Office of Congressional Relations;

(3) Office of Strategic Planning;

(4) Office of Administrative Law Judge;

(5) Office of Communications;

(6) Office of the Secretary;

(7) Office of Public Participation (Proposed);

(8) Office of Internal Audit;

(9) Office of Equal Employment Opportunity and Minority Enterprise;

(10) Office of the Executive Director.

(b) The following units report directly to the Executive Director of the Commission:

(1) Office of Program Management;

(2) Directorate for Hazard Indentification and Analysis;

(3) Directorate for Engineering and Science;

(4) Directorate for Compliance and Enforcement;

(5) Directorate for Field Operations;

(6) Directorate for Administration.

§ 1000.12 Office of the General Counsel.

The Office of the General Counsel provides advice and counsel to the Commissioners and organizational components of the Commission on matters of law arising from operations of the Commission. It prepares the Commission's legislative program and comments on relevant legislative proposals originating elsewhere. Other than enforcement litigation, which is the primary responsibility of the Associate Executive Director for Compliance and Enforcement, the Office conducts or supervises the conduct of litigation to which the Commission is a party, according to arrangements with the Attorney General. The Office provides final legal review of and makes recommendations to the Commission on proposed product safety standards, rules, laws, regulations, petition actions, and substantial hazard actions. It also provides legal review of certain procurement, personnel, and administrative actions and drafts documents for publication in the FEDERAL REGISTER.

§ 1000.13 Office of Congressional Relations.

The Office of Congressional Relations is the principal contact with the committees and members of Congress. It performs liaison duties for the Commission, provides information and assistance to Congress on matters of Commission policy, and coordinates testimony and appearances by Commissioners and agency personnel before Congress.

§ 1000.14 Office of Strategic Planning.

This Office is responsible for long-range planning in the Commission, specifically the conduct of analyses needed to support selection and review of project priorities. It is responsible for advising and assisting the Commissioners in their deliberations on initiatives and gross resource allocations. The Office is responsible for conducting evaluation analyses of how well the Commission is meeting its goals and objectives. It monitors agency actions to insure adherence to broadly established Commission policy and priorities. The Office is also responsible for advising the Commission as to formulation and implementation of its policy in international affairs.

§ 1000.15 Office of Administrative Law Judge.

The Office of Administrative Law Judge performs duties in connection with matters of adjudication as prescribed by the Commission and required by statute.

§ 1000.16 Office of Communications.

The Office of Communications assists consumers in evaluating the comparative safety of products, conducts educational activities, transmits information and develops strategies to affect consumer awareness, attitudes, knowledge and behavior toward product safety. Specifically, through subordinate organizational entities, the Office designs and produces publications, informational and educational matters, multi-media materials, films, and public service announcements. Also, it prepares and issues press releases, provides advice for the development of public statements, operates a speakers' service for appearances by agency spokespersons, operates an agency newsletter, and conducts relations with all media through direct dealings and press conferences. The Office plans, directs, and evaluates comprehensive national consumer product safety information and education programs. Also, it plans and conducts national surveys and carries out and evaluates studies to assess the impact of all of their activities. Further, the staff collaborates with industry and other agency staffs to carry out agency communications projects.

§ 1000.17 Office of the Secretary.

This Office prepares the Commission's agenda, and prepares, distributes, and stores the official records of Commission meetings. It schedules and coordinates Commission business at official meetings, conducts the final review of official Commission correspondence except for Congressional correspondence, and prepares other correspondence. It also supports activities of the Commission's advisory committees. The Office exercises joint responsibility with the Office of the General Counsel for the interpretation and application of the Privacy Act, Freedom of Information Act, Federal Advisory Committee Act, and the Government in the Sunshine Act, and prepares or coordinates reports required by these acts. It issues decrees under the other acts administered by the Commission for and on behalf of the Commission and prepares or coordinates the preparation of all reports required by law under these Acts. It assures final review of FEDERAL REGISTER documents, and supervises and administers the dockets of adjudicative proceedings before the Commissioners and Administrative Law Judges. The Office also develops and maintains the Commission's central repository for all records and correspondence, supervises and administers the public reading room, and controls the use of the Commission seal.

§ 1000.18 Office of Public Participation (Proposed)

The Office of Public Participation will serve as an organizational mechanism for providing funding for certain public participants in Commission proceedings. The Office of Public Participation will be responsible for the review and processing of applications for funding and shall make final decisions on such applications. It shall respond to questions concerning the format of applications and, if requested, shall provide technical assistance in filling out applications. Further the Office shall identify interested citizens and organizations and keep them informed of Commission activities in which they may wish to participate. In carrying out its functions, the Office of Public Participation may provide guidance as to the availability of Commission data and expertise, but shall not in any way prepare, or assist in preparing, the comments or testimony of participants in any Commission proceedings nor shall it advocate or represent any position before the Commission.

§ 1000.19 Office of Internal Audit.

This Office reviews, analyzes, and reports on Commission programs and organization to assess compliance with relevant laws, regulations, and principles of efficiency and effectiveness.

§ 1000.20 Office of Equal Employment Opportunity and Minority Enterprise.

This Office assures that the agency complies with all laws, regulations, rules, internal policies relating to equal employment opportunity. It encourages and assists minority enterprises in competing for contracts. The Office also conducts the upward mobility program.

§ 1000.21 Office of the Executive Director.

The Executive Director, under the broad direction of the Chairman and in accordance with Commission policy, acts as the chief operating manager of the agency, supporting the development of the agency's budget and operating plan before and after Commission approval, and managing the execution of those plans. The Executive Director has direct line authority over five operating directorates: Hazard Identification and Analysis, Engineering and Science, Compliance and Enforcement, Field Operations, and Administration. Each Directorate is headed by an Associate Executive Director.

§ 1000.22 Office of Program Management.

The Office of Program Management manages the hazard related programs delineated in the Commission's operating plan or assigned by the Executive Director. It provides continual and consistent direction to all projects, including voluntary standards and petitions, especially where functional responsibility extends across and between directorates. The program managers' authority works in a complementary fashion with the functional authority vested in the Associate Executive Directors to be certain that relevant legal, technical, environmental, economic, and social impacts of projects are comprehensively and objectively presented to the Commission for decision. The Office exercises program review over the progress of projects to maintain priorities.

§ 1000.23 Directorate for Hazard Identification and Analysis.

The Associate Executive Director for Hazard Identification and Analysis manages the Directorate for Hazard Identification and Analysis and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for technical policy; maintenance of technical quality and productivity; planning input; review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes injury data analysis to identify hazards or hazard patterns, economic impact analysis of remedial regulations, and preparation of assessment and environmental impact statements. The Directorate collects data on consumer product-related hazards and potential hazards; determines the frequency, severity, and distribution of the various types of injuries; and investigates their causes. It assesses the effects of product safety standards and programs on consumer injuries, conducts epidemiological studies and research in the fields of consumer-related injuries, and provides data describing the human factors aspects of injury. It maintains an injury data clearinghouse and manages the National Electronic Injury Surveilance System (NEISS). The Directorate also collects data and conducts analyses of both economic and environmental factors which are required to support the development and implementation of remedial strategies. The Directorate also provides anaysis and advice to assure that technical standards requirements are compatible with human anthropometric, perception, and other performance tolerances. It assists in reviewing hazard patterns and epidemiological analysis to clarify possible injury patterns attributed to human factors and advises on all other Commission activities requiring human factors input.

§ 1000.24 Directorate for Engineering and Science.

The Associate Executive Director for Engineering and Science manages the Directorate of Engineering and Science and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for technical policy, maintenance of

technical quality and productivity; planning input; review, and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes development and evaluation of product safety standards and test methods based on engineering, chemical, biological, and other physical and medical sciences and the conduct and relevant evaluation of specific product testing to support general agency regulatory activity. The Directorate develops and evaluates performance criteria, design specifications, and quality control standards for consumer products and provides scientific and technical expertise to the Commission. It conducts and evaluates engineering tests and test-methods, participates in the engineering development of product safety standards, and provides advice on proposed standards. It performs or monitors research in the engineering sciences and provides technical supervision to Commission field engineering laboratories and other engineering test facilities. It collects scientific and technical data and reviews and evaluates scientific, technical and medical reports to determine the physiological effects of injury and potential injury treatment to provide technical and medical support in the promulgation of product safety standards. It conducts tests and evaluates toxicological and chemical hazards and provides technical supervision to agency field chemical laboratories and other chemical and toxicological testing facilities. The Directorate also provides technical support to the Commission's information and education program and to its compliance and enforcement program.

§ 1000.25 Directorate for Compliance and Enforcement.

The Associate Executive for Compliance and Enforcement manages the Directorate for Compliance and Enforcement and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for surveillance and enforcement policy; maintenance of legal case quality, consistency, and productivity; planning input; review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes identifying and acting on any defective consumer product already in distribution, and establishing industry compliance with existing safety standards through planning and implementation of surveillance and enforcement programs, and the conduct of enforcement litigation. Inherent in this area of responsibility is the provision of consistent legal advice and case guidance to field offices and participation in the development of standards prior to promulgation to assure enforceability of the final product. The Directorate is responsible for the identification of, or response to notification of, any products which may or do possess substantial product safety defects. It reviews consumer complaints, in-depth investigations, and other data to identify those consumer products containing such defects. It assists firms to assess their responsibilities and actively encourages firms to identify and report product defects which present possible substantial hazards. The Directorate negotiates and subsequently monitors corrective action plans designed to recall defective products and gives public warning to consumers where appropriate. It gathers information on generic product hazards which may lead to subsequent initiation of safety standard setting procedures. The Directorate develops surveillance strategies and programs designed to assure compliance with Commission standards and regulations. It originates surveillance and enforcement instruction to field offices and provides subsequent interpretations or legal guidance for field surveillance and enforcement activities. Inherent in this function is the authority to conduct or supervise the conduct of enforcement activity under all administered acts and to provide advice and guidance to regulated industries on complying with all administered acts. The Directorate reviews standards and rules being developed to ensure clarity and enforceability.

§ 1000.26 Directorate for Field Operations.

(a) The Associate Executive Director for Field Operations executes direct line authority over all Commission field operations; develops, issues, approves, or clears proposals and instructions affecting the field activities; and provides a central point within the Commission from which Headquarters' officials can obtain field support services. This office provides direction and leadership to the Area Office Directors; and promulgates policies and operational guidelines which form the framework for management of Commission field operations. This office works closely with the other Headquarters functional units and the Field Offices to assure effective Headquarters-Field relationships, proper allocation of resources to support Commission priorities in the field, effective performance of field tasks, represents the field and prepares field programs documents. It coordinates direct contact procedures between Headquarters and field offices. This office is responsible for liaison with State, local and other Federal agencies on product safety programs in the field.

(b) Area Offices are responsible for carrying out investigation, compliance, and communication activities within their areas. They support and maintain liaison with components of the Commission, other Area Offices, and appropriate Federal, State, and local government offices. They implement and encourage compliance with the laws and regulations enforced by the Commission. Selected Area Offices possess laboratory capabilities.

§ 1000.27 Directorate for administration.

The Associate Executive Director for Administration manages the Directorate of Administration and acts under the broad direction of the Office of the Executive Director. The Associate Executive Director, assisted by subordinate management, is responsible for general administrative policy; maintenance of timeliness, quality, and efficiency of services; planning input, review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes all general and delegated administrative functions supporting the Commission in the areas of finance, budget, personnel, training, automated data systems, telecommunications, the reference library, and the physical plant. The Directorate is responsible for the formulation and justification of the agency's budget submissions and the budget's execution after apportionment of funds. This function includes the responsibility of execution of payment, financial control, accounting, and reporting of all expenditures within the Commission. It is responsible for all aspects of personnel management for the Commission, including recruitment and placement, classification standards and policies, and employee and labor-management relations. It evaluates the need for, develops, and implements all training programs for the Commission, including employee training, executive development, and training programs involving outside parties. The Directorate designs, implements, and operates all automated data systems and telecommunications. It provides support services for space management, supply and property management, security, printing and reproduction, records management, transportation, warehousing, utilities, and mail. It is responsible for all CPSC contracts and procurement of services and supplies. It develops, implements, and maintains management information systems and distributes summary reports on data accumulated by those systems. The Directorate also maintains and updates the reference library, performs data and bibliographic research for the agency and its constituency, and administers the ordering, receiving, and distribution of all publications requested by or for CPSC personnel.

Effective date: December 29, 1977.

Date: December 22, 1977.

SHELDON D. BUTTS,
Assistant Secretary, Consumer Product Safety Commission.

[FR Doc.77-37031 Filed 12-28-77;8:45 am]

[4110-07]

Title 20—Employee's Benefits

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

[Regulations No. 4]

PART 404—FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE (1950 .....)

Deleting Out-of-Date Regulations

AGENCY: Social Security Administration, HEW.

ACTION: Removal of rarely used rules.

SUMMARY: This action deletes certain regulations that are not in current use. The revision is intended to make the regulations easier to understand and more helpful to those who do business with SSA.

DATES: These changes will be effective December 29, 1977. Any comments must be received on or before January 30, 1978.

ADDRESSES: Please submit any comments regarding these changes in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203. Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5181, 330 Independence Ave., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Jack Schanberger, SSA Recodification Work Group, 6401 Security Blvd., Baltimore, Maryland 21235, telephone 301-594-6785.

SUPPLEMENTARY INFORMATION: As part of the Department of Health, Education, and Welfare's effort to make HEW regulations simpler, shorter, and easier to work with, the Social Security Administration (SSA) is beginning a comprehensive revision of its regulations. Because of the size of the body of SSA regulations, we believe the rewriting will be more manageable if we first remove those rules that are no longer in effect or in use.

We find that good cause exists under Section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)) for not publishing the changes with Notice of Proposed Rule Making (NPRM). Since these changes merely delete rules that do not affect current claims for benefits and make no new rules, we feel that publication with NPRM is unnecessary.

Although we are publishing these amendments directly as final rules, we are interested in any ideas on rewriting our regulations in simpler language or on different approaches to organizing them for better accessibility. The comments may be general in nature or on a specific section or subpart. However, we will publish with Notice of Proposed Rule Making all rewrites of regulations that remain in effect and we will allow adequate time for public comment on those proposals.

The regulations being deleted are rules that no longer apply to current claims for social security benefits. In one instance a section (404.607a) would be incomplete and inaccurate after the obsolete rules were deleted. That section is, therefore, being deleted entirely for now and will be reexamined when this subpart is recodified. Although these rules are being removed from the current compilation they are not being revoked, since they still could come into play in situations in which decisions on earlier claims are reopened (for example, because of an error on the face of the evidence on which such decision is based).

(Secs. 205(a) and 1102 of the Social Security Act; 53 Stat. 1368, 49 Stat. 647, 42 U.S.C. 405(a) and 1102.)

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Retirement Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security-Special Benefits for Persons Aged 72 and Over; and 13.805, Social Security-Survivors Insurance.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: November 16, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 22, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart G—Filing of Applications and Other Forms

1. Section 404.606 is amended and revised as follows: Paragraph (a) is retitled "Old-age, survivors, and disability insurance benefits," and is amended by deleting all that follows the third sentence; paragraphs (b) and (d) are deleted and reserved.

§ 404.606 Filing of application for monthly benefits before the first month for which individual may become entitled to such benefits.

(a) *Old-age, survivors, and disability insurance benefits.* An application for monthly benefits filed before the first month in which the claimant meets all conditions of entitlement for such benefits will be deemed a valid application if such conditions are met before the Secretary makes a final decision on such application. (See paragraph (c) of this section for exception in case of special age 72 payments.) If upon final decision by the Secertary or decision by a court on review of the Secretary's decision, the claimant is found to have met such conditions, the application will be deemed to have been filed in the first month in which he met such conditions.

(b) [Reserved]

* * * * *

(d) [Reserved]

EXPLANATION

This section is amended to delete rarely used provisions on the effect of an application filed before the earliest possible date of entitlement.

2. Section 404.607 is amended by: Deleting "with any of the following months" in paragraph (a), by deleting paragraph (a)(1), by deleting the numeration of paragraph (a)(2), and by deleting the material following the parenthetical remark in paragraph (a)(2); deleting the second sentence in paragraph (b)(1), by deleting paragraph (b)(2)(i), and by redesignating paragraph (b)(2)(ii) as (b)(2).

§ 404.607 Filing of application for monthly benefits after first month for which individual may become entitled to such benefits.

(a) *Old-age and survivors insurance benefits.* An application for monthly benefits (except an application for disability insurance benefits) filed at any time after the first month for which the claimant could have been entitled to such benefits (see Subpart D for first month for which a person could become entitled) will be accepted as an application for purposes of entitlement to such benefits beginning twelve months immediately preceding the month in which the application is filed (but not before the first month for which he could become entitled). For purposes of determining whether the individual has met all conditions of entitlement in such prior months, the application shall have the same effect as though it has been filed in such months.

(b) *Disability insurance benefits.*—(1) *Disabled individual is alive.* An application for disability insurance benefits filed while the claimant was under a disability and at any time after the first month for which he could have become entitled to such benefits will be accepted as an application for such benefits beginning with 12 months immediately preceding the month in which such application is filed but not before the first month for which he could become entitled, provided he was under a disability in such first month and such disability continued until the time such application was filed. For purposes of determining whether the individual has met all conditions of entitlement in such prior months, the application shall have the same effect as though it had been filed in such months.

(2) *Disabled individual died after October 29, 1972.* An application for disability insurance benefits filed by an * * *

* * * * *

EXPLANATION

This section is amended to delete rarely used provisions on the retroactive effect of an application for benefits.

§ 404.607a [Deleted]

3. Section 404.607a is deleted.

EXPLANATION

This section is deleted because much of it is obsolete and the remainder would be incomplete standing alone. The complete rules currently applicable are located in the statute at Sec. 216(i) of the Social Security Act; 64 Stat. 510; 42 U.S.C. 416(i).

§ 404.609 [Amended]

4. Section 404.609 is amended by deleting and reserving paragraph (b).

EXPLANATION

This section is amended because no more lump-sum claims are likely to be

filed where a serviceman died outside the U.S. before April 1956.

§ 404.611 [Amended]

5. Section 404.611 is amended as follows: In paragraph (a) "On or after October 1, 1946" is deleted; in paragraph (b) "On or after August 1, 1951" is deleted.

EXPLANATION

This section is amended to delete the dates after which an application for railroad benefits is also effective for social security benefits. These dates are no longer needed since they are not a factor in current claims.

§ 404.611a [Amended]

6. Section 404.611a is amended by deleting "on or after January 1, 1957."

Subpart I—Maintenance and Revision of Records of Wages and Self-Employment Income

EXPLANATION

This section is amended to delete the date after which an application for veterans' benefits is also effective for social security benefits. This date is no longer needed since it is not a factor in current claims.

§ 404.813 [Deleted]

7. Section 404.813 is deleted.

Subpart J—Procedures, Payment of Benefits, and Representation of Parties

EXPLANATION

The deleted material concerns rarely used rules regarding deletions from social security wage records for services before June 14, 1948.

8. Section 404.905 is amended by deleting in paragraph (b)(3) "or section 224 of the Act before its repeal in 1958, or section 224 of the Act as enacted on July 30, 1965," and "as amended January 2, 1968."

§ 404.905 Administrative Actions That Are Initial Determinations.

* * * * *

(b) Modification of the Amount of Monthly Benefits or Lump Sum. * * *

(3) There should be a reduction under section 203(a) of the Act, or section 224 of the Act, or deduction under section 203 (b), (c), (d), (f), (g), (h)(2), section 222(b), or reduction or suspension under section 228 of the Act with respect to benefits to which an individual is entitled, because of circumstances existing at or after such entitlement, and if a reduction or deduction is to be made, the amount thereof; or

* * * * *

Subpart K—Employment—Wages—Self-Employment—Self-Employment Income

EXPLANATION

This section is amended to delete references to repealed or superseded sections of law.

§ 404.1002 [Deleted]

9. Section 404.1002 is deleted.

EXPLANATION

This section is deleted because it pertains to rarely used rules of coverage of services before 1951.

10. Section 404.1003 is amended by deleting in paragraph (c)(2)(i)(*c*) "particularly § 404.1023 relating to fishing prior to 1955."

§ 404.1003 Employment After 1950.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(*c*) The services are not expected under section 210(a) of the Act (see §§ 404.1006 to 404.1025b).

* * * * *

EXPLANATION

This material is deleted because it concerns rarely used rules on services performed in fishing before 1955.

11. Section 404.1004 is amended by deleting the parenthetical sentences in paragraph (d)(3)(iii).

§ 404.1004 Who Are Employees.

* * * * *

(d) * * *

(3) * * *

(iii) *Home Workers.* This occupational group includes a worker who performs services off the premises of the person for whom the services are performed, according to specifications furnished by such person, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him. For provisions relating to remuneration which constitutes wages in the case of a home worker, see § 404.1027(o).

* * * * *

EXPLANATION

The deleted material concerns a rarely used rule regarding work performed between 1950 and 1955.

§ 404.1005a [Amended]

12. Section 404.1005a is amended by deleting paragraph (d).

EXPLANATION

The deleted material concerns a rarely used rule concerning the status of a crew leader before 1957.

§ 404.1006 [Amended]

13. Section 404.1006 is amended by deleting the last sentence in paragraph (c).

EXPLANATION

This material is a cross referral to § 404.1008 which is being deleted.

§ 404.1008 [Amended]

14. Section 404.1008 is amended as follows: paragraphs (b), (c), and (d) are deleted and reserved; the parenthetical sentence in paragraph (e)(4)(iii) is deleted; the last sentence of paragraph (e)(6)(i) is deleted; paragraph (f) is deleted and reserved; by deleting and reserving paragraph (g)(1), by deleting the phrase "including the Republic of Mexico," in paragraph (g)(3); paragraph (i) is deleted and reserved.

EXPLANATION

We are deleting rarely used rules on the coverage status of agricultural services and the cross referrals to those rules.

§ 404.1010 [Deleted]

15. Section 404.1010 is deleted.

EXPLANATION

We are deleting rarely used rules on non-business related services performed before 1955.

§ 404.1011 [Amended]

16. Section 404.1011 is amended by deleting and reserving paragraph (a)(2)(i).

EXPLANATION

We are deleting a rarely used rule regarding family employment before 1961.

§ 404.1012 [Amended]

17. Section 404.1012 is amended by deleting the first sentence in paragraph (e) and by deleting the first sentence in paragraph (f).

EXPLANATION

The deleted material refers to rarely used rules regarding employment on a foreign vessel before 1155.

18. Section 404.1013 is amended by deleting and reserving paragraph (c)(1), by deleting in the sentence that precedes paragraph (e)(1) "in subparagraphs (1) and (2) of this paragraph" and inserting "below," and by deleting and reserving paragraph (e)(1).

§ 404.1013 Services in Employ of United States or Instrumentalities Thereof.

* * * * *

(c) * * *

(1) [Reserved]

* * * * *

(e) * * *

The conditions under which such services are expected are set out below:

(1) [Reserved]

(2) If performed after 1954, such services are expected if they are covered by a retirement system established by such.

* * * * *

EXPLANATION

These deletions concern rarely used rules on employment before 1955.

§ 404.1016 [Amended]

19. Section 404.1016 is amended by deleting and reserving paragraphs (b) and (d).

EXPLANATION

The deleted material pertains to rarely used rules for employment before 1965.

20. Section 404.1022 is amended by deleting paragraph (b), by revising the section heading to read "Student nurses," and by deleting the letter designation for paragraph (a).

§ 404.1022 Student nurses.

Services performed as a student nurse in the employ of a hospital or a nurses'

training school are excepted from employment, if the student nurse is enrolled and regularly attending classes in a nurses' training school, and such nurses' training school is chartered or approved pursuant to State law.

EXPLANATION

This material is deleted because it concerns a rarely used rule for employment before 1966.

§ 404.1026 [Amended]

21. Section 404.1026 is amended by deleting and reserving paragraph (b)(3)(ii)(a), and by deleting paragraph (d)(3).

EXPLANATION

The deleted material concerns a rarely used rule for determining agricultural wages for 1955 and 1956, and a cross-reference to § 404.1027(t)(3) which is being deleted.

§ 404.1027 [Amended]

22. Section 404.1027 is amended by deleting and reserving paragraphs (f)(3)asd(4), (k); by deleting paragraph (m)(3)(i); by deleting the numeration of paragraph (m)(3)(ii); by deleting the parenthetical statements in paragraphs (m)(4)(i) and (iii), by deleting paragraph (t)(3); and by deleting the semicolon and inserting a period at the end of paragraph (t)(2).

EXPLANATION

The material to be deleted pertains to rarely used rules on wage exclusions.

§ 404.1058 [Amended]

23. Section 404.1058 is amended by deleting paragraph (c).

EXPLANATION

The material to be deleted concerns a rarely used rule on the computation of net earnings for years before August 28, 1958.

§ 404.1061 [Amended]

24. Section 404.1061 is amended by deleting paragraph (c)(2), by deleting the numeration and title of paragraph (c)(1), and by deleting paragraph (d).

EXPLANATION

The deleted material concerns rarely used rules on ministers electing coverage before 1957 and the treatment of remuneration in 1955 and 1956.

§ 404.1062 [Deleted]

25. Section 404.1062 is deleted.

EXPLANATION

This section discusses rarely used rules on the erroneously reported earnings for years before 1962.

§ 404.1064 [Amended]

26. Section 404.1064 is amended by deleting and reserving paragraph (b).

EXPLANATION

The deleted material pertains to a rarely used rule on farm income for years before 1955.

§ 404.1065 [Amended]

27. Section 404.1065 is amended by deleting and reserving paragraphs (b) and (c).

EXPLANATION

The deleted material concerns rarely used rules for computing net earnings from farming for years before 1966 and 1956, respectively.

28. Section 404.1070, paragraph (d) is amended by changing the title of paragraph (d) to "Christian Science Practitioners," by deleting the numeration and title for paragraph (d)(1), by deleting the numeration for paragraph (d)(1)(i), by deleting paragraphs (d)(1)(ii), (iii), (iv), (3), (4), and (5), and by deleting the numeration and title of paragraph (d)(2).

§ 404.1070 Trade or Business.

* * * * *

(d) *Christian Science Practitioners.* An individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a Christian Science practitioner, except as provided in § 404.1080. Service performed by a Christian Science practitioner in the exercise of his profession during taxable years for which a waiver certificate filed pursuant to § 404.1080 is in effect constitues a trade or business within the meaning of section 211(c) of the Act.

EXPLANATION

The deleted material concerns rarely used rules for determining the existence of a trade or business in certain professions.

§ 404.1081 [Amended]

29. Section 404.1081 is amended by deleting and reserving paragraph (b).

EXPLANATION

The deleted material concerns rarely used rules regarding certain individuals who file a waiver for certain periods before July 31, 1965, to elect self-employment coverage.

§§ 404.1082—404.1085 [Deleted]

30. Sections 404.1082, 404.1083, 404.1084, and 404.1085 are deleted.

Subpart L—Family Relationships

EXPLANATION

The deleted material concerns rarely used rules on the treatment of waiver certificates to elect self-employment coverage for specific periods dating back from April 17, 1967.

31. Section 404.1101 is amended as follows: By deleting in paragraph (a) the material which precedes "such relationship" in the first sentence; by deleting in paragraph (b) all the material which precedes paragraph (b)(2) and by redesignating paragraph (b3(2) as (b); and by deleting in paragraph (c) the material which precedes paragraph (c)(1).

§ 404.1101 Determination of relationship.

Whether a claimant bears the necessary relationship for entitlement under Title II of the Act as wife, husband, widow, widower, child, or parent of the insured individual upon whose wages and self-employment income an application is based is determined as follows:

(a) Such relationship is determined by "applicable State law." * * *

(b) The claimant bears the relationship of wife, husband, widow, or widower. * * *

(c)(1) The relationship of child or parent. * * *

* * * * *

EXPLANATION

This section is amended to delete dates before which specific provisions are applicable. These dates are not pertinent in current claims.

32. Section 404.1109 is amended by deleting paragraph (a)(2), by deleting the designation of paragraph (a)(1) and redesignating (a)(1)(i) and (ii) as (a)(1) and (2) respectively.

§ 404.1109 Definition of child.

The term "child" means a claimant who: (a) Is the legally adopted child of the individual upon whose wages and self-employment income his application is based. For purposes of this paragraph, a child shall be deemed to be the legally adopted child of such individual as of the date of such individual's death if such child was living in such individual's household at the time of such death and was legally adopted by such individual's surviving spouse after such death, but only if (1) proceedings for the adoption of the child has been instituted by such individual before his death, or (2) such child was adopted by such individual's surviving spouse before the end of 2 years after the date of such individual's death or before August 28, 1960, whichever is later.

* * * * *

EXPLANATION

This section is amended to delete a rarely used provision on the definition of a child where benefits are claimed for months before February 1968.

[FR Doc.77-37004 Filed 12-28-77;8:45 am]

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-3]

PART 201—GENERAL PROVISIONS

Compulsory License For Making and Distributing Phonorecords

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulations.

SUMMARY: This notice is issued to advise the public that the Copyright Office

of the Library of Congress is adopting interim regulations to implement section 115 of the Act for General Revision of the Copyright Law. That section establishes a compulsory license for the making and distribution of phonorecords of nondramatic musical works. The effect of the interim regulations is to establish requirements governing the content and service of certain notices and statements of account to be filed by persons exercising the compulsory license.

The regulations are issued on an interim basis in order to allow persons to invoke the compulsory license on and after January 1, 1978, the effective date of the new law, while permitting full public comment before the issuance of final regulations.

DATES: The interim regulations are effective on January 1, 1978. Comments should be received on or before January 27, 1978; reply comments on or before February 10, 1978.

ADDRESSES: Five copies of all written comments should be provided, if by hand, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, Room 519, Arlington, Virginia, or, if by mail, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 299, Arlington, Virginia 22202.

Copies of all written comments will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room 101, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703–557–8731.

SUPPLEMENTARY INFORMATION: Section 115 of the first section of Pub. L. 94–553 (90 Stat. 2541) provides that "[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work" for certain purposes.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid.

Paragraph (b)(1) of section 115 provides that a condition of the compulsory license for making and distributing phonorecords is the service or filing of a notice of intention:

> (b) *Notice of intention to obtain compulsory license.* (1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

Paragraph (c) of section 115 deals with the statutory royalties to be paid to copyright owners by persons exercising the compulsory license; it provides in relevant part:

> (2) * * * the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourths cents, or one-half of one cent per minute of playing time or fraction thereof, whichever amount is larger.
>
> (3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

On April 26 and 27, 1977, in accordance with an Advance Notice of Proposed Rulemaking (42 FR 16837), we held a public hearing to elicit information relevant to the formulation of regulations under this section. The purpose of this Notice is to issue such regulations. As the new Copyright Act, and hence the availability of the compulsory license, goes into effect on January 1, 1978 we have decided to issue the regulations on an interim basis. This will permit parties who wish to invoke the compulsory license on or after the effective date of the statute to do so, while permitting full public comment on the regulations. Final regulations will be issued after the close of the comment period.

The interim regulations consist of essentially two parts: § 201.18 establishes interim requirements governing the content, filing, and service of notices of intention to obtain the compulsory license; and § 201.19 establishes interim rules governing the content and service of monthly and annual statements of account under the compulsory license.

The interim regulations are based on a thorough consideration of all testimony given at the April hearing and in supplemental statements filed by interested parties. For the most part they are self-explanatory; however, a few provisions deserve special note:

1. *Forms.* The interim regulations do not prescribe use of a standard form for notices of intention and monthly and annual statements of account. We are aware that, particularly with respect to annual statements of account, the use of a prescribed form may be of assistance to record companies in understanding and meeting their obligations under the compulsory license, and to music copyright owners in reviewing the information reported. Accordingly, we plan to review the question of forms before issuing final regulations.

2. *Contents of Notice of Intention and Statements of Account.* Interim § 201.18 (c) adopts the view that the notice of intention should contain sufficient information to identify the person or entity intending to obtain the compulsory license and the phonorecords on which statutory royalties will be paid. To a great extent, the information required by this section meets the recommendations advanced by representatives of both record companies and music copyright owners in their supplemental comments following the April hearing. One particular area of disagreement related to whether the notice of intention should give the name and address of the phonorecord manufacturing facility employed by the person or entity exercising the compulsory license. We believe that to require such information would go beyond the purpose the notice is to serve. This conclusion is in no manner intended to detract from the liability of record pressers and other manufacturers and makers of phonorecords where the compulsory license requirements have not been met. Cf. S. Rep. 94–1473, 94th Cong., 1st Sess., Nov. 20, 1975 at 91; H.R. Rep. 94–1476, 94th Cong., 2d Sess., Sept. 3, 1976 at 110.

Interim § 201.19 reflects our view that monthly statements of account should provide basic information regarding the statutory royalties to be paid for that month and certain information pertinent to annual reconciliation of the monthly statements, while annual statements of account should be considerably more detailed and sufficient to ensure that statutory royalties have been paid on all phonorecords made and permanently distributed during the year.

Section 115(c)(4) of the Act provides that "if the copyright owner does not receive the monthly payment * * * when due, the owner may give written notice to the licensee that, unless the default is remedied within thirty days from the date of notice, the compulsory license will be automatically terminated." That paragraph also provides that termination renders the making, distribution, or both, of phono-records for which the royalty has not been paid fully actionable as acts of infringement. Accordingly, although interim § 201.19 (c)(6)(ii) accepts the possibility that full annual royalties may not be reconciled until the end of the accounting year and requires additional payments at that time, it also provides that "the delivery of such sum (representing a monthly underpayment) does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law."

Also, interim § 201.19(b)(5) makes clear that the annual statement of account does not replace the obligation to

file any monthly statement. Thus, a monthly statement must be filed during the last month of the fiscal year of the person or entity exercising the compulsory license if phonorecords were made or voluntarily distributed under the license during that month.

3. *Filing of Copies of Notices of Intention and Statements of Account in the Copyright Office.* During the April hearing, the suggestion was made that a copy of a notice of intention as served on a copyright owner should be filed in the Copyright Office.[1] However, section 115 (b) of the Act provides that the notice is to be served on the copyright owner, and that, if the registration or other public records of the Copyright Office do not identify the copyright owner, it is sufficient to file the notice in the Office. This is in contrast to the requirements under the current copyright law that a duplicate of all served notices of intent be filed with the Office. It would be inappropriate to require, by regulation, what legislation has changed. Moreover, as the purpose of the notice of intention is to alert a music copyright owner to the use of his or her work under the compulsory license, that purpose is served when the copyright owner receives the notice. Accordingly, the interim regulation does not require that a copy of a notice of intention which has been served on a copyright owner be filed in the Copyright Office. Similarly, copies of monthly and annual statements of account will not be required to be filed in the Office.

In sum, the only documents required to be filed in the Copyright Office under section 115 will be original notices of intention, filed in the Office because the person or entity exercising the license cannot identify the copyright owner. These documents, if accompanied by the $6 filing fee, will be filed by being placed in the appropriate public records of the Licensing Division of the Office. If a compulsory licensee voluntarily wishes to file a copy of a served notice or statement of account in the Office, the document will be accepted for recordation by the Renewal and Assignment Section as a document "pertaining to a copyright" under section 205(a) of the Act if it is accompanied by the proper recording fee (minimum: $10) under section 708(4).

4. *Point of Distribution; Reserves.* Paragraph (c)(2) of section 115 states that statutory royalties are payable for every phonorecord made and distributed under the license; it defines distribution as occurring when "the person exercising the compulsory license has voluntarily and permanently parted" with possession of the phonorecord. In discussing the issue of "permanent" disposal for these purposes, the relevant Report of the Judiciary Committee of the House of Representatives states (H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. at 110-111):

> Under existing practices in the record industry, phonorecords are distributed to wholesalers and retailers with the privilege of returning unsold copies for credit or exchange. As a result the number of recordings that have been "permanently" distributed will not usually be known until some time—six or seven months on the average—after the initial distribution. In recognition of this problem, it has become a well-established industry practice, under negotiated licenses, for record companies to maintain reasonable reserves of the mechanical royalties due the copyright owners, against which royalties on the returns can be offset. The Committee recognizes that this practice may be consistent with the statutory requirements for monthly compulsory license accounting reports, but recognizes the possibility that, without proper safeguards, the maintenance of such reserves could be manipulated to avoid making payments of the full amounts owing to copyright owners. Under these circumstances, the regulations prescribed by the Register of Copyrights should contain detailed provisions ensuring that the ultimate disposition of every phonorecord made under a compulsory license is accounted for, and that payment is made for every phonorecord "voluntarily and permanently" distributed. In particular, the Register should prescribe a point in time when, for accounting purposes under section 115, a phonorecord will be considered "permanently distributed," and should prescribe the situations in which a compulsory licensee is barred from maintaining reserves (e.g., situations in which the compulsory licensee has frequently failed to make payments in the past).

A considerable portion of the testimony at the April hearing revolved around the related questions of the point of permanent distribution and reserves. After carefully reviewing the record of these proceedings, we have concluded that it does not provide any definitive guidance as to a point of final distribution, nor does it give us any basis for regulatory determination of a single, uniform, reserve policy. In the words of one supplemental statement:[2]

> * * * the prepared statements submitted by various industry representatives, and undoubtedly their supplemental comments, will not in any way serve to solve the problem before the Register. * * * I think it vitally important that if positions are to be advanced that will ultimately influence those rules and regulations to be promulgated under authority of the Act, that these positions be supported by documentation equivalent to evidence.

Moreover, we are not persuaded on the current record that any fair basis in fact exists for the regulatory determination of a single, uniform, reserve policy for copyright purposes. The numerous factors and variables which enter into the issue of reserves (for example, configuration of phonorecord, time of year, type of music, popularity of recording artist, and sales history of producer) appear to be such as to make our determination of such a policy realistically impractical, if not impossible.

Under these circumstances, interim § 201.19(a)(3) provides in general that permanent distribution of phonorecords occurs one year from the date on which the compulsory licensee actually parts with possession, or at the time when a sale of the phonorecord is "recognized" in accordance with generally accepted accounting principles or Internal Revenue Service practices, whichever of these events is earliest. The intent of this provision is to make the compulsory licensee's reporting requirements for copyright purposes consistent with its overall business reporting practices and requirements, an intent which is reinforced by the necessity of Certified Public Accountant certification of the annual statement of account. Interim § 201.19(a)(4) provides that permanent distribution occurs at when the point a phonorecord is first relinquished from possession with respect to compulsory licensees who have suffered final judgment or similar definitive finding of failure to pay mechanical royalties during a specified period.

Interim Regulation. Part 201 of 37 CFR, Chapter II is amended, on an interim basis, by adding new §§ 201.18 and 201.19 to read as follows:

§ 201.18 Notice of intention to obtain a compulsory license for making and distributing phonorecords of nondramatic musical works.

(a) *General.* (1) A "Notice of Intention" is a notice identified in section 115 (b) of title 17 of the United States Code, as amended by Pub. L. 94-553, and required by that section to be served on a copyright owner, or in certain cases to be filed in the Copyright Office, to obtain a compulsory license to make and distribute phonorecords of nondramatic musical works.

(2) A separate Notice of Intention shall be served or filed for each nondramatic musical work embodied, or intended to be embodied, in phonorecords made under the compulsory license.

(3) For the purposes of this section, the term "copyright owner" in the case of any work having more than one copyright owner means any one of the coowners. In such cases, the service of a notice of intention on one coowner under paragraph (e)(2) of this section shall be sufficient with respect to all coowners.

(b) *Form.* The Copyright Office does not provide printed forms for the use of persons serving or filing Notices of Intention.

(c) *Content.* (1) A Notice of Intention shall be clearly and prominently designated, at the head of the notice, as a "Notice of Intention To Obtain a Compulsory License for Making and Distributing Phonorecords", and shall include a clear statement of the following information:

(i) The full legal name of the person or entity intending to obtain the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

[1] The suggestion was also made that a copy be served on the record manufacturing facility employed by the person or entity exercising the compulsory license. Consistent with our conclusion that the manufacturing facility need not be identified in the notice (paragraph 2, above), this suggestion has not been adopted. Again, no implication should be drawn from this as to the joint and several liability of record pressers and the like for copyright infringement.

[2] Supplemental Statement of W. Robert Thompson, Esq., at 17.

(ii) The full address, including a specific number and street name or rural route, of the place of business of the person or entity intending to obtain the compulsory license. A post office box or similar designation will not be sufficient for this purpose;

(iii) A statement of the nature of the business organization used by the person or entity intending to obtain the compulsory license in connection with the making and distribution of phonorecords (for example, a corporation, a partnership, or an individual proprietorship); additionally:

(A) If the person or entity intending to obtain the compulsory license is a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall so state.

(B) If the person or entity intending to obtain the compulsory license is a corporation that is not registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation.

(C) In all other cases, the Notice shall include the names of any individuals who own a beneficial interest of twenty-five percent (25%) or more in the entity intending to exercise the compulsory license.

(iv) The title of the nondramatic musical work embodied or intended to be embodied in phonorecords made under the compulsory license, and the names of the author or authors of such work if known;

(v) The type of all phonorecord configurations (for example, single disk, long playing disk, cassette, cartridge, reel-to-reel, or a combination of them) already made (if any) and anticipated to be made under the compulsory license;

(vi) The anticipated date of initial distribution of phonorecords already made (if any) or anticipated to be made under the compulsory license;

(vii) The names of the principal recording artists actually engaged and anticipated to be engaged in rendering the performances fixed on phonorecords already made (if any) and anticipated to be made under the compulsory license; and

(viii) The catalog number or numbers, and label name or names, used and anticipated to be used on phonorecords already made (if any) and anticipated to be made under the compulsory license.

(2) A "clear statement" of the information listed in paragraph (c)(1) of this section requires a clearly intelligible, legible, and unambiguous statement in the Notice itself and (subject to paragraph (c)(1)(iii)(A) of this section) without incorporation by reference of facts or information contained in other documents or records.

(3) Where information is required to be given by paragraph (c)(1) "if known" or as "anticipated", such information shall be given in good faith and on the basis of the best knowledge, information, and belief of the person signing the Notice. If so given, later developments affecting the accuracy of such information shall not affect the validity of the Notice.

(d) *Signature.* The Notice shall be signed by the person or entity intending to obtain the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person signing the Notice, and by the date of signature.

(e) *Filing and Service.* (1) If, with respect to the nondramatic musical work named in the Notice of Intention, the registration or other public records of the Copyright Office do not identify the copyright owner of such work and include an address for such owner, the Notice shall be filed in the Copyright Office. Notices of Intention submitted for filing shall be accompanied by a fee of $6. Notices of Intention will be filed by being placed in the appropriate public records of the Licensing Division of the Copyright Office. The date of filing will be the date when a proper Notice and fee are both received in the Copyright Office. A written acknowledgement of receipt and filing will be provided to the sender. Upon request and payment of an additional fee of $4, a Certificate of Filing will be provided to the sender.

(2) If the registration or other public records of the Copyright Office do identify the copyright owner of the nondramatic musical work named in the Notice of Intention and include an address for such owner, the Notice shall be served on such owner by certified mail or by registered mail sent to the last address for such owner shown by the records of the Office; it shall not be necessary to file a copy of the Notice in the Copyright Office in this case.

§ 201.19 Royalties and statements of account under compulsory license for making and distributing phonorecords of nondramatic musical works.

(a) *Definitions.* (1) A "Monthly Statement of Account" is a statement accompanying monthly royalty payments identified in section 115(c)(3) of title 17 of the United States Code, as amended by Pub. L. 94-553, and required by that section to be made under the compulsory license to make and distribute phonorecords of nondramatic musical works.

(2) An "Annual Statement of Account" is a statement identified in section 115(c)(3) of title 17 of the United States Code, as amended by Pub. L. 94-553, and required by that section to be filed for every compulsory license to make and distribute phonorecords of nondramatic musical works.

(3) For the purpose of this section, the term "copyright owner" in the case of any work having more than one copyright owner means any one of the coowners. In such cases, the service of a statement of account on one coowner under paragraph (b)(5) or (c)(6) of this section shall be sufficient with respect to all coowners.

(4) A phonorecord is considered "voluntarily distributed" if the person or entity exercising the compulsory license has voluntarily and permanently parted with possession of the phonorecord. For this purpose a person or entity exercising the compulsory license shall be considered to have "permanently parted with possession" of a phonorecord made under the license:

(i) In the case of phonorecords relinquished from possession for purposes other than sale, at the time at which the person or entity exercising the compulsory license actually first parts with possession;

(ii) In the case of phonorecords relinquished from possession for purposes of sale: (A) one year from the date on which that person or entity actually first parted with possession; or (B) at the time when a sale of the phonorecord is "recognized" by the person or entity exercising the compulsory license, whichever occurs first. For these purposes a person or entity exercising the compulsory license shall be considered to "recognize" the sale of a phonorecord when a sale would be recognized in accordance with generally accepted accounting principles as expressed by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board or applicable rules, regulations, and practices of the Internal Revenue Service, whichever would cause the sale to be recognized first.

(iii) In any case, the destruction of a phonorecord made under the compulsory license by the person or entity exercising the license before the person or entity is considered to have "permanently parted with possession" of that phonorecord under paragraphs (i) and (ii) of this section 201.19(a)(4) shall not be considered a "distribution".

(5) The provisions of paragraph (a)(4)(ii) of this section are subject to the following qualification: in any case where, within three years before the phonorecord was relinquished from possession, the person or entity exercising the compulsory license has had final judgment entered against it for failure to pay royalties for the reproduction of copyrighted music on phonorecords, or within such period has been definitively found in any proceeding involving bankruptcy, insolvency, receivership, assignment for the benefit of creditors or similar action, to have failed to pay such royalties, that person or entity shall be considered to have "permanently parted with possession" of a phonorecord made under the license at the time at which that person or entity actually first parts with possession. For these purposes the "person or entity exercising the compulsory license" shall mean:

(i) In the case of a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, that corporation;

(ii) In the case of a corporation that is not registered under section 12 of the Securities and Exchange Act of 1934, the corporation of any director, officer, or beneficial owner of twenty-five percent (25 percent) or more of the outstanding securities of the corporation;

(iii) In all other cases, any entity or individual owning a beneficial interest of twenty-five percent (25 percent) or more in the entity exercising the compulsory license.

(b) *Monthly Statements of Account.* (1) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Monthly Statements of Account.

(2) *Content.* A Monthly Statement of Account shall be clearly and prominently identified as a "Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords", and shall include a clear statement of the following information: (i) The period (month and year) covered by the statement;

(ii) The full legal name of the person or entity exercising the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(iii) The full address, including a specific number and street name or rural route, of the place of business of the person or entity exercising the compulsory license. A post office box or similar designation will not be sufficient for this purpose;

(iv) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license, and the name of the author or authors of such work or works if known;

(v) For each nondramatic musical work embodied in phonorecords made, "voluntarily distributed", or both during the month covered by the statement and owned by the same copyright owner being served with the statement:

(A) The number of phonorecords made under the compulsory license during the month covered by the statement;

(B) The number of phonorecords "voluntarily distributed" under the compulsory license during the month covered by the statement, together with: (i) the catalog number or numbers, and label name or names, used on such phonorecords; and (ii) the names of the principal recording artists engaged in rendering the performances fixed on such phonorecords; and

(C) The playing time of each such nondramatic musical work on the phonorecords.

The information required by paragraphs (A), (B) and (C) of this § 201.19 (b) (2) (v) shall be separately stated and identified for each phonorecord configuration (for example, single disk, long playing disk, cartridge, cassette, or reel-to-reel) made.

(vi) The total royalty payable for the month covered by the statement. For these purposes, the applicable royalty as specified in section 115(c) (2) of title 17 shall be payable for every phonorecord "voluntarily distributed" during that period. In any case where the person or entity exercising the compulsory license falls within the provisions of paragraph (a) (4) of this section the statement shall also include a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph.

(3) A "clear statement" of the information required by paragraph (b) (2) of this section requires a clearly intelligible, legible, and unambiguous statement in the Statement of Account itself and without incorporation by reference of facts or information contained in other documents or records.

(4) *Oath and Signature.* (i) Each Monthly Statement of Account shall be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, which shall be signed by the person or entity exercising the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person signing the affidavit or statement, and by the date of signature.

(ii) The affidavit or statement required by paragraph (b) (4) (i) of this section shall state that the person signing the affidavit or statement has examined the statement of account, and that all statements of fact contained therein are true, complete, and correct to the best of that person's knowledge, information, and belief, and are made in good faith.

(5) Service. Each Monthly Statement of Account shall be served on the copyright owner to whom or which it is directed, together with the total royalty for the month covered by statement, by certified mail or by registered mail on or before the twentieth day of the immediately succeeding month. It shall not be necessary to file a copy of the statement in the Copyright Office. A separate Monthly Statement of Account shall be served for each month during which a phonorecord or phonorecords are made or "voluntarily distributed" under the compulsory license. The Annual Statement of Account identified in paragraph (c) of this section does not replace any Monthly Statement of Account.

(c) *Annual Statements of Account.* (1) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Annual Statements of Account.

(2) *Annual Period.* An Annual Statement of Account shall cover the full fiscal year of the person or entity exercising the compulsory license.

(3) *Content.* An Annual Statement of Account shall be clearly and prominently identified as an "Annual Statement of Account Under Compulsory License for Making and Distributing Phonorecords", and shall include a clear statement of the following information:

(i) The fiscal year covered by the statement;

(ii) The full legal name of the person or entity exercising the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(iii) A statement of the nature of the business organization used by the person or entity exercising the compulsory license in connection with the making and distribution of phonorecords (for example, a corporation, a partnership, or an individual proprietorship); additionally:

(A) If the person or entity exercising the compulsory license is a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the statement shall so state.

(B) If the person or entity exercising the compulsory license is a corporation that is not registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the statement shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25 percent) or more of the outstanding securities of the corporation.

(C) In all other cases, the statement shall include the names of any individuals who own a beneficial interest of twenty-five percent (25 percent) or more in the entity exercising the compulsory license.

(iv) The full address, including a specific number and street name or rural route, of the place of business of the person or entity exercising the compulsory license. A post office box or similar designation will not be sufficient for this purpose;

(v) The title or titles of all nondramatic musical works embodied in phonorecords made under the compulsory license during the fiscal year covered by the statement and owned by the copyright owner being served with the statement, and the name of the author or authors of such works if known;

(vi) For each nondramatic musical work embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the statement:

(A) The number of such phonorecords made under the compulsory license through the end of the fiscal year covered by the statement, including any made during earlier years;

(B) The number of such phonorecords which have never been relinquished from possession of the person or entity exercising the compulsory license through the end of the fiscal year covered by the statement;

(C) The number of such phonorecords involuntarily relinquished from possession (as through theft or fire) of the person or entity exercising the compulsory license during the fiscal year covered by the statement and any earlier

years, together with a description of the facts of such involuntary relinquishment;

(D) The number of such phonorecords voluntarily relinquished from possession of the person or entity exercising the compulsory license for purposes of sale during the fiscal year covered by the statement, but not "voluntarily distributed" by the end of that year;

(E) The number of such phonorecords destroyed during the fiscal year covered by the statement and any earlier years, by the person or entity exercising the compulsory license, before such phonorecords were "voluntarily distributed";

(F) The number of such phonorecords "voluntarily distributed" by the person or entity exercising the compulsory license during all years before the fiscal year covered by the statement;

(G) The number of such phonorecords "voluntarily distributed" by the person or entity exercising the compulsory license during the fiscal year covered by the statement, together with (1) the catalog number or numbers, and label name or names, used on such phonorecords; and (2) the names of the principal recording artists engaged in rendering the performances fixed on such phonorecords;

(H) If the information given under paragraphs (A) through (G) of this § 201.19(c)(3)(vi) does not reconcile, the statement shall also include a clear and detailed explanation of the difference. For these purposes, the information given under such paragraphs shall be considered not to reconcile if, after the number of phonorecords given under paragraphs (B), (C), (D), (E), and (F) are added together and that sum is deducted from the number of phonorecords given under paragraph (A), the result is different from the amount given under paragraph (G); and

(I) The playing time of each nondramatic musical work on such phonorecords.

The information required by paragraphs (A) through (I) of this § 201.19(c)(3)(vi) shall be separately stated and identified for each phonorecord configuration (for example, single disk, long playing disk, cartridge, cassette, or reel-to-reel) made.

(vi) The total royalty payable for the fiscal year covered by the statement. For these purposes, the applicable royalty as specified in section 115(c)(2) of title 17 shall be payable for every phonorecord "voluntarily distributed" during the fiscal year covered by the statement. In any case where the person or entity exercising the compulsory license falls within the provisions of paragraph (a)(4) of this section the statement shall also include a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph; and

(viii) The total sum paid, under Monthly Statements of Account, by the person or entity exercising the compulsory license to the copyright owner being served with the statement during the fiscal year covered by the statement.

(4) A "clear statement" of the information required by paragraph (c)(3) of this section has the meaning set forth in paragraph (b)(3) of this section.

(5) *Signature and Certification.* (i) Each Annual Statement of Account shall be signed by the person or entity exercising the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person or entity signing the statement, and by the date of signature.

(ii) Each Annual Statement of Account shall also be certified by a licensed Certified Public Accountant. Such certification shall consist of the following statement:

We have examined the attached "Annual Statement of Account Under Compulsory License For Making and Distributing Phonorecords" for the fiscal year ended (date) of (name of person or entity exercising compulsory license) applicable to phonorecords embodying (title or titles of nondramatic musical works embodied in phonorecords made under the compulsory license) made under the provisions of section 115 of title 17 of the United States Code and applicable regulations of the United States Copyright Office. Our examination was made in accord with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion the Annual Statement of Account referred to above presents fairly the number of phonorecords embodying each of the above-identified nondramatic musical works made under compulsory license and voluntarily distributed by (name of person or entity exercising compulsory license) during the fiscal year ending (date), and the amount of royalties applicable thereto under such compulsory license, on a consistent basis and in accord with all applicable laws and regulations.

(City and State of Execution)

(Signature of Certified Public Accountant)

(Date of Opinion)

(6) *Service.* (i) Each Annual Statement of Account shall be served on the copyright owner to whom or which it is directed by certified mail or by registered mail on or before the twentieth day of the third month following the end of the fiscal year covered by the statement. It shall not be necessary to file a copy of the statement in the Copyright Office. An Annual Statement of Account shall be served for each fiscal year during which at least one Monthly Statement of Account was required to have been served under paragraph (b)(5) of this section.

(ii) In any case where the amount required to be stated in the Annual Statement of Account under paragraph (c)(3)(vii) of this section is greater than the amount stated in that Statement under paragraph (c)(3)(viii) of this section, the difference between such amounts shall be delivered to the copyright owner together with service of the Annual Statement. The delivery of such sum does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law.

(d) *Records.* All persons or entities exercising the compulsory license shall, for a period of at least three years from the date of service of an Annual Statemet of Account, keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in such Statement and in Monthly Statements served during the fiscal year covered by such Statement.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553; §§ 115; 702; 708.)

Dated: December 21, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-36989 Filed 12-28-77;8:45 am]

[6820-26]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

PART 105-61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES SERVICE

Subpart 105-61.53—Restrictions on The Use of Records

AGENCY: General Services Administration, National Archives and Records Service (NARS).

ACTION: Final rule.

SUMMARY: In view of the passage of time and substantial interest in access to the records of the 1900 census for research purposes, the current restrictions on access to these records are removed. These records will now be available under the same conditions as the pre-1900 census records.

EFFECTIVE DATE: December 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Adrienne Thomas, General Services Administration (NAA), Washington, D.C. 20408, 202-523-3214.

SUPPLEMENTARY INFORMATION: On October 28, 1973, there was published in the FEDERAL REGISTER (42 FR 5671) a notice of proposed rulemaking revising restrictions on the use of records. Interested persons were given 30 days in which to submit comments regarding the proposed regulations. More than 700 comments, all favorable, were received from members of the public. The proposed rule is therefore adopted without change. In view of the considerable in-

terest expressed in the letters commenting on the proposed rule regarding information on how to purchase microfilm copies of the 1900 population census schedules and related indexes, the following ordering information is provided:

PROCEDURES FOR ORDERING MICROFILM COPIES OF THE 1900 CENSUS:

All correspondence relating to the 1900 census, including orders to purchase microfilm copies of the 1900 census schedules or the related Soundex indexes, should be addressed to: 1900 Census, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

Priority in processing orders will be given to purchasers of either the schedules or indexes for entire States or territories. Orders for entire States received before February 28, 1978, will be processed beginning March 1, 1978. Orders for individual rolls or counties will not be processed until the processing for all the orders for entire States received prior to February 28, 1978, has been completed. We do not expect to be able to ship these small orders until early summer 1978.

Orders for entire States received after February 28, 1978, will not be given priority. They will be processed on a first-come-first-served basis along with the small orders and probably will not be completed until the fall of 1978. This order processing schedule has been established for several reasons: The National Archives and Records Service has only one duplicating copy of the microfilm, and orders are filled by duplication of that copy. The individual rolls are combined into 1,000 foot rolls for duplication. Orders for entire States from libraries and other institutions will be processed first since these orders can be processed more efficiently and the copies will have the greatest public availability. Orders for single rolls or counties cannot be produced until the large orders have been completed and the film separated into individual rolls, as an order for a single roll could otherwise delay production of the larger orders. Small orders for single rolls will be filled as early as possible, starting in the late spring or early summer.

A catalog providing a roll-by-roll breakdown will be available in March 1978. Requests for the catalog can be sent to the above address. Orders placed without the proper roll identification will be subject to additional delay. The schedules for a particular county may be on a single roll of microfilm (frequently with the schedules for other counties), several rolls of film, or even as many as 54 rolls (Cook County, Ill.). The price for microfilm copies of the Census Schedules or Indexes is $12 per roll. The entire 1,854 rolls of the census schedules will cost $22,248; the entire 7,855 rolls of the index will cost $94,260. The tables below show the costs for individual States.

TABLE 1.—*1900 Census Schedules T-623, 1,854 rolls, $22,248*

State	Roll No.	Rolls	Price
Alabama	1-44	44	$528
Arizona	45-48	4	48
Arkansas	49-80	32	384
California	81-116	36	432
Colorado	117-130	14	168
Connecticut	131-152	22	264
Delaware	153-157	5	60
District of Columbia	158-164	7	84
Florida	165-177	13	156
Georgia	178-230	53	636
Idaho	231-234	4	48
Illinois	235-356	122	1,464
Indiana	357-414	58	696
Iowa	415-468	54	648
Kansas	469-505	37	444
Kentucky	506-555	50	600
Louisiana	556-586	31	372
Maine	587-603	17	204
Maryland	604-630	27	324
Massachusetts	631-697	67	804
Michigan	698-755	58	696
Minnesota	756-798	43	516
Mississippi	799-835	37	444
Missouri	836-908	73	876
Montana	909-915	7	84
Nebraska	916-942	27	324
Nevada	943	1	12
New Hampshire	944-952	9	108
New Jersey	953-998	46	552
New Mexico	999-1003	5	60
New York	1004-1179	176	2,112
North Carolina	1180-1225	46	552
North Dakota	1226-1234	9	108
Ohio	1235-1334	100	1,200
Oklahoma	1335-1344	10	120
Oregon	1345-1353	9	108
Pennsylvania	1354-1503	150	1,800
Rhode Island	1504-1513	10	120
South Carolina	1514-1545	32	384
South Dakota	1546-1556	11	132
Tennessee	1557-1606	50	600
Texas	1607-1681	75	900
Utah	1682-1688	7	84
Vermont	1689-1696	8	96
Virginia	1697-1740	44	528
Washington	1741-1754	14	168
West Virginia	1755-1776	22	264
Wisconsin	1777-1825	49	588
Wyoming	1826-1827	2	24
Alaska	1828-1832	5	60
Hawaii	1833-1837	5	60
Military and Naval	1838-1842	5	60
Indian territory	1843-1854	12	144

TABLE 2.—*1900 Census Soundex Index, 7,855 rolls, $94,260*

State	Publication	Rolls	Price
Alabama	T 1030	177	$2,124
Alaska	T 1031	15	180
Arizona	T 1032	22	264
Arkansas	T 1033	133	1,596
California	T 1034	197	2,364
Colorado	T 1035	69	828
Connecticut	T 1036	106	1,272
Delaware	T 1037	21	252
District of Columbia	T 1038	42	504
Florida	T 1039	62	744
Georgia	T 1040	214	2,564
Hawaii	T 1041	30	360
Idaho	T 1042	19	224
Illinois	T 1043	483	5,796
Indiana	T 1044	254	3,048
Iowa	T 1045	213	2,556
Kansas	T 1046	148	1,776
Kentucky	T 1047	199	2,388
Louisiana	T 1048	146	1,752
Maine	T 1049	80	960
Maryland	T 1050	127	1,524
Massachusetts	T 1051	317	3,804
Michigan	T 1052	256	3,072
Minnesota	T 1053	180	2,160
Mississippi	T 1054	155	1,860
Missouri	T 1055	300	3,600
Montana	T 1056	40	480
Nebraska	T 1057	107	1,284
Nevada	T 1058	7	84
New Hampshire	T 1059	52	624
New Jersey	T 1060	204	2,448
New Mexico	T 1061	23	276
New York	T 1062	767	9,204
North Carolina	T 1063	167	2,004
North Dakota	T 1064	36	432
Ohio	T 1065	397	4,764
Oklahoma	T 1066	43	516
Oregon	T 1067	54	648
Pennsylvania	T 1068	610	7,320
Rhode Island	T 1069	49	588
South Carolina	T 1070	124	1,488
South Dakota	T 1071	44	528
Tennessee	T 1072	188	2,256
Texas	T 1073	286	3,432
Utah	T 1074	29	348
Vermont	T 1075	41	492
Virginia	T 1076	174	2,088
Washington	T 1077	70	840
West Virginia	T 1078	93	1,116
Wisconsin	T 1079	189	2,268
Wyoming	T 1080	15	180
Military and Naval	T 1081	31	372
Indian territory	T 1082	42	504
Institutions	T 1083	8	96

Subpart 105–61.53 is amended as follows: 1. The table of contents for Part 105–61 is amended by deleting the following entry:

Sec. 105–61.5303–29a Procedures Governing Access to the Schedules of the Census of Population of 1900.

2. Section 105–61.5303–29 is revised as follows:

§ 105–61.5303–29 Records of the Bureau of the Census.

(a) *Records.* Post–1900 census schedules more than 50 years old. *Restrictions.* (1) No one other than the Secretary of Commerce or his authorized representatives may examine these records. (2) Copies of these records may be provided only to the Secretary of Commerce or his authorized representatives. *Imposed by.* Archivist of the United States.

(b) *Records.* Census schedules less than 50 years old. *Restrictions.* These records may not be examined by or copies of or information from them provided to any person other than sworn employees of the Department of Commerce having proper authorization from the Secretary of Commerce or his designee. *Specified by.* Secretary of Commerce.

§ 105–61.5303–29a [Deleted]

3. Section 105–61.5303–29a is deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105–61.000–2.)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 6, 1977.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.77-36888 Filed 12-28-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21370; FCC 77-820]

CERTAIN COAST GUARD DESIGNATED VESSEL TRAFFIC SERVICES RADIO PROTECTION AREAS

Making the Frequency 156.250 MHz Available for Port Operations Purposes

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Amendment of the rules to make the frequency 156.250 MHz available for port operations purposes in certain Coast Guard designated Vessel Traffic Services (VTS) radio protection areas. As a result of the assignment of maritime mobile frequencies for exclusive use for VTS purposes in certain designated areas, this proposed amendment is deemed necessary to help alleviate the growing burden on the remaining frequencies available.

EFFECTIVE DATE: January 24, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: December 7, 1977.

Released: December 19, 1977.

In the matter of amendment of Parts 2, 81 and 83 of the rules to make the frequency 156.250 MHz available for port operations purposes in certain Coast Guard designated Vessel Traffic Services radio protection areas. Docket No. 21370; REPORT AND ORDER (Proceeding Terminated).

1. A Notice of Proposed Rule Making in the above-captioned matter was released and published in the FEDERAL REGISTER on August 30, 1977 (42 FR 43649). The specified time for filing comments and reply comments has expired.

2. The proposed rule amendment was designed to make the band edge frequency 156.250 MHz (Channel 5) available for port operations purposes in certain U.S. Coast Guard designated Vessel Traffic Services (VTS) radio protection areas. The Coast Guard is establishing these VTS areas for a number of the largest and busiest port areas in the United States as a part of a program to implement the provisions of Title I of the "Ports and Waterways Safety Act of 1972" (Pub. L. 92-340, 46 USC 1551). At the request of the Commandant, U.S. Coast Guard, the Commission amended its rules to make up to three frequencies available for exclusive use of VTS purposes within designated VTS radio protection areas (Docket No. 20444, FCC 75-1316). Due to a scarcity of suitable frequencies it was necessary to set aside frequencies previously authorized for commercial (156.550 MHz) and port operations (156.600 and 156.700 MHz) purposes in the maritime mobile services. Although these frequencies were extensively utilized in large port areas, the Commission believed it was expected by law, and in the public interest, to assist the Coast Guard in implementing the new legislation. As port operations and commercial traffic has shifted in the affected port areas from these three previously available frequencies, the traffic on the remaining frequencies has been increasing. As an initial step to provide some relief for licensees in these busy port areas, the serviceability of the frequency 156.250 MHz was investigated. This frequency had not been previously assigned because of its band edge location and the resultant potential harmful interference with land mobile assignments on the adjacent highway maintenance frequency 156.240 MHz. However after reviewing assignments in the various VTS areas (proposed as well as operational) it appeared that 156.250 MHz could be utilized without harmful interference in some locations. In the port areas of New York, San Francisco, and Seattle the use of the subject frequency was prohibited by possible interference problems. In the remaining VTS areas (presently Houston and New Orleans) 156.250 MHz was found to be suitable for assignment for port operations purposes. In these latter areas the frequency 156.240 MHz is not assigned for highway maintenance use. It appears that through coordination of future assignments of this highway maintenance frequency in these VTS areas potential interference problems can be avoided. Therefore, in light of the above, the Commission proposed to make the band edge frequency 156.250 MHz available for assignment for port operations purposes in the Houston and New Orleans VTS areas.

3. Comments were filed by the American Waterways Operators, Inc. (AWO), and the Central Committee on Telecommunications of the American Petroleum Institute (API). Both commenters fully supported the proposed amendment. API, which represents 40 of the Nation's leading Petroleum and natural gas companies, operating substantial maritime fleets composed of tug boats and barges as well as tankers, endorses early adoption of the proposed rule amendment. API believes this will lead to needed frequency relief in VTS areas. However, it also feels the use of 156.250 MHz may not develop immediately inasmuch as this frequency is paired with 160.850 MHz for duplex operations on an international basis. For this reason many vessels operating in international trade equipped with synthesized VHF transmitters will require modification before 156.250 MHz can be utilized in the simplex mode. AWO, the national trade association of the inland and coastal barge and towing industry, in addition to supporting the instant proposed rule making, urges the Commission to maintain an active program in search of additional frequencies to meet growing congestion on the limited maritime frequencies available domestically.

4. In regard to API's comments concerning the unavailability of 156.250 MHz for immediate use, we believe that since many vessels operating in domestic waters without synthesized equipment will be readily able to utilize the frequency on a simplex basis, some improvement will in fact be realized immediately. Vessels with synthesized transmitters which are unable to operate on 156.250 MHz in a simplex mode, will also benefit due to a reduction of traffic on the remaining VHF port operations frequencies caused by other vessels shifting communications to the newly available channel. In response, to the comments of AWO, we wish to emphasize that the Commission fully intends to keep abreast of developments and actively seek solutions to communications problems concerning the maritime services.

5. In view of the favorable comments received and for the reasons expressed in the Notice of Proposed Rule Making, as referenced above, we believe it is in the public interest and convenience to amend the rules substantially as proposed. However, in the nature of an editorial change, the rules as adopted specifically identify the designated VTS areas in which the frequency 156.250 MHz may be utilized, rather than identifying the VTS areas wherein the use of the frequency is prohibited. It is felt that this language is more explicit and straightforward. When, and if, new VTS areas are designated in which 156.250 MHz is suitable for assignment for port operations purposes, the rules can be readily amended to so indicate.

6. Accordingly, it is ordered, That pursuant to the authority contained in Section 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth below, effective January 24, 1978.

7. It is further ordered, that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106 the table is amended by adding in the band 156.250-157.0375 MHz, the frequency 156.250 MHz in column 10, and Maritime Mobile in Column 11, and further, the NG footnotes and the table in the band 154.6375-156.250 MHz in Column 8, and the band 156.250-157.0375 MHz in column 11, are amended by adding NG 117 to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

Band (megahertz)	Service	Frequency (megahertz)	Nature (of services) (of stations)
7	8	10	11
* * * * * * *			
154.6375–156.250	Land Mobile (NG 116)		Public Safety.
156.250–157.0375	Maritime Mobile	156.250	Maritime Mobile. (NG 117)
		156.275	Do.
		156.300	Do.
* * * * * * *			

* * * * *

NG Footnotes

* * * * *

NG 117 The frequency 156.250 MHz may be assigned to stations in the maritime mobile service for port operations within the U.S. Coast Guard designated Vessel Traffic Services (VTS) radio protection areas of New Orleans and Houston.

* * * * *

Part 81—Stations on Land in the Maritime Services and Alaska Public Fixed Stations.

1. In § 81.356, paragraph (a) table under "Port Operations", a new frequency is added and a new paragraph (b)(2) is added to read as follows:

§ 81.356 Assignable frequencies in the band 156–162 MHz.

(a) * * *

Port operations—				
65	156.250	156.250	Coast to ship	2
65	156.275	156.275	....do	13
* * * * * * *				

(b) * * *

(2) Available for use within the U.S. Coast Guard designated Vessel Traffic Services (VTS) radio protection areas of New Orleans and Houston described in § 81.357.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.351, paragraph (a) table, a new "carrier frequency" is added, and a new paragraph (b)(12) is added to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (kilohertz)	Conditions of use	
	Section	Limitations
* * * * *		
Megahertz		
156.250	83.359	12
* * * * *		

(b) * * *

(12) Available for use within the U.S. Coast Guard designated Vessel Traffic Services (VTS) radio protection areas of New Orleans and Houston described in § 83.361.

* * * * *

2. In § 83.359, the table under "Port Operations" is amended to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

* * * * *

Channel designator	Frequency (megahertz)		Points of communication
	Ship	Coast	
	Port operations		
05	156.250	156.250	Intership and ship to coast.
65	156.275	156.275	Do.
* * * * *			

[FR Doc.77-36930 Filed 12-28-77;8:45 am]

[3410-02]

Title 7—Agriculture

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

[Navel Orange Reg. 423; Navel Orange Reg. 421, Amendment 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period Dec. 30, 1977–Jan. 5, 1978, and increases the quantity of such oranges that may be so shipped during the period December 23–29, 1977. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective December 30, 1977, and the amendment is effective for the period December 23–29, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the Act.

The Committee met on December 27, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is very good on all sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

The provisions of paragraph (a)(1)(2) and (3) in § 907.721 Navel Orange Regulation 421 (42 FR 64101), are hereby amended to read:

§ 907.721 [Amended]

(a) * * *

(1) District 1: 792,000 cartons; (2) District 2: unlimited movement; (3) District 3: 108,000 cartons.

Section 907.723 is revised as follows:

§ 907.723 Navel Orange Regulation 423.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period

December 30, 1977 through January 5, 1978, are established as follows:

(1) District 1: 600,000 cartons; (2) District 2: unlimited movement; (3) District 3: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

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

Dated: December 28, 1977.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-37325 Filed 12-28-77;11:20 am]

[3410-02]

[Lemon Reg. 124, Amdt. 2]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped during the period December 18–24, 1977. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The amendment is effective for the period December 18–24, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–6393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on December 21 and 22, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is increasing due to good holiday buying.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. This amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

The provisions of paragraph (a) in § 910.424 Lemon Regulation 124 (42 FR 63379; 64360) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period December 18 through 24, 1977, is established at 230,000 cartons."

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

Dated: December 23, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Dos.77-37030 Filed 12-28-77;8:45 am]

[3410-02]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Marketing Percentages for the 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes that there will be no volume regulation this year for four varieties of California dates—Deglet Noor, Zahidi, Khadrawy, and Halawy. The anticipated demand in domestic and export markets and carryover needs for these varieties are expected to exceed the marketable content of the respective 1977–78 crops. Handlers will be free to market these dates subject to quality requirements effective during the season.

EFFECTIVE DATES: October 1, 1977, through September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–6393.

SUPPLEMENTARY INFORMATION: On November 28, 1977, notice was published in the FEDERAL REGISTER (42 FR 60568) inviting written comments, not later than December 16, 1977, on the proposed establishment of free and restricted percentages and withholding factors of 100 percent, 0 percent, and 0 percent, respectively, for marketable Deglet Noor, Zahidi, Halawy, and Khadrawy dates, but none was received. The crop year began October 1, 1977. The percentages and withholding factors would be established in accordance with the provisions of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The free percentages, restricted percentages, and withholding factors are established pursuant to §§ 987.44 and 987.45. These percentages and factors are based on the California Date Administrative Committee's estimates for the current crop year of supply and trade demand adjusted for handler carryover and other available information. The Committee locally administers the Federal marketing order program. Trade demand means the aggregate quantity of whole or pitted dates which the trade will acquire from all handlers during the crop year for distribution in the continental United States, Canada, and such other countries as the Committee finds will acquire dates at prices reasonably comparable with prices received in the continental United States.

In determining the percentages for each of the four varieties, the Committee considered the following data, estimates and information for the crop year beginning October 1, 1977:

	At 1,000 lb—			
	Deglet Noor	Zahidi	Halawy	Khadrawy
1. Production of marketable dates (1977-78 crop)	38,961	2,133	211	568
2. Plus: Noncertified handler carryover as of Sept. 30, 1977, of marketable dates	1,794	39	7	49
3. Total marketable supply	40,755	2,172	218	617
4. Trade demand for free whole and pitted dates	15,400	1,250	135	222
5. Plus: Desirable handler carryover as of Sept. 30, 1978, to assure date supplies for early demand	4,300	270	50	50
6. Less: Certified handler carryover as of Sept. 30, 1977, of free dates	566	36	0	6
7. Adjusted trade demand	19,134	1,524	185	266

It is estimated that the amounts in excess of adjusted trade demands for these four varieties will be utilized in products and/or export markets. Hence, no volume regulation is needed.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is found that establishment of free and restricted percentages, and withholding factors under the order, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this rule until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The relevant provisions of the order require that the free and restricted percentages, and withholding factors established for a particular crop year shall apply to all marketable dates of the variety to which applicable from the beginning of the crop year. The 1977–78 crop year began October 1, 1977.

The free and restricted percentages and withholding factors follow.

§ 987.225 Free and restricted percentages and withholding factors.

The various free percentages, restricted percentages, and withholding factors applicable to marketable dates of each variety shall be, for the crop year beginning October 1, 1977, and ending September 30, 1978, as follows: (a) Deglet Noor variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (b) Zahidi variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (c) Halawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; Khadrawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent.

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

Dated: December 22, 1977.

D. S. KURYLOSKI,
Acting Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-36994 Filed 12-28-77;8:45 am]

[3410-02]

PART 999—SPECIALTY CROPS—IMPORT REGULATIONS

Filbert Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final regulation.

SUMMARY: This action would require that all filberts imported into the U.S. meet the same grade and size standards required of filberts grown in Oregon and Washington. This regulation would implement a recent amendment to the Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATE: February 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–6393.

SUPPLEMENTARY INFORMATION: Notice of a proposal to regulate the importation of filberts was published in the October 12, 1977, issue of the FEDERAL REGISTER (42 FR 54950). The regulation is required by section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674; and as further amended by Public Law 95–113 approved September 29, 1977), hereinafter referred to as the "act".

The notice gave interested persons an opportunity to submit written data, views, or arguments on the proposal. Seven comments were received within the comment period.

Section 8e of the act provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of the act (7 U.S.C. 608c) contains any terms or conditions regulating the grade, size, quality, or maturity of filberts produced in the United States, the importation of filberts into the United States shall be prohibited during the period of time the order is in effect, unless the imported commodity complies with the grade, size, quality and maturity provisions of the order or comparable restrictions promulgated under section 8e. Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington (hereinafter referred to as the "order"), contains terms and conditions regulating the grade and size of filberts. Virtually all commercially produced U.S. filberts are grown in these two States.

The notice contained grade and size requirements which were understood to be identical to those for filberts grown in Oregon and Washington and handled under the order. It was proposed in the notice that all inshell filberts be of a quality equal to or better than the requirements of U.S. No. 1 grade and medium size as defined in the U.S. Standards for Filberts in the Shell. One commentator pointed out, however, that this requirement is not identical to Oregon No. 1 grade and medium size as defined in the Oregon Standards Filberts in Shell and prescribed for inshell filberts under the order. The U.S. standard contains a three percent tolerance for insect injury, whereas the Oregon standard allows only two percent. The intent of the proposal was that the grade standards applicable to imported filberts be identical to those contained in the marketing order for domestic filberts. Therefore, § 999.400(b)(2) is changed from that in the proposal to require all inshell filberts to be of a quality equal to or better than the requirements of U.S. No. 1 grade and medium size as defined in the U.S. Standards for Filberts in the Shell (7 CFR 51), except that the tolerance for insect injury shall be two percent.

All shelled filberts shall be of a quality equal to or better than the requirements prescribed in Exhibit A of the import regulation. These requirements are identical to the requirements for Oregon No. 1 whole and broken grade for shelled filberts as contained in Oregon Grade Standards for Filberts (hazelnut) Kernals, and prescribed for shelled filberts under the order.

Also included in the proposal were other requirements which pertain to the importation of filberts (e.g., inspection and certification, reconditioning, exemptions and compliance).

Two commentators urged the Department to adopt quality standards identical to those under the marketing order, and that the Department enforce the requirements of section 8e "to the fullest extent of the law". Two other commentators questioned the need for government regulations, such as the proposal. Another requested that the 0.02 percent tolerances for "foreign material" and "loose skins, pellicles and corky tissue" be relaxed at least three fold because it may become "a difficult condition for the Turkish exporters to comply with * * *". However, such a relaxation would not be consistent with section 8e which requires that the regulation be the same as or comparable to the quality requirements for U.S. filberts regulated under the marketing order.

Finally, one comment was received endorsing the proposal, but requesting that the effective date of the standards be set to accommodate the next (i.e., the 1978) crop, or no earlier than September 1, 1978. This, however, would be inconsistent with the recent amendment of section 8e of the act. That amendment made no provision for any lengthy grace period before compliance with it would be required. The standards are to become effective February 15, 1978, which gives importers and exporters reasonable time to prepare for this regulation.

After consideration of all revelant matter presented, including that in the notice, the comments received, and other available information, it is found that to establish the regulation for imported filberts set forth in § 999.400 will tend to effectuate the declared policy of the act.

The regulation is as follows:

§ 999.400 Regulation governing the importation of filberts.

(a) *Definitions.* (1) "Filberts" means filberts or hazelnuts.

(2) "Inshell filberts" means filberts, the kernels or edible portions of which are contained in the shell.

(3) "Shelled filberts" means the kernels of filberts after the shells are removed.

(4) "Person" means any individual, partnership, corporation, association, or other business unit.

(5) "USDA inspector" means a Federal or Federal-State inspector, Food Safety and Quality Service, United States Department of Agriculture, or any other duly authorized employee of the USDA.

(6) "Importation" means release from custody of the United States Bureau of Customs.

(b) *Grade and size requirements.* Except as provided in paragraph (d) of this section, no person shall import into the United States any lot of filberts unless the filberts meet the following requirements, which are identical to those for filberts grown in Oregon and Washington and handled pursuant to Order No. 982, as amended (7 CFR Part 982):

(1) Inshell filberts. All inshell filberts shall be of a quality equal to or better than the requirements of U.S. No. 1 grade and medium size as defined in the U.S. Standards for Filberts in the Shell (7 CFR 51), except that the tolerance for insect injury shall be two percent. With this modification, the U.S. No. 1 grade, medium size is identical to the Oregon No. 1 grade, medium size (as defined in the Oregon Grade Standards Filberts in Shell) and prescribed for inshell filberts under Order No. 982, as amended.

(2) Shelled filberts. All shelled filberts shall be of a quality equal to or better than the requirements prescribed in Exhibit A of this section. These require-

ments are identical to the requirements for Oregon No. 1 whole and broken grade for shelled filberts (as contained in Oregon Grade Standards for Filbert (hazelnut) Kernels) and prescribed for shelled filberts under Order No. 982, as amended.

(c) *Inspection and certification requirements.*—(1) *General.* Compliance with the grade and size requirements of paragraph (b) of this section shall be determined on the basis of an inspection and certification by a USDA inspector.

(2) *Inspection.* Inspection shall be performed by USDA inspectors in accordance with the Regulations Governing the Inspection and Certification of Fresh Fruits and Vegetables and Related Products (7 CFR 51). The cost of each such inspection and related certification shall be borne by the applicant. Whenever filberts are offered for inspection, the applicant shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection. The applicant shall also furnish the USDA inspector the entry number and such other identifying information for each lot as he may request. Inspection must be completed prior to the importation of filberts. The applicant should make advance arrangements with the USDA inspection office to avoid delay in scheduling the inspection.

(3) *Certification.* Each lot of filberts inspected in accordance with subparagraph (1) of this paragraph shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

(i) The date and place of inspection.

(ii) The name of the applicant.

(iii) The name of the importer.

(iv) The quantity, and identifying marks of the lot inspected.

(v) The statement, if applicable: "Meets U.S. import requirements under Section 8e of the AMA Act of 1937".

(vi) If the lot fails to meet the import requirements, a statement to that effect and the reasons therefor.

(d) *Exemptions.* Notwithstanding any other provisions of this section, the importation of any lot of filberts which does not exceed 115 pounds in net weight shall be exempt from the requirements of this section.

(e) *Reconditioning prior to importation.* Nothing contained in this section shall be deemed to preclude reconditioning filberts prior to importation, in order that such filberts may be made eligible to meet the applicable grade and size regulations prescribed in paragraph (b) of this section.

(f) *Other restrictions.* The provisions of this section do not supersede the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State or Federal agencies.

(g) *Compliance.* Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representations to any agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

EXHIBIT A

GRADE REQUIREMENTS FOR SHELLED FILBERTS

Filbert kernels or portions of filbert kernels shall meet the following requirements:

(1) Well dried and
(2) Clean,
(3) Free from:
(i) Foreign material;
(ii) Mold;
(iii) Rancidity; or
(iiii) Insect injury
(4) Free from serious damage caused by:
(i) Serious shriveling or
(ii) Other means.
(5) Size; No size requirements.

TOLERANCES

In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are permitted as specified:

(1) For Foreign Material: 0.02 of one percent, for foreign material.

(2) For Defects: Five percent for kernels or portions of kernels which are below the requirements of this grade; including not more than one percent for moldy, rancidity or insect injury.

APPLICATION OF STANDARDS

The grade of a lot of filbert kernels shall be determined on the basis of a composite sample drawn from containers in various locations in the lot. However, any container or group of containers in which the filberts are obviously of a quality, type or size materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

Similar type

"Similar type" means that the kernels are of the same general type and appearance. For example, kernels of the round type shall not be mixed with those of the long type. Color of the kernels shall not be considered, since there is often a marked difference in skin color of kernels of similar type.

Well dried

"Well dried" means that the kernels are firm and crisp, not containing more than 6 percent moisture.

Clean

"Clean" means practically free from plainly visible adhering dirt or other foreign material.

Foreign Material

"Foreign material" means any substance other than the filbert kernel, or portions of kernels. (Loose skins, pellicles or corky tissue which have become separated from the kernels shall not be considered as foreign material, provided that this material does not exceed .02 of one percent by weight).

Serious Damage

"Serious damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual portion of kernel or of the lot as a whole. The following defects shall be considered as serious damage:

(a) "Serious Shriveling" means when the kernel is seriously shrunken, wrinkled and tough.

(b) "Moldy" means that there is a visible growth of mold either on the outside or inside of the kernel.

(c) "Rancidity" means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

(d) "Insect injury" means that the insect, frass or web is present, or the kernel or portion of kernel show definite evidence of insect feeding.

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

Dated: December 22, 1977, to become effective February 15, 1978.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[FR Doc.77-37029 Filed 12-28-77;8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

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

Subpart L—Watershed Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulation to increase the maximum amount for watershed loans in a single watershed project from $5,000,000 to $10,000,000 in accordance with provisions of the Food and Agriculture Act of 1977.

EFFECTIVE DATE: December 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Judd M. Hudson, telephone 202–447–7667.

SUPPLEMENTAL INFORMATION: Section 1823.345(d) of Subpart L, Part 1823, Chapter XVIII of Title 7, Code of Federal Regulations (35 FR 15091, as

amended at 39 FR 30826 is amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change relates to a specific statutory authorization which was recently revised. Pub. L. 95-113, Title XV, Section 1508 increased the maximum amount of watershed loans in a single watershed project. Proposed rulemaking, therefore, is unnecessary. Accordingly, § 1823.345(d) is amended as follows:

§ 1823.345 Loan purposes and limitations.

* * * * *

(d) *Limitations on amounts of Loans.* The total amount of principal outstanding for all WS loans in any one watershed project area, whether made to one or more borrowers, will not exceed $10,000,000.

(16 USC 1005; EO 10584; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 21, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-36967 Filed 12-28-77;8:45 am]

proposed rules

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

[3128–01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 210]

GENERAL ALLOCATION AND PRICE RULES

Proposed Rulemaking and Public Hearing on Extension of Recordkeeping Requirement

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking and public hearing to amend Subpart G of the General Allocation and Price Rules. The proposal is to extend from four years to seven years, the period for which firms subject to the Rules must maintain the records needed to show that prices charged or amounts sold by the firm are in compliance with the requirements of the mandatory price and allocation regulations. In addition, the ERA solicits comments on the advisability of relieving certain small businesses and businesses which have been audited from those requirements for appropriate periods and on the advisability of maintaining recordkeeping requirements of various durations for different sectors of the petroleum industry. In substance, the proposed relief from recordkeeping requirements could amount to a limitation on the length of time within which ERA could undertake to audit a firm, and comments are requested in this proceeding on whether a rulemaking should be initiated to consider the adoption of regulations that would specify time periods within which ERA audits must be begun.

DATES: Written comments by February 6, 1978, 4:30 p.m., e.s.t., requests to speak by February 1, 1978, 4:30 p.m., e.s.t., hearing to be held on February 8, 1978, at 9:30 a.m., e.s.t., at the location set forth below.

ADDRESSES: Written comments and requests to speak at the hearing to: Department of Energy, Regulation Management, Box QR, Room 2214, 2000 M Street, NW., Washington, D.C. 20461. Hearing location: 2000 M Street, NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Department of Energy, 2000 M Street, NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Ed Vilade (Media Relations), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Phil White (Office of Enforcement), Economic Regulatory Administration, 2000 M Street, NW., Room 5204, Washington, D.C. 20461, 202-254-6990.

Noah S. Baer (Office of General Counsel), Department of Energy, 2000 M Street, NW., Room 5308, Washington, D.C. 20461, 202-254-8700.

SUPPLEMENTAL INFORMATION: A. Background; B. Discussion; C. Proposed Amendments; D. Comment Procedures; E. Other Matters.

A. Background

Recordkeeping requirements for firms which are, or have been, subject to the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) and the Mandatory Petroleum Price Regulations (10 CFR Part 212) are contained in Subpart G of the General Allocation and Price Rules (10 CFR Part 210). Additional recordkeeping requirements are contained in Subparts I and L of the Mandatory Petroleum Price and Allocation Regulations, respectively. Section 210.92 of the General Allocation and Price Rules requires regulated firms to keep records sufficient to demonstrate that the prices charged or volumes of product sold are in compliance with the regulations. Such records are required to be made available for inspection at any time upon the request of a representative of the ERA. Any firm which increases a price or takes any action pursuant to the allocation provisions must, upon request of a representative of the ERA, make available to that representative the records it is maintaining to comply with the recordkeeping requirements and justify the firm's actions. All records are to be maintained for at least 4 years after the last day of the calendar year in which transactions or other events appearing in the record occurred or the property was acquired by the firm, whichever is later. Pursuant to the Final Rule issued simultaneously with this Notice, this rule has been temporarily modified so as to now provide that records relevant solely to transactions or other events occurring during calendar year 1973 must be maintained at least until June 30, 1978.

B. Discussion

Thus, under 10 CFR 210.92 records of regulated transactions themselves must be maintained for at least 4 calendar years. Ruling 1976-6 (42 FR 1035, January 5, 1977), however, clarified that that Section nevertheless requires firms to maintain indefinitely all records necessary for the establishment of historical prices or volumes which serve as the basis for determining the prices or volumes of any subsequent regulated transaction, regardless of how much time has elapsed since the base period. Therefore, producers of domestic crude oil, for example, are required to preserve records from which the "base production control level" of a property can be determined (generally records of production and sale of crude oil for all months since January 1, 1972) for at least 4 years beyond the last date on which the volumes of new crude oil from a property are determined from such data. Similarly, since current maximum allowable prices for producers, refiners, resellers and retailers, and gas plant operators, are established by reference to prices during or prior to May 1973, records of those prices must be maintained for at least 4 calendar years after the last regulated transaction for which such data must be used to determine the maximum lawful price. This principle also applies to prices based, even in part, upon "banks" of unrecouped costs incurred during a prior year. Similar principles apply to the Part 211 allocation regulations.

Therefore, records necessary to establish historical prices or volumes, or to establish "banks" carried over to a subsequent year, are required to be maintained for at least 4 calendar years after the year in which the last regulated transaction occurred to which those historical records are applicable. This result is not affected by the Final Rule issued simultaneously with this Notice, since that Rule merely extended for six months the recordkeeping requirements for records of regulated transactions occurring during calendar year 1973, and not to base period data compiled during that or any other year.

With respect to records relating solely to regulated transactions occurring during a particular calendar year, 10 CFR § 210.92 might be construed to permit destruction of such records after 4 more calendar years have passed, except that for such 1973 records the final rule issued today has extended that time for six months.

The ERA has now tentatively determined that in order to assure the satisfactory completion of audits currently in process or under consideration it is necessary to require by regulation that full and adequate records be maintained of the regulated transactions themselves for up to an additional three years beyond the 4 year period already generally required.

PROPOSED AMENDMENTS

The ERA proposes to vary the length of the recordkeeping requirement for various sectors of the petroleum industry based upon differences in the relative burden and the impact that expiration of the recordkeeping requirement for particular periods would have on ERA's overall enforcement effort. We have tentatively determined to differentiate small firms from all others, but solicit comments on whether a further differentiation of medium-sized firms from large firms would be appropriate. We also solicit comment on whether it would be appropriate to distinguish firms based upon gross sales revenue, sales volume, percentage of market or some other method, and on whether it would be appropriate to differentiate recordkeeping obligations on a product by product basis. We tentatively propose that resellers, reseller-retailers, and retailers which sold less than three million gallons of all covered products throughout the 12 months of 1973 should be characterized as "small" for this purpose. The ERA solicits comments on whether a comparable distinction among refiners or producers would be appropriate and on what standards might be utilized for this purpose.

The ERA has determined that the public policy enunciated in the Federal Energy Administration Act of 1974, Pub. L. 93-275, and the Department of Energy Organization Act, Pub. L. 95-91, of avoiding overly burdensome reporting requirements for small marketers and distributors of petroleum products requires that consideration be given to exempting such small businesses from at least some part of the further extension of the recordkeeping requirement. In addition, the ERA has tentatively determined that the portion of the petroleum industry represented by the larger firms, together with the large manpower and time requirement necessary to thoroughly audit those firms, requires that their records be maintained for a significantly longer period of time than other firms and that ERA requires an additional three years to complete those audits. Therefore, we have tentatively determined that small firms should be required to maintain their records for five years, and that all other firms be required to maintain their records for seven years.

We further propose to amend the regulation to provide, in addition, that with respect to any firm that has undergone or is undergoing an audit, or has received a notice from the FEA or ERA that it will be audited, the requirement to maintain records from all relevant periods of time will be extended until the completion of the audit and the resolution of all issues arising from that audit.

We recognize that the burden of maintaining records for seven years, even after firms have been audited by the ERA, may not be justified. Therefore, the ERA proposes to amend the recordkeeping requirement to allow firms, after the effective date of the amendment, to petition the ERA upon the completion of an audit for permission to be relieved of the maintenance requirement for records relating to the time period audited, as part of a comprehensive resolution of the firm's compliance during that period. Such relief would be within the discretion of the ERA.

We also recognize that a limitation on the length of time a firm must maintain records will, in substance, limit the time within which an audit can be undertaken of the matters covered by those records. However, to avail itself of this immunity from audit a firm might need to destroy records it would otherwise maintain. Therefore, we expressly request comment from the public as to whether, in addition to the recordkeeping requirements proposed here, ERA should institute a separate rulemaking to consider the adoption of regulations that would specify time periods within which ERA audits must be begun.

D. COMMENT PROCEDURE

a. *Written Comments.* You are invited to participate in this rulemaking by submitting your views on the proposals presented here. Comments should be identified on the outside envelope and on all documents with the designation "Recordkeeping Extension, Box QR". Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. All comments and related information should be received by ERA by February 6, 1978, in order to insure consideration.

Any information or data which you consider to be confidential must be so identified and submitted in writing. Only one copy should be submitted. The ERA reserves the right to determine the confidential status of the information and to treat it accordingly.

b. *Public Hearing.*—1. *Request procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., e.s.t., on February 8, 1978, in Room 2105, 2000 M Street, NW., Washington, D.C. to receive oral presentations.

If you have an interest in the proposed regulations or you represent a group which has an interest in them, you may make a written request for an opportunity to speak at the hearing. Direct your request to the Department of Energy, Regulation Management, Box QR, Room 2214, 2000 M Street, NW., Washington, D.C. 20461. A request must be received before 4:30 p.m., e.s.t. February 1, 1978 and may be hand-delivered to Room 2214, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. You should be prepared to describe your interest; if appropriate, to state why you are a proper representative of a group which has such an interest, and to give a short summary of your statement and a phone number where you may be reached through February 8, 1978. If you are selected to speak, you will be notified by DOE before 4:30 p.m., e.s.t., February 3, 1978, and you must submit 100 copies of your proposed statement to the Department of Energy, Regulation Management, Room 2214, 2000 M Street, NW., Washington, D.C. 20461 before 4:30 p.m., e.s.t., on February 7, 1978.

2. *Conduct of Hearings.* We reserve the right to select the speakers at this hearing, to schedule their statements and to govern the conduct of the hearing. The length of each statement may be limited, based on the number of persons requesting to be heard. An ERA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of speakers. At the conclusion of all initial statements, each speaker will be given the opportunity to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any speaker to the Department of Energy, Economic Regulatory Administration, Division of Regulation Management, Room 2214, 2000 M Street, NW., before 4:30 p.m., e.s.t., February 6, 1978. We will determine whether the question is relevant, and whether the time limitations permit it to be asked.

If you make a statement at the hearing and wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be asked.

Any further required rules will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. You may purchase a copy of the transcript from the reporter.

E. OTHER MATTERS

Since the proposed regulation is not a regulation affecting the quality of the environment, the provisions of Section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, have been determined to be inapplicable to this proposal.

NOTE.—The ERA has also determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In accord with section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission has been notified that the Administrator intended to propose these amendments and the Commission's determination whether the proposed regulations would sig-

nificantly affect any function within its jurisdiction has been requested.

The ERA has determined that this proposed rulemaking is not subject to the requirement in the Federal Reports Act, as amended, 44 U.S.C. 3509, for submission of certain proposed revisions in plans or forms concerning the collection of information to the Director, Office of Management and Budget. Nevertheless, a copy of this notice has been sent to the Director for his comments. Additionally, the ERA has sent a copy of this Notice to the Administrator of the Small Business Administration for his comments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, it is proposed to amend Part 210 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., December 23, 1977.

DAVID J. BARDIN,
Administrator Economic Regulatory Administration.

1. Section 210.92 is amended in paragraph (d) to read as follows:

§ 210.92 Records.

* * * * *

(d) *Period for keeping records.* (1) Each firm required to keep a record under this paragraph shall maintain and preserve that record for at least 7 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred or the property was acquired by that firm, whichever is later, except that resellers, reseller-retailers and retailers with total sales of all petroleum products under 3 million gallons throughout calendar year 1973 shall maintain and preserve such records for at least 5 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred or the property was acquired by that firm, whichever is later. In addition to the foregoing, any firm that has undergone an audit, is undergoing an audit, or received notice from the Economic Regulatory Administration that it intends to audit that firm shall maintain records from all relevant periods of time until the completion of the audit and the resolution of all issues arising from that audit.

(2) After the effective date of this paragraph, a firm, upon the completion of an audit, may petition the Economic Regulatory Administration for permission to be relieved of the record maintenance requirement for the time period audited as part of a comprehensive resolution of the firm's compliance during that period. The granting of such permission shall be within the discretion of the Economic Regulatory Administration.

[FR Doc.77-37002 Filed 12-28-77;8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

LEASING OF PERSONAL PROPERTY

Limitations on National Banks; Extension of Comment Period

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Extension of comment period.

SUMMARY: The Comptroller of the Currency published a proposed interpretive ruling concerning leasing of personal property by national banks in the FEDERAL REGISTER on November 29, 1977 (42 FR 60749; correction at 42 FR 61058). To encourage maximum public participation in this matter, the Comptroller has decided to extend the comment period by 45 days to February 12, 1978.

DATE: Comments must be received on or before February 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas P. Vartanian, 202-447-1885.

Dated: December 21, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-36990 Filed 12-28-77;8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17506]

AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation Limited BH/HS 125-600A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of the existing guards for the engine blow-off valve switches with new guards which would allow a more rapid activation of the switches on Hawker Siddeley Aviation Limited, Model BH/HS 125-600A airplanes. The proposed AD is needed to prevent surging and possible flame-out of the engine(s) after bird ingestion which could result in possible deterioration of airplane performance.

DATES: Comments must be received on or before: February 13, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17506, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Hawker Siddeley Aviation Incorporated, Suite 206, Blake Building, 1025 Connecticut Avenue NW., Washington, D.C. 20036, telephone, 202-223-9350.

A copy of the service bulletin is contained in the Rules Docket, Rm 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D.C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been a report of an accident in the United Kingdom (UK) in which birds were ingested into both engines of a Hawker Siddeley Aviation Ltd. Model HS 125-600 airplane on take-off. As a result of an investigation, the UK Accident Investigation Board recommended a change to the guard design for the engine blow-off valve switches to facilitate their activation in such an emergency. The blow-off valve feature was introduced during certification of the 600 Series to allow engine air bleed-off in the event of bird ingestion on take-off to prevent surging and possible flame out of the engine(s). The present design requires release of a locking feature before the guard can be moved out of the way and allow activation of the switch. Since this condition is likely to exist on other airplanes of the same type design, the proposed AD would require replacement of the existing guard with a new design. The new guard provides protection against inadvertent activation of the switch provides easier access to the switches on Hawker Siddeley Aviation Ltd. Model BH/HS 125 Series 600A airplanes.

DRAFTING INFORMATION

The principal authors of this document are Mr. F. J. Karnowski, Europe,

Africa, and Middle East Region, F. Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION LIMITED: Applies to BH/HS 125-600A airplanes, certificated in all categories.

Compliance required within one month after the effective date of this AD, unless already accomplished.

To prevent possible inability to activate the engine blow-off valve switches in the event that birds are ingested into the engines on take-off, accomplish the following:

Remove the existing switch guards for the engine blow-off valve switches and replace with the new design guard, P/N 25-6 NF 2629, in accordance with the section entitled "Accomplishment Instructions" and the associated drawing, contained in Hawker Siddeley Aviation Ltd. Service Bulletin 75-3(2580), dated June 21, 1977, or an FAA-approved equivalent.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on December 21, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-36988 Filed 12-28-77;8:45 am]

[4910-13]

[14 CFR Part 73]

[Airspace Docket No. 77-RM-15]

PLATTEVILLE, COLORADO

Proposed Designation of Special Use Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a restricted area identified as R-2604 in the vicinity of Platteville, Colo., to encompass transmitters used for the conduct of radiation experiments. This proposed action will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations within the designated area.

DATES: Comments must be received on or before January 30, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 77-RM-15, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207.

Send comments on the environmental aspects to: Deputy Director, Office of Telecommunications, Institute for Telecommunication Sciences, Boulder, Colo. 80302.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before January 30, 1978 will be considered before action is taken on the proposed amendment. 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.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8053. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to designate a restricted area identified as R-2604 in the vicinity of Platteville, Colo. The purpose of the proposed restricted area is to encompass transmitters for the conduct of radiation experiments to study its effect on radio propogation. The radiation generated by this experiment may be hazardous to nonparticipating aircraft. The using agency (Office of Telecommunications) will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Subpart B of Part 73 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 657).

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (42 FR 657) as follows:

In § 73.26 (42 FR 667) the following would be added:

R-2604 PLATTEVILLE, COLO.

Boundaries. A circular area with a 3,000-foot radius centered at Latitude 40°10'48"N., Longitude 104°43'30"W.
Designated altitudes. Surface to 6,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Denver Approach Control.
Using agency. Office of Telecommunications, Boulder, Colorado.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on December 20, 1977.

WILLIAM E. BROADWATER,
Traffic Rules Division.

[FR Doc.77-36984 Filed 12-28-77;8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 249]

EDR-343; [Economic Regulations Docket 31229; Dated: December 22, 1977.]

CHARTER FLIGHT DELAYS AND SUBSTITUTE AIR TRANSPORTATION

Uniform Limits

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The current rules limiting delays of charter flights apply only to supplemental air carriers. They allow delays of up to 6 hours for domestic flights and 48 hours for foreign flights. This notice proposes a uniform limit of 6 hours for all charter flights, and an extension of the rules' coverage to all direct air carriers and foreign air carriers, regardless of type. It also proposes changes regarding the payment of incidental expenses to delayed passengers. This proposal responds to a petition for rulemaking filed by the Board's Office of the Consumer Advocate.

DATES: Comments by February 13, 1978.

ADDRESSES: Comments should be sent to Docket 31229, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Dyson, Office of General Counsel, Rules Division, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: Rules governing the time that a charter flight may be delayed before a supplemental air carrier incurs further obligations are found in Part 208 of the Board's Economic Regulations, Terms, Conditions and Limitations of Certificates to Engage in Supplemental Air Transportation (14 CFR Part 208). Section 208.33 requires alternate transportation or, at the charterer's option, an immediate full refund after a delay of more than 6 hours for domestic charters.[1] For foreign charters, § 208.32a requires substitute transportation, on scheduled service if necessary, after a delay of 48 hours. There are no corresponding delay rules in Parts 207 (U.S. scheduled carriers), 212 (foreign scheduled carriers), or 214 (foreign charter-only carriers).

The Board's Office of the Consumer Advocate (OCA) has petitioned for amendments that would (1) subject foreign North American[2] One-stop-inclusive Tour Charters (OTC's) and Special Event Charters (SEC's) to a 6-hour requirement instead of the current 48-hour foreign requirement, and (2) extend the coverage of these rules to all types of air carriers, by incorporating the requirements in Parts 207, 212, and 214. The petition also indicated OCA's belief that the 48-hour permitted delay for foreign charters is too long, but did not specifically request that it be reduced.

In support of its petition, OCA argues that (1) it is poor policy to permit a North American OTC to be delayed as long as 2 days when the minimum-stay provisions of the OTC rule permit the offering of such charters with total trip lengths as short as 4 days; (2) for a North American SEC, subject to a 3-day maximum-stay requirement, a delay of 2 days is similarly egregious and may even result in the air transportation being provided after the "special event" has occurred; (3) North American trips can actually be much shorter than some domestic trips (comparing New York-Montreal, 334 miles, with New York-Honolulu, 4,974 miles); and (4) extension of the delay rules to Parts 207, 212, and 214 is necessary to provide the same protection to all charter passengers, regardless of the type of direct air carrier performing their flights.

Supporting answers were filed by the Air Charter Tour Operators of America (ACTOA), American Leadership Study Groups (ALSG), and Gogo International, Inc. and Liberty Travel, Inc. (Gogo/Liberty). All agreed that the same delay rules should apply regardless of the type of direct air carrier. None distinguished between North American OTC's and SEC's, on the one hand, and the remaining charter types, on the other. ALSG and Gogo/Liberty recommended a uniform limit of 6 hours for all charters. ACTOA argued that the allowable delay should vary directly with the length of stay. It suggested an allowance of 6 hours for all charters of trip length up to 7 days, and 12 hours for trips longer than 7 days. It noted that the 6-hour rule for domestic charters, including even those between New York and Hawaii, has been in effect for many years with no adverse results. ALSG suggested that carriers should be allowed to carry delayed passengers on scheduled flights at charter rates, citing two occasions on which the Board permitted such carriage.

Opposing answers were filed by American Airlines, Braniff Airways, and Delta Air Lines. Braniff and Delta objected to a 6-hour limit as unrealistic. Each gave an example of time in excess of 6 hours that might be necessary to assemble a crew, service and ferry a substitute plane from another city, refuel, and reload passengers and baggage in order to meet its obligation when a problem develops immediately before departure. Braniff, while supporting the petition in all other respects, preferred an 8-hour limit and an expansion of the permitted excuse for further delays from the current unavoidable weather conditions to "unavoidable delays due to any reason beyond the control of the carrier." Delta argued that a 6-hour limit would force carriers to keep planes uneconomically idle to be available for substitute charter transportation. It recommended a permissible delay of 12 hours, with extensions during peak holiday periods.[3]

Delta suggested as an alternative that carriers be permitted to arrange substitute transportation on scheduled service at charter rates. In this connection, it suggested that the distinction between charter and scheduled service could be protected by allowing transportation on the carrier's own scheduled service only in documented, true emergency situations where no other alternative is available. American argued that since scheduled carriers already provide in their tariffs for alternate service to delayed charter passengers, there is no basis for extending the delay rules to these carriers. It stated also that § 208.33 (domestic delays) is obsolete in its references to individual tickets. It recommended that if we nevertheless believe rulemaking is necessary, the delay limit for domestic and North American charters should be 24 hours and should be effected by an amendment of § 208.32a rather than of § 208.33.

We agree with OCA that a 48-hour delay in the departure of a charter flight is inconsistent with the short minimum-stay provisions of Part 378a for North American OTC's and the maximum-stay provisions for North American SEC's. Rather than merely eliminating the incongruity by a geographical recategorization of such flights, however, we take this occasion to propose improved protection against delays for charter passengers generally. We view a 48-hour "permissible" delay in departure as too long for any charter trip. We have tentatively decided to establish a uniform 6-hour requirement, as suggested by ALSG and Gogo/Liberty. This rule would apply to all charters, regardless of destination, charter type, trip duration, or type of air carrier.

Passengers waiting at an airport for a delayed charter flight will tend to suffer the same degree of inconvenience and incur the same costs, whether their flights be domestic or foreign. The duration of a charter trip, also, does not significantly affect a flight delay's impact. We see little difference, for example, between the effect on passengers of a 6-hour delay on a 1-week trip and the same delay on a 2-week trip. The proposed rule, therefore, does not incorporate ACTOA's suggested two-tiered scheme specifying less stringent requirements for trips longer than 1 week. We also see no reason to distinguish among charter types in specifying carriers' obligations when delays occur.

Stringency in any performance requirement can, of course, translate ultimately into higher prices for charter participants. Any particular choice of a maximum permissible delay, therefore, represents a tradeoff between low prices and improved consumer protection. We seek a level of protection that will alleviate the problem of delays to the maximum extent possible without jeopardizing the low prices that are the fundamental attraction of charter transportation as an alternative to scheduled service. While recognizing that the possibility of delay is one factor contributing to the low cost of charters, we believe that the primary economies in charter service derive from the operation of flights at high load factors (with the associated risks of cancellation). We

[1] The rule is expressed in the statutory terms of "interstate" and "overseas air transportation." For convenience, we will use the terms "domestic charter" in this discussion to mean a charter flight in interstate or overseas air transportation.

[2] The term "North American Charter" is defined in the OTC rule as a one-stop-inclusive tour charter between a point or points in any State of the United States, the District of Columbia, Puerto Rico or the U.S. Virgin Islands, on the one hand, and a point or points in any other State of the United States or in Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, or the "Islands of the Caribbean" (as defined in Part 207 (14 CFR Part 207)), on the other hand. This term thus includes most domestic charters and some foreign charters. Because domestic North American charters are already subject to the 6-hour requirements of § 208.33, however, we will use the term in this discussion to mean only *foreign* North American charters.

[3] For an SEC where a 12-hour delay would result in arrival after the special event, Delta would have us require instead that passengers arrive reasonably prior to the special event or receive refunds.

have thus tentatively concluded that a 6-hour limit on delays on all charters would strike a desirable balance between passenger protection and carrier burden.

In this connection, we note that the arguments of Braniff and Delta that a 6-hour limit would be impracticable[4] are not persuasive, for several reasons. First, their hypothetical examples appear to be based on atypical circumstances, including the discovery of mechanical difficulties at the very last moment before scheduled departure and the necessity for exceptionally long ferry flights of substitute aircraft. Second, these carriers do not appear to contemplate any subcontracting with other direct air carriers for substitute service to perform their obligations under their charter contracts. Also, they appear to consider a carrier's best efforts to provide substitute charter service as presumptively sufficient, thus ignoring completely the possibility that a fair charter delay rule might on occasion require substitute transportation on higher-priced scheduled service. Finally, the arguments are contradicted by actual experience under the current rule, which has applied a 6-hour limit to domestic flights by the supplemental carriers for many years with no apparent adverse effects.

Among the flights already subject to a 6-hour limit have been not only a substantial number of transcontinental charters, which can be longer than many foreign charters, but also East Coast-Hawaii charters, which are even longer. A 6-hour rule for all charters thus does not appear unduly burdensome. We do invite comments, however, on the advisability of a slightly longer period of permissible delay on foreign charters, with particular attention to the possibility of an 8-, 10-, or 12-hour rule. In any event we would be inclined to group North American charters with domestic ones under the 6-hour rule, in view of the comparable distances involved.

The scheduled departure time of a charter flight, rarely established when the charter contract is signed, is typically set by the carrier 1 or 2 weeks before the day of departure. Because the proposed rules might give carriers an incentive to refrain from setting a time until shortly before actual departure, we also invite comment on the possible need to require a minimum advance notification of the scheduled departure time.

The existing delay rules in Part 208—§ 208.33 (domestic and § 208.32 (foreign)—differ in several respects in addition to the length of delay permitted. The domestic provision, by authorizing the charterer to obtain a refund of the charter price only when the chartered carrier does not provide alternative transportation, provides no mechanism for ensuring the performance of such transportation. The foreign provision, by authorizing the charterer to make substitute transportation arrangements at the expense of the delaying carrier after the expiration of the specified period, more clearly establishes the carrier's duty. The former section also contains no requirements corresponding to the latter's provisions for incidental expenses to delayed passengers. In addition, where the former section excuses only those delays caused by weather, the latter also excuses delays caused by other operational conditions affecting the airport of departure. Finally, the former section contains obsolete references to individually ticketed service by supplemental carriers. For these reasons, we are proposing to eliminate § 208.33 and use the provisions of § 208.33a as a basis for the new 6-hour delay rules.

We would change these provisions in two respects, however. First, we would not require the delaying carrier to wait 6 hours before providing substitute transportation on scheduled service. This could be provided sooner, for those passengers who could not be flown on a substitute charter within 6 hours. Second, we would revise the terms under which the delaying carrier must pay the cost of substitute transportation that is arranged by the charterer on scheduled service after 6 hours. Rather than prescribe "economy or tourist class" fares, we would use normal economy fares only as a ceiling, subject to one exception. This exception would permit the charterer to place in first class, at the expense of the delaying carrier, those passengers who would otherwise have to wait more than one further hour for lower-priced seats. On the other hand, the proposal would allow the negotiation of lower-than-economy fares on the substitute scheduled service, to the extent that such lower fares may be permitted by exemption, waiver, or any tariff rules that we may approve in the future.[5]

A passenger's protection against delays should not depend on the type of direct air carrier with which the charterer happens to have chosen to contract. The absence of delay rules in Parts 207, 212, and 214 is an anomaly that we propose to correct.[6] In Part 214 (foreign charter-only carriers), we would apply the same rules as in Part 208. In Parts 207 and 212, however, where the delaying carrier also provides scheduled service, we must proceed with caution. The opportunity to carry delayed charter passengers on its own scheduled service can give such a carrier a great incentive to overbook charter flights along its certificated routes with several possible adverse results. First, charter passengers would be subject to greater risks of cancellation or delay. Second, both fares and last-minute capacity of the scheduled service would be burdened. Third, such a carrier might gain an unfair competitive advantage over supplemental and foreign charter-only carriers. On the other hand, we are reluctant to establish a rule that would flatly prohibit "self-substitution" by scheduled carriers. Such a rule would operate to the detriment of not only the carriers, who would be forced to waste available aircraft capacity, but also the passengers, who could be subjected to further delays.

On balance, we believe it best to permit self-substitution with a restriction to limit the incentive for abuse: member of the charter group could be transported on a scheduled flight of the delaying carrier only if they could not be accommodated on an earlier-arriving[7] flight of another carrier. To facilitate enforcement of this restriction, we also propose to require in Parts 207 and 212 that whenever a carrier does transport delayed charter passengers on one of its own scheduled flights, it retain for 2 years records of its efforts to obtain such earlier-arriving transportation from other carriers.

Finally, we are also proposing several changes in the details of the provisions regarding incidental expenses of delayed charter passengers. The size of the payments would be increased, to reflect the approximate doubling of consumer prices that has occurred since these provisions first appeared in PS-13 (May 14, 1962, published at 27 FR 4732, May 18, 1962). The payment scheme would be clarified to specify payments of $16 per passenger after the first 6 hours of delay, followed by an additional $8 after each succeeding 6-hour period of delay that may occur. The amended rule would retain the current option of the carrier to discharge its obligation by providing free meals and lodging in lieu of payment. The current § 208.32a(b) requires the payment of incidental expenses on the return leg of a charter flight. A footnote exhorts carriers to provide similar relief to those passengers on a delayed outbound leg whose homes are not within a reasonable distance of the airport of departure. In view of the increasing number of charters operating from gateway cities with passengers originating in numerous other cities, we propose converting the footnote into a formal requirement. Passengers whose homes are 50 miles or more from the charter's point of departure would be eligible for incidental expenses. Because additional expenses may be incurred even by passengers who live close to the departure airport, we also invite comment on the advisability of extending this protection to all passengers.

[4] We recognize that these arguments were addressed only to the more limited relief requested in the OCA petition.

[5] The carriage of charter passengers on scheduled service at charter rates is already the subject of another proceeding, the *Part Charter* phase of the *North Atlantic Fares Investigation*, Docket 27918-1.

[6] As a small step towards consolidation of the charter regulations, we would not repeat the text of the new delay rules verbatim in each part of the Code of Federal Regulations. Instead, the text would be set out in full in Part 207, with the relevant portions incorporated by reference in Parts 208, 212, and 214.

[7] This restriction is based on arrival times rather than departure times to prevent evasion of its purpose through circuitous routing of the substituted flight.

PROPOSED RULES

In light of the foregoing, the Civil Aeronautics Board proposes to amend Parts 207, 208, 212, 214, and 249 of its Economic Regulations (14 CFR Parts 207, 208, 212, 214, and 249) as set forth below.

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. Section 207.9 would be amended by adding a new paragraph (e), to read:

§ 207.9 Records and record retention.

Each air carrier shall obtain and retain the following records in accordance with Part 249 of this subchapter:

* * * * *

(e) Records of its efforts in accordance with § 207.18(a)(5) to obtain substitute transportation from other carriers whenever it provides substitute transportation on its own scheduled service for delayed charter passengers.

2. A new § 207.18 would be added, to read as follows:

§ 207.18 Flight delays and substitute air transportation.

Air carriers operating pursuant to this part shall assume, and publish as part of the rules and regulations of their tariffs applicable to passenger service, the following obligations, in addition to any other rights or remedies of charterers and passengers under applicable law:

(a) *Substitute air transportation.*—(1) On all charter flights, unless the carrier finally enplanes each passenger and begins the takeoff procedures at the airport of departure within 6 hours after the scheduled departure time, it shall provide substitute transportation in accordance with this paragraph.

(2) As soon as the carrier discovers that the departure of any charter flight will be delayed more than 6 hours, it shall arrange for and pay the costs of substitute transportation for the charter group on another charter or scheduled flight of any air carrier or foreign air carrier, subject to the following limitation: substitute transportation may be provided on a scheduled flight only for those passengers who cannot be accommodated on a substitute charter flight that departs within 6 hours after the scheduled departure time of the original charter flight.

(3) When neither the charter transportation contracted for nor substitute transportation has been performed within 6 hours after the scheduled departure time of any charter flight, the charterer or his agent may arrange for substitute air transportation of the members of the charter group on individually ticketed flights. The delaying carrier shall pay the costs of the air transportation to the substitute air carrier or foreign air carrier, subject to the following limitation: the delaying carrier shall be responsible for amounts above normal economy fares only for those passengers who cannot be accommodated on lower-priced service on either the same flight or another flight departing not more than 1 further hour later.

(4) In determining the length of a flight delay for the purposes of this paragraph, periods of delay caused by the prohibition of flights from the airport of departure because of weather or other operational conditions affecting such airport shall be excluded if, and while, the carrier has available an airworthy aircraft that is capable of transporting the charter group in a condition of operational readiness.

(5) Substitute transportation in accordance with paragraph (a)(2) or (a)(3) above may be providtd on a scheduled flight of the delaying carrier only for those passengers who cannot be accommodated on flights of other air carriers or foreign air carriers that are scheduled to arrive at the charter destination not later than the delaying carrier's flight.

(b) *Incidental expenses.* (1) On all charter flights, unless the carrier finally enplanes each passenger and begins the takeoff procedures at the airport of departure within 6 hours after the scheduled departure time, it shall pay incidental expenses in accordance with this paragraph. Payments shall be made at the airport of departure as soon as they become due. They shall be made to the charterer or its agent for the account of each passenger, including infants and children traveling at reduced fares, except as specified in paragraph (b)(3).

(2) Payments shall be made at 6-hour intervals beginning 6 hours after the scheduled departure time. The first payment shall be $16 and each subsequent payment shall be $8. The carrier may, however, discharge this obligation by providing free meals and lodging in lieu of making such payments. The obligation of the carrier to pay incidental expenses or provide free meals and lodging shall cease when substitute air transportation is provided in accordance with paragraph (a) of this section.

(3) The requirements of this paragraph shall not apply with respect to passengers on the originating leg of a charter flight whose homes are located less than 50 miles from the point of departure of the flight.

3. The Table of Contents would be amended accordingly.

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

1. Section 208.33 would be revoked and reserved, and § 208.32a would be amended to read as follows:

§ 208.32a Flight delays and substitute air transportation.

Air carriers operating pursuant to this part shall assume, and publish as part of the rules and regulations of their tariffs applicable to passenger service, the obligations set out in §§ 207.18(a)(1) through (a)(4) and 207.18(b) of this subchapter. These provisions shall be in addition to any other rights or remedies of charters and passengers under applicable law.

§ 208.33 [Amended]

2. The Table of Contents would be amended accordingly.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

1. Section 212.7 would be amended by adding a new paragraph (a)(6), to read:

§ 212.7 Records and record retention.

(a) Each foreign air carrier shall obtain and retain, in accordance with Part 249 of this chapter, the following documents pertaining to charter trips: * * *

(6) Records of its efforts in accordance with § 207.18(a)(5) of this subchapter (as incorporated in § 212.16) to obtain substitute transportation from other carriers whenever it provides substitute transportation on its own scheduled service for delayed charter passengers.

* * * * *

2. A new § 212.16 would be added, to read as follows:

§ 212.16 Flight delays and substitute air transportation.

Foreign air carriers operating pursuant to this part shall assume, and publish as part of the rules and regulations of their tariff applicable to passenger service, the obligations set out in §§ 207.18 (a) and (b) of this subchapter. These provisions shall be in addition to any other rights or remedies of charterers and passengers under applicable law.

3. The Table of Contents would be amended accordingly.

PART 214—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

1. A new § 214.9d would be added, to read as follows:

§ 214.9d Flight delays and substitutes air transportation.

Foreign air carriers operating pursuant to this part shall assume, and publish as part of the rules and regulations of their tariffs applicable to passenger service, the obligations set out in §§ 207.18(a)(1) through (a)(4) and 207.18(b) of this subchapter. These provisions shall be in addition to any other rights or remedies of charterers and passengers under applicable law.

2. The Table of Contents would be amended accordingly.

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

1. Section 249.12 would be amended by adding a new paragraph (c)(6), to read:

§ 249.12 Period of preservation of records by foreign air carriers.

* * * * *

(c) Each carrier shall, pursuant to Part 212 of this subchapter, maintain, for the periods specified, the following documents: * * *

(6) The records specified in § 212.7(a)(6) of this subchapter: 2 years.

2. Section 249.13 would be amended by adding a new line 305 to the "Sched-

ule of Records" set out in paragraph (f), to read:

§ 249.13 Period of preservation of records by certificated route air carriers.

* * * * *

(f) * * *

Schedule of records

Category of records	Period to be retained	Microfilm indicator
* * *	*	*
Operating Statistics		
* * *	*	*
305 Records specified in § 207.9(e) of this subchapter.	2 yr.....	M
* * *	*	*

REQUEST FOR COMMENTS

Interested persons may take part in the rulemaking by submitting 20 copies of written data, views, or arguments on the subject discussed. All relevant material received by the date shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sec. 204, 403, 404, and 411 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760, and 769 (49 U.S.C. 1324, 1373, 1374, and 1381.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-37044 Filed 12-28-77;8:45 am]

[3510-13]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 16]

PROCEDURES FOR A VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM (CPILP)

Proposed Amendment To Permit CPILP Labels To Include Information About Performance Characteristic When Another Federal Agency Requires Labeled Information About That Characteristic

AGENCY: Assistant Secretary for Science and Technology, U.S. Department of Commerce.

ACTION: Proposed amendment to rule.

SUMMARY: This proposed amendment to the Procedures for the Voluntary Consumer Product Information Labeling Program would authorize the Department of Commerce to include on CPILP labels for selected consumer products information about performance characteristics which are included in the labeling program of another Federal agency, provided the other agency agrees. The object of the amendment is to decrease the complexity of labeling for manufacturers by enabling them to comply with the labeling requirements of other Government programs through participation in CPILP, and to simplify product comparison by consumers at the point of sale.

DATES: Comments must be received on before January 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTARY INFORMATION: On May 25, 1977, the Department of Commerce announced in the FEDERAL REGISTER (42 FR 26647) procedures under which a Voluntary Consumer Product Information Labeling Program administered by the Department will function. The Department determined that the program would be instituted on a limited pilot project basis. The goal of this program is to make available to consumers, at the point of sale, information on consumer product performance in an understandable and useful form.

Other Government agencies—such as the Federal Trade Commission, the Consumer Product Safety Commission, and the Environmental Protection Agency—also are proposing or considering various information disclosure requirements for consumer products. In many cases, however, it would be desirable to provide on a single label information of interest to consumers about a wider range of attributes than is being considered for labeling requirements by any one agency. For selected consumer products, the Department of Commerce desires to make CPILP labels compatible with the corresponding labeling requirements or recommendations promulgated by other agencies, so that the information disclosure requirements of those agencies can be satisfied by participation in CPILP. In such cases, product labeling would be simplified for manufacturers participating in CPILP since compliance with those other agency requirements would be assured. Product comparison by consumers at the point of sale also would be simplified since all of the information would be on a single label having uniform, consumer-oriented format.

The final sentence in § 16.2(b) of the CPILP procedures states that "The program seeks to avoid the duplication of other Federal programs under which performance characteristics are labeled by exempting those performance characteristics from this program." In view of the above stated desire of the Department of Commerce to include on CPILP labels performance characteristics which are included in other Federal labeling programs, the Department proposes to amend the final sentence of § 16.2(b) of the CPILP procedures as set forth below. It is emphasized that CPILP is a voluntary program, and that manufacturers can comply with the labeling requirements of other Federal agencies without participating in CPILP.

Interested persons are invited to submit written comments in four copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230 on or before January 30, 1977.

Dated: December 23, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

15 CFR Part 16 is proposed to be amended by striking the period at the end of the final sentence of § 16.2(b) and adding the following thereto:

", unless the Federal agency concerned agrees. In such cases, the Department of Commerce may include information about those performance characteristics in CPILP labels if, by doing so, product comparison at the point of sale is simplified for consumers, and the complexity of product labeling is reduced for the manufacturers by enabling them to comply with the labeling requirements of other Federal agencies through participation in CPLIP."

Section 16.2(b), as amended, will read in its entirety as follows:

§ 16.2 Description and goal of program.

* * * * *

(b) The program involves voluntary labeling by enrolled participants of selected categories of consumer products with information concerning selected performance characteristics of those products. The performance characteristics of those that are of demonstrable importance to consumers, that consumers cannot evaluate through mere inspection of the product, and that can be measured objectively and reported understandably to consumers. The consumer products covered include those for which incorrect purchase decision can result in financial loss, dissatisfaction, or inconvenience. The program seeks to avoid the duplication of other Federal programs under which performance characteristics are labeled by exempting those performance characteristics from this program, unless the other concerned Federal agency agrees. In such cases, the Department of Commerce may include information about those performance characteristics in CPILP labels if, by doing so, product comparison at the point of sale is simplified for consumers, and the complexity of product labeling is reduced for the manufacturers by enabling them to comply with the labeling requirements of other Federal Government agencies through participation in CPILP.

* * * * *

[FR Doc.77-36975 Filed 12-28-77;8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Regulations No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart H—Evidence

AGENCY: Social Security Administration, Department of Health, Education, and Welfare.

ACTION: Proposed rulemaking.

SUMMARY: The Department of Health, Education, and Welfare is planning to revise its regulations to make them clearer and easier for the public to use. As part of this effort, we are proposing a complete revision of the rules in this Subpart on what evidence is needed to prove a person is eligible for old-age, disability, dependents' or survivors' benefits under the Social Security Act. No significant changes in the previous rules have been made; the rules have been rewritten in simplier, briefer language and a rule has been added that has been followed by the Social Security Administration informally for some time. This added rule is about evidence needed to prove school attendance for students age 18 or over who are eligible for benefits as a child. We have also included the guidelines we follow in deciding what evidence is "convincing" enough so that more evidence of a fact is not needed. This should help the public in deciding what evidence to provide when applying for benefits.

We would like to have comments from the public about these rules and the way we propose to rewrite them.

DATES: Your comments will be considered if we receive them no later than February 13, 1977.

ADDRESSES: Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Ray Worley, Office of Policy and Regulations, 301-594-5744.

SUPPLEMENTARY INFORMATION: The Social Security Administration is planning to revise completely all its regulations to make them easier to read and more helpful to the public. This revision of Subpart H is the first under our plan.

This Subpart is important because the Social Security Act does not define what evidence a person needs to prove his or her eligibility for benefits. Authority for making rules on what evidence is needed has been given to the Secretary of Health, Education, and Welfare who in turn has delegated this authority to the Commissioner of Social Security.

Please note that this Subpart does not include all the Social Security Administration's rules on what evidence is needed. Subpart P of Part 404 contains the rules on what evidence is needed to prove a person is disabled. The rules on evidence needed for Supplemental Security Income payments are contained in Part 416. The rules on evidence needed to obtain a social security number card are contained in Subpart B of Part 422. Later on, when our regulation rewriting effort has progressed further, we will consider whether combining all these rules into one regulation would be helpful to the public.

(Catalog of Federal Domestic Assistance Program Nos. 13.803 Social Security-Retirement Insurance; 13.804 Social Security-Special Benefits for Persons Aged 72 and Over; 13.805 Social Security-Survivors' Insurance.)

NOTE.—The Social Security Administration has decided this document does not need an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A107.

Dated: November 22, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 22, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Subpart H—Evidence

Subpart H of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Section

AUTHORITY: This Subpart H is issued under sections 205, and 1102 of the Social Security Act, 53 Stat. 1368, and 49 Stat. 647; section 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 405, and 1302 and 5 U.S.C. Appendix.

Subpart H—Evidence

§ 404.701 Introduction.

This Subpart contains the Social Security Administration's basic rules about what evidence is needed when a person claims old-age, disability, dependents' and survivors' insurance benefits as described in Subpart D. In addition, there are special evidence requirements for disability benefits. These are contained in Subpart P. Evidence of a person's earnings under social security is described in Subpart I. Evidence needed to obtain a social security number card is described in Part 422. Evidence requirements for the supplemental security income program are contained in Part 416.

§ 404.702 Definitions.

(a) *"Benefits."* "Benefits" means any old-age, disability, dependents', and survivors' insurance benefits described in Subpart D, including a period of disability.

(b) *"Apply for benefits."* To "apply for benefits" means to sign a form or statement which the Social Security Administration accepts as an application for benefits under the rules set out in Subpart G.

(c) *"You" or "Your."* "You" or "Your" refers to the person who has applied for benefits for himself or herself, or for someone else.

(d) *"We or "Us."* "We" or "Us" refers to the Social Security Administration.

(e) *"Entitled" or "Entitlement".* A person is "entitled" or has "entitlement" to benefits for a period if he or she has applied and has proven his or her right to benefits for that period.

(f) *"Eligible" or "Eligibility".* A person is "eligible" or has "eligibility" for benefits for a period if he or she would meet all the requirements for entitlement to benefits for that period but has not yet been found entitled.

(g) *"Insured person" or "the insured".* An "insured person" or "the insured" is someone who has enough earnings under social security to permit the payment of benefits. He or she is "fully insured," "insured for disability," or "currently insured" as defined in Subpart B.

(h) *"Evidence".* "Evidence" is any record, document, or signed statement which helps to show whether you are eligible for benefits or whether you are still entitled to benefits.

(i) *"Concincnig evidence".* "Convincing evdience" is one or more pieces of evidence that prove you meet a requirement for eligibility. See § 404.708 for the guides we use in deciding whether evidence is convincing.

§ 404.703 When evidence is needed.

When you apply for benefits, we will ask for evidence that you are eligible for them. After you become entitled to benefits, we may ask for evidence showing whether you continue to be entitled to benefits; or evidence showing whether

your benefit payments should be reduced or stopped. See § 404.401 for a list showing when benefit payments must be reduced or stopped.

§ 404.704 Your responsibility for giving evidence.

When evidence is needed to prove your eligibility or your right to continue to receive benefit payments, you will be responsible for obtaining and giving the evidence to us. We will be glad to advise you what is needed and how to get it. If your evidence is a foreign-language record or document, we can have it translated for you. Evidence given to us will be kept confidential and not disclosed to anyone but you except under the rules set out in Part 401. You should also be aware that Section 208 of the Social Security Act provides criminal penalties for misrepresenting the facts or for making false statements to obtain social security benefits for yourself or someone else.

§ 404.705 Failure to give requested evidence.

Generally, you will be asked to give us by a certain date specific kinds of evidence or information to prove you are eligible for benefits. If we do not receive the evidence or information by that date, we may decide you are not eligible for benefits. If you are already receiving benefits, you may be asked to give us by a certain date information needed to decide whether you continue to be entitled to benefits or whether your benefits should be stopped or reduced. If you do not give us the requested information by the date given, we may decide that you are no longer entitled to benefits or that your benefits should be stopped or reduced. You should let us know if you are unable to give us the requested evidence within the specified time and explain why there will be a delay. If this delay is due to illness, failure to receive timely evidence you have asked for from another source, or a similar circumstance, you will be given additional time to give us the evidence.

§ 404.706 Where to give evidence.

Evidence should be given to the people at a Social Security Administration office. In the Philippines, evidence should be given to the people at the Veterans Administration Regional Office. Elsewhere outside the United States, evidence should be given to the people at a United States Foreign Service Office.

§ 404.707 Original records or copies as evidence.

(a) *Original records and documents.* You may give us original records or documents as evidence. These will be returned to you after we have photocopied them.

(b) *Certified copies of original records.* You may give us copies of original records or extracts from records if they are certified as true and exact copies by:

(1) The official custodian of the record; or

(2) A Social Security Administration employee authorized to certify copies; or

(3) A Veterans Administration employee if the evidence was given to that agency to obtain veteran's benefits; or

(4) A U.S. Consular Officer or employee of the Department of State authorized to certify evidence received outside the United States; or

(5) An employee of a State Agency or State Welfare Office authorized to certify copies of original records in the agency's or office's files.

(c) *Uncertified copies of original records.* You may give us an uncertified photocopy of a birth registration notification as evidence where it is the practice of the local birth registrar to issue them in this way.

§ 404.708 How we decide what is enough evidence.

(a) *General guidelines.* When you give us evidence, we examine it to see if it is convincing evidence. If it is, no other evidence is needed. In deciding if evidence is convincing, we consider whether:

(1) Information contained in the evidence was given by a person in a position to know the facts.

(2) There was any reason to give false information when the evidence was created.

(3) Information contained in the evidence was given under oath, or with witnesses present, or with the knowledge there was a penalty for giving false information.

(4) The evidence was created at the time the event took place or shortly thereafter.

(5) The evidence has been altered or has any erasures on it.

(6) Information contained in the evidence agrees with other available evidence, including our records.

(b) *Preferred evidence and other evidence.* If you give us the type of evidence we have shown as "preferred" in the following sections of this subpart, we will generally find it is convincing evidence. This means that unless we have information in our records which raise a doubt about the evidence, other evidence of the same fact will not be needed. If preferred evidence is not available, we will consider any other evidence you give us. If this other evidence is several different records or documents which all show the same information, we may decide it is convincing evidence even though it is not "preferred" evidence. If the other evidence is not convincing by itself, we will ask for additional evidence. If this additional evidence shows the same information, all the evidence considered together may be convincing. When we have convincing evidence of the facts which must be proven or it is clear that the evidence provided does not prove the necessary facts, we will make a formal decision about your benefit rights.

§ 404.715 Evidence of age.

(a) *When evidence of age is needed.* (1) If you apply for benefits, we will ask for evidence of age which shows your date of birth unless you are applying for:

(i) A lump-sum death payment;

(ii) A wife's benefit and you have the insured person's child in your care;

(iii) A mother's or father's benefit; or

(iv) A disability benefit (or for a period of disability) and neither your eligibility nor benefit amount depends upon your age.

(2) If you apply for wife's benefits while under age 62 or if you apply for a mother's or father's benefit, you will be asked for evidence of the date of birth of the insured person's children in your care.

(3) If you apply for benefits on the earnings record of a deceased person, you may be asked for evidence of his or her age if this is needed to decide whether he or she was insured at the time of death or what benefit amount is payable to you.

(b) *Type of evidence of age to be given.* (1) *Preferred evidence.* The best evidence of your age, if you can obtain it, is either: a birth certificate or hospital birth record recorded before age 5; or a religious record which shows your date of birth and was recorded before age 5.

(2) *Other evidence of age.* If you cannot obtain the preferred evidence of your age, you will be asked for other convincing evidence which shows your date of birth or age at a certain time such as: an original family bible or family record; school records; census records; a statement signed by the physician or midwife who was present at your birth; insurance policies; a marriage record; a passport; an employment record; a delayed birth certificate, your child's birth certificate; or an immigration or naturalization record.

§ 404.720 Evidence of a person's death.

(a) *When evidence of death is required.* If you apply for benefits on the record of a deceased person, we will ask for evidence of the date and place of his or her death. We may also ask for evidence of another person's death if this is needed to prove you are eligible for benefits.

(b) *Preferred evidence of death.* The best evidence of a person's death is:

(1) A certified copy or extract from the public record of death, coroner's report of death, or verdict of a coroner's jury; or a certificate by the custodian of the public record of death; or

(2) A statement of the funeral director, attending physician, intern of the institution where death occurred; or

(3) A certified copy of, or extract from, an official report or finding of death made by an agency or department of the United States.

(4) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department; or a copy of the public record of death in the foreign country.

(c) *Other evidence of death.* If you cannot obtain the preferred evidence of

a person's death, you will be asked to explain why and to give us other convincing evidence such as: the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

(d) *Evidence to presume a person is dead.* If you cannot prove the person is dead but evidence of death is needed, we will presume he or she died at a certain time if you give us the following evidence:

(1) A certified copy of, or extract from, an official report or finding by an agency or department of the United States that a missing person is "presumed to be" dead as set out in Federal law (5 U.S.C. 5565). Unless we have other evidence showing an actual date of death, we will use the date he or she was reported missing as the date of death.

(2) Signed statements by those in a position to know and other records which show that the person has been absent from his or her residence for no apparent reason, and has not been heard from, for at least 7 years. If there is no evidence available that he or she is still alive, we will use as the person's date of death either the date he or she left home, the date ending the 7 year period, or some other date depending upon what the evidence shows is the most likely date of death; or

(3) If you are applying for benefits as the insured person's grandchild or stepgrandchild but the evidence does not identify a parent, we will presume the parent died in the first month in which the insured person became entitled to benefits.

§ 404.725 Evidence of marriage.

(a) *When evidence of marriage is required.* If you apply for benefits as the insured person's husband or wife, widow or widower, or divorced wife, we will ask for evidence of the marriage and where and when it took place. We may also ask for this evidence if you apply for child's benefits or for the lump-sum death payment as the widow or widower. If you are a widow, widower, or divorced wife who remarried after your marriage to the insured person ended, we may also ask for evidence of the remarriage. You may be asked for evidence of someone else's marriage if this is necessary to prove your marriage to the insured person was valid. In deciding whether the marriage to the insured person is valid or not, we will follow the law of the State where the insured person had his or her legal domicile when you applied or, if earlier, when he or she died—see § 404.770. What evidence we will ask for depends upon whether the insured person's marriage was a ceremonial marriage, a common-law marriage, or a marriage we will deem to be valid.

(b) *Evidence of a ceremonial marriage.* A "ceremonial marriage" is one which follows procedures set by law in the State or foreign country where it takes place. These procedures cover who may perform the marriage ceremony, what licenses or witnesses are needed, and similar rules. A ceremonial marriage can be one which follows certain tribal Indian custom, Chinese custom, or similar traditional procedures. We will ask for the following evidence:

(1) *Preferred evidence.* Preferred evidence of a ceremonial marriage is:

(i) If you are applying for wife's or husband's benefits, signed statements from you and the insured about when and where the marriage took place. If you are applying for the lump-sum death payment as the widow or widower, your signed statement about when and where the marriage took place.

(ii) If you are applying for any other benefits or there is evidence causing some doubt about whether there was a ceremonial marriage: a copy of the public record of marriage or a certified statement as to the marriage; a copy of the religious record of marriage or a certified statement as to what the record shows; or the original marriage certificate.

(2) *Other evidence of a ceremonial marriage.* If preferred evidence of a ceremonial marriage cannot be obtained, we will ask you to explain why and to give us a signed statement of the clergyman or official who held the marriage ceremony, or other convincing evidence of the marriage.

(c) *Evidence of common-law marriage.* A "common-law marriage" is one considered valid under certain State laws even though there was no formal ceremony. It is a marriage between two persons free to marry, who consider themselves married, live together as man and wife, and, in some States, meet certain other requirements. We will ask for the following evidence:

(1) *Preferred evidence.* Preferred evidence of a common-law marriage is:

(i) If both the husband and wife are alive, their signed statements and those of two blood relatives;

(ii) If either the husband or wife is dead, the signed statements of the one who is alive and those of two blood relatives of the deceased person;

(iii) If both the husband and wife are dead, the signed statements of one blood relative of each;

(iv) All signed statements should show why the signer believes there was a marriage between the two persons. If a written statement cannot be gotten from a blood relative, one from another person can be used instead.

(2) *Other evidence of common-law marriage.* If you cannot get preferred evidence of a common-law marriage, we will ask you to explain why and to give us other convincing evidence of the marriage.

(d) *Evidence of a deemed valid marriage.* A "deemed valid marriage" is a ceremonial marriage we consider valid even though the correct procedures were not strictly followed or a former marriage had not yet ended. We will ask for the following evidence:

(1) *Preferred evidence.* Preferred evidence of a deemed valid marriage is:

(i) Evidence of the ceremonial marriage as described in § 404.725(b)(1)(ii); and

(ii) If the insured person is alive, his or her signed statement that the other party to the marriage went through the ceremony in good faith and his or her reasons for believing the marriage was valid or believing the other party thought it was valid; and

(iii) The other party's signed statement that he or she went through the marriage ceremony in good faith and his or her reasons for believing it was valid; and

(iv) If needed to remove a reasonable doubt, the signed statements of others who might have information about what the other party knew about any previous marriage or other facts showing whether he or she went through the marriage in good faith; and

(v) Evidence the parties to the marriage were living in the same household when you applied for benefits or, if earlier, when the insured person died (see § 404.760).

(2) *Other evidence of a deemed valid marriage.* If you cannot obtain preferred evidence of a deemed valid marriage, we will ask you to explain why and to give us other convincing evidence of the marriage.

§ 404.727 Evidence a marriage has ended.

(a) *When evidence a marriage has ended.* If you apply for benefits as the insured person's divorced wife, you will be asked for evidence of your divorce. If you are the insured person's widow or divorced wife who had remarried but that husband died, we will ask you for evidence of his death. We may ask for evidence that a previous marriage you or the insured person had was ended before you married each other if this is needed to show the later marriage was valid. If you apply for benefits as an unmarried person and you had a marriage which was annulled, we will ask for evidence of the annulment. We will ask for the following evidence:

(b) *Preferred evidence.* Preferred evidence a marriage has ended is:

(1) A certified copy of the decree of divorce or annulment; or

(2) Evidence the person you married has died (see § 404.720).

(c) *Other evidence a marriage has ended.* If you cannot obtain preferred evidence the marriage has ended, we will ask you to explain why and to give us other convincing evidence the marriage has ended.

§ 404.730 Evidence of parent or child relationship.

(a) *When evidence of parent or child relationship is needed.* If you apply for parent's or child's benefits, we will ask for evidence showing your relationship to the insured person. What evidence we will ask for depends on whether you are the insured person's natural parent, child, or grandchild; stepparent, step-

child, or stepgrandchild; or adopting parent, adopted child, or adopted grandchild.

(b) *Evidence you are natural parent or child.* If you are the natural parent of the insured person, we will ask for a copy of his or her public or religious birth record made before age 5. If you are the natural child of the insured person, we will ask for a copy of your public or religious birth record made before age 5. In either case, if this record shows the same last name for the insured and the parent or child, we will accept it as convincing evidence of the relationship. However, if other evidence raises some doubt about this record or if the record cannot be gotten, we will ask for other evidence of the relationship. We may also ask for evidence of marriage of the insured person or of his or her parent if this is needed to remove any reasonable doubt about the relationship. To show you are the child of the insured person, you may be asked for evidence you would be able to inherit his or her personal property under State law where he or she had a legal domicile (see § 404.770). In addition, we may ask for the insured person's signed statement that you are his or her natural child; or for a copy of any court order showing the insured has been declared to be your natural parent or any court order requiring the insured to contribute to your support because you are his or her son or daughter.

(c) *Evidence you are the stepparent or stepchild.* If you are the stepparent or stepchild of the insured person, we will ask for the evidence described in paragraph (b) or (d) of this section which shows your natural or adoptive relationship to the insured person's husband, wife, widow, or widower. We will also ask for evidence of the husband's, wife's, widow's, or widower's marriage to the insured person—see § 404.725.

(d) *Evidence you are the adopting parent or adopted child.* If you are the adopting parent or adopted child, we will ask for the following evidence:

(1) A copy of the birth certificate made following the adoption; or if this cannot be gotten, other evidence of the adoption; and, if needed, evidence of the date of adoption;

(2) If the widow or widower adopted the child after the insured person died, the evidence described in paragraph (d)(1) of this section; your written statement whether the insured person was living in the same household with the child when he or she died (see § 404.760); what support the child was getting from any other person or organization; and if the widow or widower had a deemed valid marriage with the insured person, evidence of that marriage—see § 404.725(d).

(3) In many States, the law will treat someone as a child of another if he or she agreed to adopt the child, the natural parents or the person caring for the child were parties to the agreement, he or she and the child then lived together as parent and child, and certain other requirements are met. If you are a child who had this kind of relationship to the insured person (or to the insured person's wife, widow, or husband), we will ask for evidence of the agreement if it is in writing. If it is not in writing or cannot be gotten, other evidence may be accepted. Also, the following evidence will be asked for: Written statements of the natural parents and the adopting parents and other evidence of the child's relationship to the adopting parents.

(e) *Evidence you are the grandchild or stepgrandchild.* If you are the grandchild or stepgrandchild of the insured person, we will ask you for the kind of evidence described in (b), (c), or (d) which shows your relationship to your parent and your parent's relationship to the insured.

§ 404.735 Evidence of a child's dependency.

(a) *When evidence of a child's dependency is needed.* If you apply for child's benefits, we may ask for evidence you were the insured person's dependent at a specific time—usually the time you applied or the time the insured died or became disabled—see § 404.323. What evidence we ask for depends upon how you are related to the insured person.

(b) *Natural or adopted child.* If you are the insured person's natural or adopted child, we may ask for the following evidence:

(1) A signed statement by someone who knows the facts which confirms this relationship and which shows whether you were legally adopted by someone other than the insured. If you were adopted by someone else while the insured person was alive, but the adoption was annulled, we may ask for a certified copy of the annulment decree or other convincing evidence of the annulment; and

(2) A signed statement by someone in a position to know showing when and where you lived together with the insured and when and why you lived apart; and showing what contributions the insured made to your support and when and how they were made.

(c) *Stepchild.* If you are the insured person's stepchild, we will ask for the following evidence:

(1) A signed statement by someone in a position to know—showing when and where you lived together with the insured and when and why you lived apart; or

(2) A signed statement by someone in a position to know showing you received at least one-half of your support from the insured for the one-year period ending at the time mentioned in paragraph (a) of this section; and the income end support you had in this period from any other source.

(d) *Grandchild or Stepgrandchild.* If you are the insured person's grandchild or stepgrandchild, we will ask for evidence described in paragraphs (c)(1) of this section showing that you were living together with the insured and receiving one-half of your support from him or her for the one year period described in § 404.323(a).

§ 404.740 Evidence of having a child in your care.

If you are under age 65 and apply for wife's benefits based upon caring for a child, or for mother's benefits as a widow or divorced wife, or for father's benefits as a widower, we will ask for evidence that you have the insured person's child in your care. What evidence we will ask for depends upon whether the child is living with you or with someone else. You will be asked to give the following evidence:

(a) If the child is living with you, your signed statement showing that the child is living with you;

(b) If the child is living with someone else:

(1) Your signed statement showing with whom he or she is living and why he or she is living with someone else. We will also ask when he or she last lived with you and how long this separation will last; and what care and contributions you provide for the child; and

(2) The signed statement of the one with whom the child is living showing what care you provide and the sources and amounts of support received for the child. If the child is in an institution, an official there should sign the statement. These statements are preferred evidence. If there is a court order or written agreement showing who has custody of the child, you may be asked to give us a copy; and

(3) If you cannot get the preferred evidence described in paragraph (2) of this section, we will ask for other convincing evidence that the child is in your care.

§ 404.745 Evidence of school attendance for child age 18 or older.

If you apply for child's benefits as a student age 18 or over, we will ask for evidence you are attending school. We may also ask for evidence from the school you attend showing your status at the school. We will ask for the following evidence:

(a) Your signed statement that you are attending an educational institution full-time and are not being paid by an employer to attend school; and

(b) If you apply before the school year has started and the school is not a high school, a letter of acceptance from the school, receipted bill, or other evidence showing you have enrolled or been accepted at that school.

§ 404.750 Evidence of a parent's support.

If you apply for parent's benefits, we will ask you for evidence to show that you received at least one-half of your support from the insured person in the one-year period before he or she died or became disabled—see § 404.341. We may also ask others who know the facts for a signed statement about your sources of support. We will ask you for the following evidence:

(a) The parent's signed statement showing his or her income, any other sources of support, and the amount from each source over the one-year period; or

(b) If the statement described in paragraph (a) of this section cannot be obtained, other convincing evidence that the parent received one-half of his or her support from the insured person.

§ 404.760 Evidence of living in the same household with insured person.

If you apply for the lump-sum death payment as the insured person's widow or widower, or for wife's, husband's, widow's, or widower's benefits based upon a deemed valid marriage as described in § 404.725(d), we will ask for evidence you and the insured were living together in the same household when he or she died; or if the insured is alive, when you applied for benefits. We will ask for the following as evidence of this:

(a) If the insured person is living, his or her signed statement and yours showing whether you were living together when you applied for benefits; or

(b) If the insured person is dead, your signed statement showing whether you were living together when he or she died; or

(c) If you and the insured person were temporarily living apart, a signed statement explaining where each was living, how long the separation lasted, and why you were separated. If needed to remove any reasonable doubts about this, we may ask for the signed statements of other in a position to know, or for other convincing evidence you and the insured were living together in the same household.

§ 404.765 Evidence of responsibility for or payment of burial expenses.

(a) *When evidence of burial expenses is needed.* If you apply for the lump-sum death payment because you are responsible for paying the funeral home or burial expenses of the insured or because you have paid some or all of these expenses, we will ask for evidence of this.

(b) *What evidence is needed.* We will ask for the following evidence:

(1) Your signed statement showing:

(i) You accepted responsibility for the funeral home expenses or paid some or all of these expenses or other burial expenses; your relationship to the insured person; and, if you are not related by blood or marriage, why you accepted responsibility for, or paid, these expenses; and

(ii) Total funeral home expenses and, if necessary, the total of other burial expenses; and if someone else paid part of the expenses, the person's name, address, relationship to the insured person, and amount he or she paid; and

(iii) The amount of cash or property you expect to receive as repayment for any burial expenses you paid; and whether anyone has applied for or will apply for any burial allowance from the Veterans Administration or other Federal agency for these expenses; and

(iv) If you are applying as an owner or official of a funeral home, a signed statement from anyone, other than an employee of the home, who helped make the burial arrangements showing whether he or she accepted responsibility for paying the burial expenses; and

(2) Unless you are applying as an owner or official of a funeral home, a signed statement from the owner or official and, if necessary, from those who supplied other burial goods or services which shows:

(i) The name, address, and relationship to the insured person of everyone who accepted responsibility for, or paid any part of, the burial expenses; and

(ii) Information the owner or official of the funeral home and, if necessary, the supplier has about the expenses and payments mentioned in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section.

§ 404.770 Evidence of domicile of insured person.

(a) *When evidence of domicile is needed.* We may ask for evidence of where the insured person's legal domicile (permanent home) was at the time you applied or, if earlier, the time he or she died if:

(1) You apply for benefits as the insured's wife, husband, widow, widower, parent or child; and

(2) Your relationship to the insured depends upon which State law would apply as described in § 404.1101.

(b) *What evidence is needed.* We will ask for the following evidence of the insured person's domicile:

(1) Your signed statement showing where the insured considered his permanent home to be; and

(2) If the statement in paragraph (b)(1) of this section or other evidence we have raises a reasonable doubt about the insured's domicile, evidence of where he or she paid personal, property, or income taxes, or voted; or

(3) Other convincing evidence of where his or her permanent home is or was.

§ 404.780 Evidence of "good cause" for exceeding time limits on accepting proof of support or applications for a lump-sum death payment.

(a) *When evidence of "good cause" is needed.* We may ask for evidence you had "good cause" for delay as defined in § 404.617 if:

(1) You are the insured person's parent giving us proof of support more than 2 years after he or she died, or became disabled as set out in § 404.341(b); or

(2) You are applying for the lump-sum death payment more than 2 years after the insured died as set out in § 404.355.

(b) *What evidence of "good cause" is needed.* We will ask for the following evidence of good cause:

(1) Your signed statement explaining why you did not give us the proof of support or the application for lump-sum death payment within the specified 2 year period; and

(2) If the statement in paragraph (b)(1) of the section or other evidence raises a reasonable doubt whether there was good cause, other convincing evidence of this.

[FR Doc.77-37003 Filed 12-28-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21410; RM-2935]

FM BROADCAST STATION IN ALEXANDRIA, IND.

Denial of Assignment

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein denies the assignment of Class A FM Channel 244A to Alexandria, Indiana, because petitioner, Triplett Broadcasting Co., Inc., failed to file comments expressing a continuing interest in the proposed assignment.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Alexandria, Indiana) Docket No. 21410, RM-2935; Report and Order (Proceeding Terminated). See 42 FR 55105.

Adopted: December 19, 1977.

Released: December 20, 1977.

1. On October 4, 1977, at the request of Triplett Broadcasting Co., Inc. ("petitioner"), the Commission adopted a Notice of Proposed Rule Making, 42 FR 55105, proposing the assignment of FM Channel 244A to Alexandria, Indiana, as a first FM assignment to that community. No responses to the proposal were received.

2. Alexandria, which has a population of 5,600, is located in Madison County (pop. 138,451)[1], approximately 29 kilometers (18 miles) northwest of Muncie, Indiana. It has no local aural broadcast service.

3. Petitioner states that Alexandria has experienced a population growth of 21% since 1970. It adds that the proposed station could provide a vehicle for local

[1] Population figures are taken from the 1970 U.S. Census.

advertising as well as public service, local news and entertainment programming.

4. As is customary in these proceedings, the *Notice*, in order to ascertain the existence of a continuing interest in the proposed assignment, stated that the proponent would be expected to file comments (even if nothing more than to incorporate by reference its petition). Additionally, the *Notice* provided that the proponent would be expected to state its intention to apply for the channel, if assigned, and, if authorized to build a station promptly. No such filings have been submitted. Since no continuing interest for use of the channel has been evidenced, it does not appear to be in the public interest to make the proposed assignment.

5. Accordingly, it is ordered, That the petition filed by Triplett Broadcasting Co., for assignment of FM Channel 244A to Alexandria, Indiana, is denied.

6. *It is further ordered*, that this proceeding is terminated.

Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-36827 Filed 12-28-77;8:45 am]

notices

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

[3410-02]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Texas Grain Inspection Points

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act, as amended 1976 (7 U.S.C. 71 et seq., hereinafter referred to as the "Act"), the Federal Grain Inspection Service is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a State is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

Notice is hereby given that, on October 2, 1977, the Federal Grain Inspection Service (FGIS) assumed responsibility for providing official inspection and weighing services at export elevators in the area previously serviced by the Corpus Christi Grain Exchange in accordance with sections 7(e)(1) and 7A(c)(1) of the Act, and section 27 of Pub. L. 94-582 (7 U.S.C. 79(e)(1), 7 U.S.C. 79a(c)(1), and 7 U.S.C. 74 note).

Official inspection and weighing is being provided by FGIS at the Public Elevator, Brownsville, Tex., and the Corpus Christi Public Elevator, and Producers Elevator, Corpus Christi, Tex. Official inspection services are also being provided at the Andsa-Lar Elevator, Lardeo, Tex., and the Alte-Verde Elevator and Goodpasture Elevator, Eagle Pass, Tex. and official weighing services will be provided at these locations as soon as the elevators install approved weighing scales.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870, sec. 7 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875, sec. 7A (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date. This notice shall become effective December 29, 1977.

Done in Washington, D.C., on December 22, 1977.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 77-37007 Filed 12-28-77; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

IOWA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on January 27, 1978, in the Gateway Opportunity Center, Inc., 801 Forest Avenue, Des Moines, Iowa.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, 1639, New York, N.Y. 10007.

The purpose of this meeting will be to discuss: (1) The final review of the draft report of the Des Moines CETA project, (2) the transition to the Federal regional advisory committee.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 77-37039 Filed 12-28-77; 8:45 am]

[6335-01]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planned meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on January 12, 1978, at the Holiday Inn, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss transition steps from SACs to RACs.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., December 22, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 77-37040 Filed 12-28-77; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INSTITUTES OF HEALTH, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicated with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before January 18, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 7 8-00066. Applicant: DHEW, National Institutes of Health, NIAID, Building 7, Lobby, Bethesda, Md. 20014. Article: Ultramicrotome, Ultrotone III and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to section gastroenteritis, animal, and fungal tissues embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic specimens and animal tissues, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at hostparasite interfaces, and subcellu-

lar changes in cell induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: November 29, 1977.

Docket No. 78-00067. Applicant: Loyola University of Chicago, Stritch School of Medicine, 2160 South First Avenue, Maywood, Ill. 60153. Article: Electron Microscope, Model EM 201 and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the following research projects: (1) Immunoelectron microscopic localization of blood group substances A, B, and H in normal and neoplastic human tissues; (2) ultrastructure and quantation of normal and altered lung surfactant; (3) mechanisms and treatment of lung lesions and associated surfactant damage in shock; and (4) localization of pacemaker cells outside the main sinoatrial node of the heart. In addition, the article will be used in the training of residents and research fellows in the Department of Pathology in the use of the article and its applications in diagnostic pathology as a research tool. Application received by Commissioner of Customs: November 30, 1977.

Docket No. 78-00068. Applicant: Lutheran Medical Center, 150 55th Street, Brooklyn, N.Y. 11220. Article: Electron Microscope, Model EM 9S-2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of a variety of human and animal tissues, principally kidney, liver, lung and also tumors. These studies will include submicroscopic organelle distribution and changes, alterations in cell membrane, subcellular changes in cells induced by environmental factors. The pulmonary mineral burden in human lungs obtained at autopsy will be determined and related to environmental factors. Tissues which have been appropriately prepared will be examined for asbestos. In selected animal experiments, viral particles will be identified and related to oncogenic developmental factors. Education will be carried out on an individual basis for the training of staff pathologists, residents in pathology and pathology technicians, as well as staff physicians and staff residents in the use of the electron microscope, the general principles of the techniques used in preparation of material for electron microscopy and in the knowledge of the ultrastructure of cells, tissues and minerals. Application received by Commissioner of Customs: November 30, 1977.

Docket No. 78-00069. Applicant: Veterans Administration Hospital, 1310 24th Avenue, South Nashville, Tenn. 37203. Article: PMV Cryo Microtome, type 450 MP and Accessories. Manufacturer: PMV Palmsternas, Sweden. Intended use of article: The article is intended to be used for investigations of autoradiographic drug and chemical distribution studies of whole animals as well as fetal distribution studies of teratogenic compounds; histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; metabolism studies of drugs and toxic or carcinogenic environmental agents; gross morphology and light microscopy examination of whole human organs and animals to measure tumor metastasis. Application received by Commissioner of Customs: November 30, 1977.

Docket No. 78-00070. Applicant: Environmental Protection Agency, Environmental Research Center, 26 West St. Clair Street, Cincinnati, Ohio 45268. Article: Electron Microscope, Model JEM 100CV (JEM 100CX) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of EPA programs. These will include research investigations in the areas of advanced waste treatment, analytical quality control, environmental toxicology and water supply. The article will be used for high resolution studies of virus-infected cells, virions isolated viral nucleic acids and proteins. Another aspect will be its use for particulate identification in water samples, visualization of the colloidal material remaining after treatment. In addition, high resolution microscopy will be used to investigate smoke and dust particulates of importance to inhalation toxicology as well as ultrastructural evaluation of biological samples for tissue pathology and morphology after animal exposure to these pollutants. Application received by Commissioner of Customs: December 2, 1977.

Docket No. 78-00071. Applicant: Savannah State College, Department of Biology, P.O. Box 20119, Falligant Avenue, Savannah, Ga. 31404. Article: Electron Microscope, Model EM 9S-2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the research project "Ultrastructural Modifications *Chlorogonium* Species Induced by Metabolic Inhibitors" to examine the effects of a variety of metabolic inhibitors including cytotoxic compounds, polyene and macrolide-family antibiotics, and antihistamines, on the growth and viability of six species of *Chlorogonium*. Parallel experiments will involve the utilization of electron microscopic techniques and observations to establish comparative patterns of ultrastructural modifications or changes among *Chlorogonium* substrains produced and correlate these changes with specific mechanisms of action known for each drug or inhibitor employed. Complementary studies will involve utilization of electron microscopic techniques and observations to identify and characterize ultrastructural modifications induced by pyribenzamine which produce the well known chlorotic substrains of *Euglenea gracilis var.bacillaries*. In addition, the article will be used to support three senior courses (Biology 430, Biology Seminar, Biology 431. Introduction to Research, and Biology 440. Senior Research) as well as provide expansion and flexibility in student laboratory experimentation in various other biology courses. Application received by Commissioner of Customs: December 5, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 37076 Filed 12-28-77; 8:45 am]

[3510-25]

RESEARCH FOUNDATION CITY UNIVERSITY OF NEW YORK

Withdrawal of Application for Duty-Free Entry of Scientific Article

The Research Foundation City University of New York has withdrawn Docket No. 78-00004 application for duty-free entry of a Spin-Lock CPS-2 NMR Pulse Spectrometer and accessories. Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 77-37075 Filed 12-28-77; 8:45 am]

[3510-13]

Office of the Secretary

VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM

Meeting With Technical Representatives of Trade Associations and Manufacturers To Discuss Testing and Rating of Thermal Insulation

AGENCY: Assistant Secretary for Science and Technology, Department of Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to § 16.5 of the procedures for a voluntary consumer product information labeling program (15 CFR 16.5; 42 FR 26647 at 26649, dated May 25, 1977) a performance information labeling specification (specification) is being developed for ther-

mal insulation for homes. To obtain technical information to be utilized in the specification, the National Bureau of Standards will hold a meeting with technical experts to discuss aspects of the testing and rating of thermal insulation, particularly with regard to its thermal resistance, coverage, fire characteristics, and corrosiveness. The meeting will be open to all interested persons.

DATE: Meeting—9 a.m., Friday, January 20, 1978.

ADDRESS: Room A340, Metrology Building, National Bureau of Standards, Gaithersburg, Md.

FOR FURTHER INFORMATION CONTACT:

Roscoe L. Bloss, Center for Consumer Product Technology, National Bureau of Standards, Washington, D.C. 20234, 301-921-2555.

SUPPLEMENTARY INFORMATION: On December 14, 1977, the Department of Commerce published in the FEDERAL REGISTER (42 FR 62946) a notice of finding of need to label thermal insulation for homes under the Department's voluntary consumer product information labeling program (CPILP). The announcement also stated that the Department is developing a proposed performance information labeling specification (specification) for thermal insulation for homes.

The specification is being developed for the Department by the National Bureau of Standards (NBS). In developing the specification, NBS is at this time selecting methods for testing and presenting data concerning various performance characteristics of thermal insulation, with preference being given to existing methods where they are appropriate. To accomplish this selection in a manner providing the greatest benefit to the program and to the public, NBS desires to discuss certain technical aspects of the testing and data presentation methods with engineers and others now involved in the testing of thermal insulation for homes. Accordingly, a number of technical representatives of trade associations and manufacturers who are interested in CPILP are being invited to a meeting to be held at the National Bureau of Standards on Friday, January 20, 1978. Topics to be discussed include testing and data presentation methods for thermal insulation with respect to its thermal resistance, coverage, fire characteristics, and corrosiveness.

Other interested persons are also invited to attend the meeting. Such persons are requested to notify Roscoe L. Bloss at the address and telephone number given above, of their intent to attend the meeting.

The technical input received at the announced meeting will be utilized by NBS in the development of a proposed specification, which will be published in the FEDERAL REGISTER for public comment.

Issued: December 23, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 77-37048 Filed 12-28-77; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS EXPORTED FROM INDIA

Further Amending Visa Requirement

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing that, effective on January 1, 1978, cotton textiles and cotton textile products from India that are subject to the export visa requirement will be described in terms of the new textile category system, i.e., Categories 300-369 (formerly Category 1-64). Cotton apparel items, other than traditional Indian folklore items, which are manufactured in the cottage industry of India from handloomed fabric, not wholly by hand, and which are subject to the elephant-shaped certification, will also be described in terms of the new category system, i.e., Categories 330-359 (formerly Categories 39-63).

SUMMARY: On May 20, 1975, a letter was published in the FEDERAL REGISTER (40 FR 22025) announcing establishment of an export visa requirement, intended to preclude circumvention of the licensing system for exports to the United States of cotton textiles and cotton textile products, produced or manufactured in India. It also established a certification procedure to exempt certain traditional and folklore textile products from the levels of restraint of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India. A further letter, published in the FEDERAL REGISTER on March 22, 1976 (41 FR 11867) amended the certification procedure to establish, inter alia, an elephant-shaped certification for apparel products in Categories 39-63 made from handloomed fabrics of the cottage industry, but not wholly by hand. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, Effective on January 1, 1978, to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textiles and cotton textile products, produced or manufactured in India, in Categories 300-369. The categories for apparel products covered by the elephant-shaped certification will be Categories 330-359 under the new textile category system.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

WASHINGTON, D.C., *December 23, 1977.*

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to you on May 13, 1975 by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of certain cotton textiles and cotton textile products in Categories 1-64, produced or manufactured in India, for which the Government of India had not issued an export visa. It also amends, but does not cancel, the directive of March 16, 1976, which concerned, among other things, the elephant-shaped certification for cotton apparel in Categories 39 through 63, made from handloomed fabrics of the cottage industry of India, but not wholly by hand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of August 6, 1964, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11651 of March 3, 1972 you are directed, effective on January 1, 1978, to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textiles and cotton textile products, produced or manufactured in India, in Categories 300-369 (formerly Categories 1-64). The categories for apparel products covered by the elephant-shaped certification will be Categories 330-359 (formerly Categories 39-63).

The actions taken with respect to the Government of India and with respect to imports of cotton textiles and cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making

provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37074 Filed 12-28-77; 8:45 am]

[3510-25]

CERTAIN COTTON AND MAN-MADE FIBER TEXTILE PRODUCTS FROM HAITI

Import Levels Under the New Textile Category System

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import levels and new category designations for certain cotton and man-made fiber textile products from Haiti during the twelve-month period which begins on January 1, 1978 and extends through December 31, 1978.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 23, 1976, as amended, between the Governments of the United States and Haiti, establishes levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Haiti and exported to the United States during the three-year period beginning on January 1, 1976, and extending through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit to the designated levels of restraint the amounts of cotton textile products in Categories 331, 336, 337, 340, 347, 348, 350, and 359 and man-made fiber textile products in Categories 631, 632, 635, 636, 637, 639, 640, 641, 644, 648, 649, 650, 651, and 652, produced or manufactured in Haiti, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which begins on January 1, 1978 and extends through December 31, 1978.

A detailed description of the new textile categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 23, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 23, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978, and for the twelve-month period extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 331, 336, 337, 340, 347, 348, 350, and 359 and man-made fiber textile products in Categories 631, 632, 635, 636, 637, 639, 640, 641, 644, 648, 649, 650, 651, and 652 in excess of the following levels of restraint:

Category	*12-mo. levels of restraint*
331	498,543 doz. prs.
336	33,113 doz.
337	80,000 doz.
340	95,408 doz.
347	112,360 doz.
348	89,888 doz.
350	39,216 doz.
359	434,783 lbs.
631	571 doz. prs.
632	1,304,348 doz. prs.
635	108,959 doz.
636	88,300 doz.
637	230,516 doz.
639	348,908 doz.
640	83,333 doz.
641	292,147 doz.
644	377,778 units.
648	567,416 doz.
649	771,301 doz.
650	39,216 doz.
651	38,462 doz.
652	387,500 doz.

Cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Haiti and exported to the United States prior to January 1, 1978, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of March 23, 1976, as amended, between the Governments of the United States and Haiti which provide, in part, that: (1) the aggregate, group and specific limits will be increased 7 percent annually; (2) specific ceilings may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, committee for the Implementation of Textile Agreements.

[FR Doc. 77-37065 Filed 12-28-77; 8:45 a.m.]

[3510-25]

CERTAIN COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS FROM REPUBLIC OF KOREA

Further Amending Visa Requirement

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Requiring that export visas for cotton, wool and man-made fiber textile products exported from the Republic of Korea after December 31, 1977, show the correct category of the merchandise in terms of the new textile category system.

SUMMARY: On May 25, 1972, a letter dated May 19, 1972 was published in the FEDERAL REGISTER (37 FR 10605) announcing establishment of an export visa requirement, intended to preclude circumvention of the licensing system for exports to the United States of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea. A letter, dated July 18, 1973, and published in the FEDERAL REGISTER on July 23, 1973 (38 FR 19723), added the requirement that the category or categories shown on the export visa must coincide with the category or categories of the textile products covered by that visa. The visa mechanism was further amended by letter of June 30, 1976 (41 FR 27775) to permit categories that are combined under the terms of the bilateral agreement to be visaed in the combination or in one (or more) of the constituent categories in the combination. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on January 1, 1978, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-

made fiber textile products, exported from the Republic of Korea after December 31, 1977, that are not visaed in accordance with the new textile category system. Cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported before January 1, 1978, that have been visaed under the former category system and are in accordance with previously established visa procedures will not be denied entry until June 1, 1978.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committiee for the Implementation of Textile Agreements.

DECEMBER 23, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of May 19, 1972 from the Chairman of the Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-64; wool textile products in Categories 101-132; and man-made fiber textile products in Categories 200-243, produced or manufactured in the Republic of Korea, for which the Government of the Republic of Korea had not issued a visa. It also amends, but does not cancel, the directives of July 18, 1973 and June 30, 1976, which established, respectively, the requirements that the correct category or categories corresponding to the merchandise must be shown on the visa and that visas accompanying merchandise in Categories that are combined under the terms of the agreement must show the combination or one (or more) of the constituent categories in the combination.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651, of March 3, 1972, you are directed to prohibit, effective on January 1, 1978, entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products, exported from the Republic of Korea after December 31, 1977, that are not visaed in accordance with the new textile category system. Cotton textiles and cotton textile products should be visaed in Categories 300-369 (formerly Categories 1-64); wool textile products in Categories 400-469 (formerly Categories 101-132); and man-made fiber textile products in Categories 600-669 (formerly Categories 200-243). Categories that are combined under the new agreement and which may be visaed in the combination or in one (or more) of the constituent categories in the combination are Categories 333/334/335, 338/339, 347/348, 433/434, 445/446, 633/634/635, 638/639, 643/644 and 645/646. Cotton, wool and man-made fiber textile products produced or manufactured in the Republic of Korea and exported before January 1, 1978, which have been visaed under the former category system and are in accordance with previously established visa procedures shall not be denied entry until June 1, 1978.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37063 Filed 12-28-77; 8:45 am]

[3510-25]

CERTAIN COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS FROM MACAU

Import Levels Under the New Textile Category System

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels and new category designations for certain cotton, wool and man-made fiber textile products from Macau during the twelve-month period beginning January 1, 1978 and extending through December 31, 1978.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal, establishes levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau and exported to the United States during the three-year period beginning on January 1, 1975. The agreement has been extended through December 31, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 347/348, wool textile products in Categories 400-469, as a group, and man-made fiber textile products in Categories 638/639 and 645/646 to the designated levels during the twelve-month period beginning on January 1, 1978.

A description of the new textile categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 23, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978 and for the twelve-month period extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 347/348, wool textile products in Categories 400-469, as a group, and man-made fiber textile products in Categories 638/639 and 645/646, produced or manufactured in Macau, in excess of the following levels of restraint:

Category	12-mo. level of restraint
347/348	230,407 doz.
400-469	[1] 1,471,413 yd [2] equivalent.
638/639	[1] 10,438,626 yd. [2] equivalent.
645/646	87,888 doz.

In carrying out this directive, entries of cotton textile products in Category 347/348, produced or manufactured in Macau and exported to the United States prior to January 1, 1978, shall be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978. When the data are available, adjustments to account for cotton textile products which have been exported prior to January 1, 1978 and are chargeable to any unfilled balances remaining from the previous agreement year, will be made to you by further letter. Merchandise exported prior to January 1, 1978 in categories other than 347/348 will not be subject to this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) admin-

istrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton, wool and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37066 Filed 12-28-77; 8:45 am]

[3510-25]

CERTAIN COTTON AND MAN-MADE FIBER TEXILE PRODUCTS FROM THE REPUBLIC OF THE PHILIPPINES

Import Levels Under the New Textile Category System

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import levels and new category designations for certain cotton and man-made fiber textile products from the Philippines during the 12-month period which begins on January 1, 1978 and extends through December 31, 1978.

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines establishes levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States during the 3-year period which began on October 1, 1975. The agreement was amended by an exchange of letters in July 1977 to extend the agreement through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit to the designated levels of restraint the amounts of cotton textile products in Categories 331 and 340, and man-made fiber textile products in Categories 631, 633, 634, 635, 638/639, 640, 643, 645/646 and 649, produced or manufactured in the Philippines and exported to the United States, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the 12-month period beginning on January 1, 1978 and extending through December 31, 1978.

A detailed description of the new textile categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978.)

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 23, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978 and for the twelve-month period extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 331 and 340 and man-made fiber textile products in Categories 631, 633, 634, 635, 638/639, 640, 643, 645/646, and 649 in excess of the following levels of restraint:

Category	*12-mo levels of restraint*
331	449,224 doz. pairs.
340	169,302 doz.
631	1,160,929 doz. pairs.
633	25,479 doz.
634	129,124 doz.
635	150,818 doz.
638/639	651,832 doz.
640	71,450 doz.
643	390,761 units.
645/646 [1]	60,394 doz.
649	2,902,332 doz.

[1] In Category 646, all T.S.U.S.A. numbers except 382.0427 and 382.7870.

In carrying out this directive, entries of cotton and man-made fiber textile products in Categories 631, 633, 634, 635, 643 and 645/646, produced or manufactured in the Republic of the Philippines and exported to the United States prior to January 1, 1978 shall be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978. When the data are available, adjustments to account for cotton and man-made fiber textile products which have been exported prior to January 1, 1978, and are chargeable to any unfilled balances remaining from the previous agreement year, will be made to you by further letter. Merchandise exported prior to January 1, 1978 in Categories 331, 340, 638/639, 640, and 649 will not be subject to this directive.

The levels of restraint set forth above are subject to possible future adjustment pursuant to the provisions of the bilateral agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) within the group limits, specific levels of restraint may be exceeded by 7 percent in any agreement year; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the receiving year's applicable limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Appropriate adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37068 Filed 12-28-77; 8:45 am]

[3510-25]

CERTAIN COTTON AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THAILAND

Import Levels Under the New Textile Category System

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import levels and new category designations for certain cotton and man-made fiber textile products from Thailand during the 12-month period which begins on January 1, 1978, and extends through December 31, 1978.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1975, as amended, between the Governments of the United States and Thailand, establishes levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported to the United States during the 3-year period beginning on January 1, 1976, and extending through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit to the designated levels of restraint the amounts of cotton textile products in Category 340 and man-made fiber textile products in Category 645/646, produced or manufactured in Thailand, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the 12-month period which begins on January 1, 1978, and extends through December 31, 1978.

A description of the new textile categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DECEMBER 23, 1977.

DEAR MR. COMMISSIONER: Under the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 29, 1975, as amended, between the Governments of the United States and Thailand, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978, and for the 12-month period extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 340 and man-made fiber textile products in Category 645/646 in excess of the following levels of restaint:

Category	*12-mo level of restraint*
340	71,556 doz.
645/646	52,890 doz.

Entries in Categories 340 and 645/646, produced or manufactured in Thailand and exported to the United States prior to January 1, 1978, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment in the future, pursuant to the provisions of the bilateral agreement of December 29, 1975, as amended, between the Governments of the United States and Thailand which provide, in part, that: (1) levels of restraint in Group I may be increased by ten percent and in Group II, by seven percent; (2) these levels may be increased for carryover and carryforward up to eleven percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral ageement referred to above will be made to you by letter.

A description of the categories in terms of T.S.U.S.A. numbers was published in the Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton and man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37064 Filed 12-28-77; 8:45 am]

[3510-25]

MULTIFIBER TEXTILES FROM THE REPUBLIC OF CHINA

Announcing Interim Agreement

DECEMBER 23, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products from the Republic of China during the three-month period beginning on January 1, 1978, pursuant to an interim multifiber textile agreement.

SUMMARY: On December 16, 1977, the Governments of the United States and the Republic of China exchanged notes establishing a three-month interim bilateral cotton, wool and man-made fiber textile agreement for the period beginning on Janury 1, 1978, and extending through March 31, 1978, during which time representatives of the two governments will meet to complete negotiation of a longer term agreement. The interim agreement establishes specific levels of restraint for cotton textile products in Categories 313, 335, 340, 341, 347, 348, and 351, wool textile products in Categories 434, 440, 445, and 446, and man-made fiber textile products in Categories 633, 634, 635, 638/639, 640, 641, 643, 644, 645/646, 647, and 648, produced or manufactured in the Republic of China. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 313, 335, 340, 341, 347, 348, 434, 440, 445, 446, 633, 634, 635, 638/639, 640, 641, 643, 644, 645/646, 647, and 648 to the designated amounts during the three-month period beginning on January 1, 1978.

A description of the new textile categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DECEMBER 23, 1977.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the interim Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 16, 1977, between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978, and for the three-month period extending through March 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories in excess of the indicated levels of restraint:

Category	*3-mo level of restraint*
313	9,703,853 sq. yds.
335	10,688 doz.
340	146,000 doz.
341	79,146 doz.
347	69,797 doz.
348	109,761 doz.
434	88,889 units.
440	2,996 doz.
445	2,512 doz.
446	14,431 doz.
633	11,939 doz.
634	157,260 doz.

Category	3-mo level of restraint
635	130,547 doz.
638/639	1,585,323 doz.
640	729,845 doz.
641	146,249 doz.
643	165,435 units.
644	198,092 units.
645/646	1,006,893 doz.
647	423,487 doz.
648	716,502 doz.
351	45,122 doz.

In carrying out this directive, entries of cotton and man-made fiber textile products in Categories 340, 347, 348, 351, 638/639, 645/646, produced or manufactured in the Republic of China and exported to the United States prior to January 1, 1978, shall be charged against the levels of restraint established for such goods during the three-month period beginning on January 1, 1978. When the data are available, adjustments to account for cotton and man-made fiber textile products which have been exported prior to January 1, 1978, and are chargeable to any unfilled balances remaining from the previous agreement year, will be made to you by further letter. Merchandise exported prior to January 1, 1978, in categories other than 340, 347, 348, 351, 638/639, and 645/646, will not be subject to this directive.

A description of the categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall withing the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37067 Filed 12-28-77; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[HP 74-16]

COMBUSTIBILITY LABELING

Denial of Petition and Policy Statement

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition and policy statement.

SUMMARY: In this document the Commission denies a petition to exempt certain combustible paints and similar products from the Federal Hazardous Substances Act (FHSA) main panel labeling requirements for principal hazards. However, because the Commission for several years has not enforced the main panel labeling requirement for such products as long as a warning of combustibility appeared somewhere on the label, the Commission has decided to delay any enforcement action regarding this decision for twenty-four months from the date of the decision in order to ensure that all affected companies will have sufficient time to bring their products into compliance.

FOR FURTHER INFORMATION CONTACT:

Dale Miller, Directorate of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6617.

SUPPLEMENTARY INFORMATION:

DENIAL OF PETITION

On May 17, 1974, the Commission received a petition (HP 74-16) from the National Paint and Coatings Association (NPCA), which was subsequently modified by the NPCA on March 23, 1976. As modified, the petition requested amendment of the Commission's regulations under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 et. seq.) so as to exempt from the main panel labeling requirements (16 CFR 1500.121(a)) those paints and kindred products falling within the combustible category (as defined in section 2(1) of the FHSA) which have a viscosity greater than 150 Saybolt Universal Seconds (SUS) at 100° F. The petition was based on the belief that high viscosity (thick) products (e.g. paint) pose a lesser flammability hazard than low viscosity (thin) products (e.g. paint thinners) and that, therefore, the public health and safety would best be served by continuing the industry practice of placing the "combustible" warning on the side or rear panel of high viscosity products and reserving the front panel for statements of greater hazards.

After careful consideration of the petition and additional available information, the Commission has decided to deny the petition.

In taking this action, the Commission notes that the hazard of combustibility was added to the list of hazards in the FHSA in 1969 by Pub. L. 91-113. The purpose was to clarify and close a gap in the existing legislation as to the application of the preemption clause of the FHSA to state and local combustibility labeling requirements (S. Rep. No. 237, 91st Cong., 1st Sess. 7 (1969); H.R. Rep. No. 389, 91st Cong., 1st Sess. 13 (1969)). The effect of this amendment was to add a new "principal hazard" to be accounted for in the labeling of hazardous substances. Thus, by congressional direction, the hazard of combustibility was made parallel to and on a par with other principal hazards cognizable under the FHSA. The Commission believes, therefore, that there is no more justification to support a labeling exemption for certain combustible products than there is to support one for "flammable" or "extremely flammable" products.

Furthermore, the Commission believes that it is important for consumers to be aware that a product is combustible; and since there are paints and paint products on the market that are not combustible, it is important for this information to be conspicuous to the consumer at the point of sale on the main panel.

Copies of the petition and any relevant materials may be seen in or obtained from, the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C., during business hours Monday through Friday, except holidays.

STATEMENT OF POLICY

The Commission recognizes that since August of 1971 when NPCA originally petitioned the Food and Drug Administration (which at that time administered the FHSA) to exempt combustible products from FHSA front-panel labeling requirements, there has been no enforcement action concerning such products as long as the items bore a warning of combustibility somewhere on the label. This document is intended to put manufacturers and others on notice that the Commission will begin enforcing front-panel labeling for these products. However, in order to avoid any unnecessary burden on manufacturers and to ensure that all affected companies will have sufficient time to bring their products into compliance, the Commission has decided to delay any enforcement action regarding this decision for twenty-four months from October 6, 1977, the date the decision was rendered. This means that all combustible paint products in the chain of distribution on October 6, 1979 must bear on their main panel a statement of the combustibility hazard as required by section 2(p)(1) of the FHSA and Commission regulations at 16 CFR 1500.121. Any of such products in commerce prior to this date must continue to bear a statement of the combustibility hazard somewhere on the label.

Dated: December 23, 1977.

SHELDON D. BUTTS,
Assistant Secretary, Consumer Product Safety Commission.

[FR Doc. 77-37009 Filed 12-28-77; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

NATURAL GAS ADVISORY COMMITTEE SUBCOMMITTEE

Hearings; Resource Applications

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that an ad hoc subcommittee of the Natural Gas Advisory Committee will hold meetings in accordance with the schedule set forth below.

The objective of the subcommittee is to provide information to the committee, which will advise the Department of Energy (DOE) regarding gas supply, distribution, and operating problems confronting the natural gas industry during the winter months.

The meetings will consider the status of current supply and demand for the period immediately preceding the meetings, and identify potential problems in supply and distribution systems.

Meetings will be held in the Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., beginning at 10 a.m. each day. Date and room number are indicated below:

January 17, 1977—Room 3006A.
January 31, 1977—Room 5041.
February 14, 1977—Room 3000A.
February 28, 1977—Room 5041.
March 14, 1977—Room 5041.
March 31, 1977—Room 5041.

Any changes in the above schedule will be noticed in the FEDERAL REGISTER.

All meetings are open to the public. A DOE official will chair each meeting and is empowered to conduct the meetings in a manner that in his judgment will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management Office, 202-566-9969. Reasonable provisions will be made for their appearance.

Questions concerning the meetings should be directed to Barry Yaffe, Office of Regulations and Emergency Planning, Room 3208, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461; telephone 202-566-9358.

Transcripts of each meeting will be prepared and will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on December 22, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 77-36973 Filed 12-28-77; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP78-96]

ARKANSAS LOUISIANA GAS CO. AND SOUTHERN NATURAL GAS CO.

Pipeline Application

DECEMBER 19, 1977.

Take notice that on November 21, 1977, Arkansas Louisiana Gas Co. (Arkla), P.O. Box 1734, Shreveport, La. 71151, and Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP78-96 a joint application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related facilities to connect gas supplies located in block 57, Eugene Island area, to the existing pipeline system of United Gas Pipeline Co. (United).

The total cost of the proposed 10.34 miles of 20-inch pipeline and related facilities is $5,597,243, including the FERC filing fee, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 6, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 77-37013 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP78-108]

COLUMBIA GAS TRANSMISSION CORP.

Application

DECEMBER 19, 1977.

Take notice that on December 5, 1977, Columbia Gas Transmission Corp. (applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-108 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 certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Consolidation Coal Co. (Consolidation) is opening a "long wall" mine in Marshall County, W. Va., approximately three miles southeast of Moundsville, W. Va., and that this new mine underlies approximately 6,000 feet of applicant's line 20, which is a major source of supply for Moundsville, Glendale, South Wheeling, W. Va., and Shadyside and Bellaire, Ohio. "Long wall" mining differs from conventional deep mining in that no pillars are left to prevent ground subsidence, and as a result, the subsidence generally occurs within a month after the roof support is removed in the mined area as opposed to subsidence many years later when the pillars are removed or are gradually crushed by the weight of the overburden, it is said. Applicant states that the subsidence resulting from such mining operation could endanger the pipeline and interrupt service to the markets served therefrom, and that since this is a relatively new mining technique in this country, the exact extent and degree of ground subsidence cannot be accurately estimated. Applicant further states that Consolidation estimates a ground subsidence of approximately 3 feet in this case.

The application states that Consolidation plans additional mining oper-

ations in this area which may involve additional sections of line 20 to the southeast. Applicant states that in order to assure continued service to its markets in Moundsville, Glendale, South Wheeling, W. Va., and Shadyside and Bellaire, Ohio, Applicant proposes to construct and operate approximately 0.9 mile of 10-inch transmission pipeline in Marshall County, W. Va. Applicant indicates that this proposed pipeline would connect two of its existing pipelines and would permit the receipt of natural gas from Texas Eastern Transmission Corp. (TETCO) at an interconnection to be established. Applicant also proposes to construct and operate a tap with appurtenant facilities on its line 13, in order to receive natural gas from TETCO at a new point of interconnection.

It is stated that upon completion of the mining operations and the subsidence of the ground, line 20 would be tested to assure its integrity before it is placed back in service. The new interconnection with TETCO and the proposed pipeline facilities would be retained in service as an alternate supply for the Wheeling-Moundsville area and for future use during periods when additional portions of line 20, to the southeast, are undermined, it is indicated.

It is stated that the estimated cost of the facilities which applicant proposes to construct would be approximately $135,900, which cost would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 77-37014 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP78-111]

COLUMBIA GULF TRANSMISSION CO.

Application

DECEMBER 19, 1977.

Take notice that on December 6, 1977, Columbia Gulf Transmission Co. (applicant), 3805 West Alabama, Houston, Tex. 77027, filed in Docket No. CP78-111 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2,000 Mcf of natural gas per day for a period commencing on the date of issuance of the requested authorization herein and terminating June 10, 1988, for Amoco Production Co. (Amoco) all as more fully set forth in the application on file with the Commission and open to publication inspection.

Applicant proposes to transport up to 2,000 Mcf of natural gas per day for Amoco pursuant to a transportation agreement dated November 11, 1977, between the two parties. Applicant states that it would receive the subject gas from Amoco, which gas is produced in the South Cauvin Field, Terrebonne Parish, La., at existing facilities of applicant at the tailgate of the Lirette Plant of Exxon Co. U.S.A. in Terrebonne Parish, La., and that it would transport such gas volumes for Amoco through applicant's existing east lateral and main-line systems and redeliver the gas to Amoco through existing measuring and other facilities connecting the pipelines of applicant and Florida Gas Transmission Co. (Florida) in St. Landry Parish, La. It is indicated that the volume of gas received by applicant would be reduced prior to redelivery by the volumes of gas used as compressor fuel.

The application states that Amoco has advised applicant that the gas would be delivered to Florida in partial satisfaction of its warranty under authorizations granted by the Federal Power Commission (FPC) in Docket Nos. CI65-584 and CP65-393.

Applicant states that it would charge Amoco 2.91 cents per Mcf of gas or such other charge as may be determined by the Commission in an appropriate proceeding for the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 77-37015 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP78-102]

COLUMBIA GULF TRANSMISSION CO.

Pipeline Application

DECEMBER 19, 1977.

Take notice that on November 28, 1977, Columbia Gulf Transmission Co. (applicant), P.O. Box 683, Houston, Tex. 77001, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Amoco

Production Co. (Amoco), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Amoco such percentage of the gas to be produced from Amoco's interest in gas production from the "A" platform, block 605, West Cameron area, offshore Louisiana. The gas will be transported through facilities owned by applicant, or in which it has capacity entitlement, in the West Cameron, East Cameron, and Vermilion areas, offshore and onshore Louisiana. Applicant will redeliver gas with a thermal content equivalent to that received by Amoco, adjusted for plant shrinkage and fuel and proportionate share of compressor fuel used and unaccounted-for losses or gains in the facilities used for this service to Amoco at existing delivery facilities in Vermilion and St. Landry Parish, La.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 6, 1978, should file with the Federal Energy Regulatory 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 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 Energy Regulatory 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. 77-37016 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CI78-193]

EAST TEXAS INDUSTRIAL GAS CO.

Limited-Term Certificate

DECEMBER 19, 1977.

Take notice that on November 29, 1977, East Texas Industrial Gas Co. (Applicant), P.O. Box 460, Marshall, Tex. 75670, filed in Docket No. C178-193 an application for a limited-term certificate of public convenience and necessity with pregranted abandonment authorizing it to engage in the sale of gas.

Applicant entered into a 60-day emergency sale of gas to United on October 10, 1977.[1] On the same day, Applicant and United entered into a gas purchase contract to continue the sale and purchase of gas for an additional period of 1 year in accordance with section 2.70 of the statements of general policy and interpretations from and after the Commission's issuance of the limited-term certification sought herein.

Upon receipt of the authorizations sought herein, Applicant proposes to sell and deliver to United at the tailgate of the Woodlawn plant in Harrison County, Tex., an average daily quantity of up to 25,000 Mcf at a price of $2.06 per Mcf at 14.65 p.s.i.a. All of the gas sold to United will be purchased by Applicant from its existing suppliers and delivered through its gathering system to the Woodlawn plant in Harrison County, Tex. Applicant is informed that United has made arrangement with Mississippi River Fuel Co. to accept deliveries of gas for the account of United at the outlet of the Woodlawn plant.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 4, 1978, should file with the Federal Energy Regulatory 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. 77-37017 Filed 12-28-77; 8:45 am]

[1] Applicant's 60-day emergency sale will terminate and service cease on December 9, 1977, in accordance with § 2.68 of the statements of general policy and interpretations.

[6740-02]

[Docket Nos. G-3108, et al.]

EXXON CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

DECEMBER 5, 1977.

In FR Doc. 77-32472, appearing at page 58557, in the issue for Thursday, November 10, 1977, make the following change:

In the appendix, page 58558, Docket No. G-11861, Mobil Oil Corp., under column headed "Docket No. and Date Filed" change "3-22-77" to "7-13-77".

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37026 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. ER78-102]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Filing of Cancellation

DECEMBER 19, 1977.

Take notice that on December 8, 1977, Iowa-Illinois Gas and Electric Co. (Company), Davenport, Iowa, tendered for filing a Notice of Cancellation of an agreement between Company and Corn Belt Power Cooperative (Corn Belt), Humbolt, Iowa, designated Supplement No. 2 to the Company's Rate Schedule FERC (FPC), No. 35.

Company states the agreement, being an appendix A, Facilities Schedule No. 2, Substation J, dated October 29, 1973, an appendix to a Facilities Agreement between the parties of the same date, will be terminated by mutual agreement of the parties, as evidenced by an amendment thereto dated November 30, 1977, which accompanies this filing.

January 1, 1978, is the date proposed for the cancellation of this FERC rate schedule supplement, and Company requests waiver of the notice requirements accordingly. Company states the proposed termination will not otherwise affect the Facilities Agreement of October 29, 1973, or other appendix A Facility Schedules which will remain in full force and effect. A copy of the filing has been mailed to Corn Belt and the Iowa State Commerce Commission, according to Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 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 December

27, 1977. 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37018 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. RP76-90]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Proposed Revised Tariff Sheets

DECEMBER 20, 1977.

Take notice that on December 8, 1977, Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska), 300 North St. Joseph Ave., Hastings, Nebr. 68901, tendered for filing, pursuant to section 4 of the Natural Gas Act, First Revised Sheet Nos. 33 through 37 to its FERC Gas Tariff, Third Revised Volume No. 1. Kansas-Nebraska requests such waivers of the Commission's rules and regulations as may be necessary to grant acceptance of these filings.

Kansas-Nebraska states that on December 27, 1976 Kansas-Nebraska filed certain revisions in its FERC Gas Tariff, Third Revised Volume No. 1, which included as Original Sheet Nos. 33 through 37 an "Index of Requirements." By order of the Commission issued January 26, 1977 these sheets were accepted for filing and suspended until July 1, 1977.

Kansas-Nebraska further states that during the course of the proceedings in Docket No. RP76-90 it was supplied with information by its wholesale customers and its own direct customers pointing to changes in name and errors made in the initial classification of customers in the Index of Requirements. Kansas-Nebraska states that, thereafter, it filed in Docket No. RP76-90 additional prepared testimony and exihibits which included revisions of Original Sheet Nos. 33 through 37; the witness sponsoring these changes was cross-examined during hearings held the week of October 25, 1977.

These revisions in Original Sheet Nos. 33 through 37 are now being filed as First Revised Sheet Nos. 33 through 37. Kansas-Nebraska claims the changes contained in these sheets are required to reflect in the Index of Requirements the corrected information Kansas-Nebraska has received from the direct and indirect customers affected.

According to Kansas-Nebraska the changes are of three types: (1) changes in customers names; (2) changes because of errors made in estimating peak day requirements; and (3) changes because of errors made in subdividing total requirements between boiler fuel and non-boiler fuel uses.

Kansas-Nebraska requests that the tendered tariff sheets be suspended for one day and permitted to become effective pursuant to the conditions set forth in the Commission's Orders of June 30, 1977, and August 31, 1977, in the above docket.

Kansas-Nebraska states that a copy of this filing is being mailed to each of Kansas-Nebraska's customers and interested state commissions and all parties of record in Docket No. RP76-90 and that a copy of this filing is also available for public inspection in a convenient form and place in Kansas-Nebraska's offices in Hastings, Nebr., and Phillipsburg, Kans.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before December 28, 1977, file with the Federal Energy Regulatory 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 apropriate 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. 77- 37019 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket Nos. CI77-639, *et al.*]

McCULLOCH OIL CORP. OF TEXAS, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

NOVEMBER 22, 1977.

In FR Doc. 77-27924, appearing at page 49508, in the issue for Tuesday, September 27, 1977, make the following change in the table. In Docket No. CI77-674, *Cities Service Oil Co.* Under column headed "Applicant" insert "Hydrocarbon Production Co." as Applicant in lieu of "Cities Service Oil Co."

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37025 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP73-73]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition To Amend Order

DECEMBER 19, 1977.

Take notice that on December 2, 1977, Natural Gas Pipeline Co. of America (Petitioner), 122 South Michigan Avenue, Chicago, Ill. 60603, file in Docket No. CP73-73 a petition to amend a prior order.

On January 29, 1973, the Federal Power Commission issued an order in Docket No. CP73-73 authorizing Petitioner to transport up to 25,000 Mcf of natural gas per day for Columbia Gas Transmission Corp. (Columbia), pursuant to the terms of a Transportation Agreement dated August 30, 1972. Petitioner was to receive natural gas from Columbia at an existing tap in West Cameron Block 146, Offshore Louisiana, transport such gas onshore, and redeliver such gas by displacement to Columbia at the connection of Petitioner's and Columbia's pipeline systems at Texaco Inc.'s Henry Plant in Vermilion Parish, La.

Petitioner and Columbia have, by Amendatory Agreement dated July 13, 1977, agreed to add an additional point of delivery at the point of connection between the facilities of Chevron Oil Co. (Chevron), and the facilities of Petitioner on Chevron's platform in the East Half of West Cameron Block 181, Offshore Louisiana (Block 181 Point of Receipt). Columbia has advised Petitioner that twenty-five percent (25%) of the gas produced from a well drilled in West Cameron Block 145 will be purchased by Columbia under its contracts with producers and will be delivered by such producers to Petitioner at the Block 181 Point of Receipt for Columbia's account. No additional facilities will be required by Petitioner to effectuate receipt of such gas.

Petitioners state that Columbia has advised Petitioner that two producers of gas to be transported hereunder have Commission authorization to sell gas to Columbia[1] and that the two other producers have or will shortly file supplements to existing rate schedules for authority to sell gas to Columbia.[2] Petitioner knows of no other filing to supplement or effectuate its proposal herein which must be or is to be filed by Petitioner or any person with this Commission or any other Federal, State or regulatory body.

Any person desiring to be heard or to make any protest with reference to said application, on or before January

[1] Texas Gulf Inc., a small producer authorized at Docket No. CS71-383, and Union Texas Petroleum, A Division of Allied Chemical.

[2] Getty Oil Co., and Phillips Petroleum Co.

9, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 77-37020 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP78-115]

NORTHERN NATURAL GAS CO.

Application

DECEMBER 19, 1977.

Take notice that on December 12, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-115 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 certain facilities in Stevens County, Kansas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate a new 4,000 horsepower compressor station (Stevens County No. 6) and 5.2 miles of 12-inch pipeline to connect such station to its existing Hugoton field station in Stevens County, Kans. Applicant states that the new 4,000 horsepower compressor station is required to provide a general reduction of gathering line pressure, and that the reduced gathering line pressure would improve production delivery capability from the field and, therefore, assist applicant in maintaining the present peaking capability from the Hugoton system, which system is Applicant's largest and most reliable single source of gas supply consisting of numerous well groups (subsystems) which produce natural gas from certain established system pools. The application states that the Stevens County No. 6 compressor station would compress gas produced from 44 wells which are producing from two pools, and that there are 152 wells in five pools from which production is currently compressed by the Hugoton field station. The Stevens County No. 6 field is presently connected via Applicant's 20-inch gathering line to the suction side of its Hugoton field station, it is stated. It is further stated that recent declines in the flowing wellhead pressure require the lowering of the gathering line pressure to enable Applicant to maintain production volumes from these wells.

The application states that the proposed Stevens County No. 6 gathering compressor station would lower the gathering line pressure to the level which would permit a subsystem delivery capability of 32,400 Mcf of gas per day and would result in a total delivery of 102,500 Mcf of gas per day from wells from which production is currently compressed by the Hugoton field station. Applicant indicates that such deliveries would assist in maintaining the present peaking capability out of the Hugoton System.

Applicant further indicates that if this horsepower is not available during the 1978-79 heating season, its wintertime deliverability would be reduced by approximately 4,900 Mcf per day, which volumes cannot be made up from other sources of supply. Applicant states that without the additional horsepower the wintertime deliverability would continue to decline at substantially greater rates during future heating seasons. Consequently, applicant requests authorization to construct and operate the facilities of the Stevens County No. 6 compressor station.

It is indicated that the estimated cost of the facilities proposed to be constructed would be $2,095,300, which cost Applicant proposes to finance with general corporated funds.

Any person desiring to be heard or to make any protest with reference to said application, should on or before January 9, 1978, file with the Federal Energy Regulatory 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 and 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 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 Energy Regulatory 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 of 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. 77-37021 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP78-110]

SOUTH GEORGIA NATURAL GAS CO.

Application

DECEMBER 19, 1977.

Take notice that on December 5, 1977, South Georgia Natural Gas Co. (Applicant), P.O. Box 1279, Thomasville, Ga. 31792, filed in Docket No. CP78-110 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of February 1, 1967, in Docket No. CP67-95, the Federal Power Commission (FPC) authorized applicant to construct and operate facilities for the sale of natural gas to Bridgeboro Lime and Stone Co. It is further indicated that pursuant to such authorization Applicant constructed a 3½-inch O.D.

transmission line designated as applicant's Line No. 56, extending for a distance of approximately 2.107 miles in a southwesterly direction from the Company's Line No. 2, terminating at the Dixie Lime and Stone Co. metering and regulating station, and that these facilities are still in operation.

Applicant indicates that it has terminated its contract with Dixie Lime and Stone Co. (the sucessor to Bridgeboro Lime and Stone Co.), and that notice of this contract termination was given to the FPC by letter dated August 29, 1977. Therefore, applicant no longer requires the use of certain facilities in its present operations, it is said.

Consequently, Applicant proposes to abandon approximately 2.107 miles of said 3½-inch O.D. Line No. 56 and abandon its metering and regulating station at the end of said line.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a 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 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. 77-37022 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP76-136]

TENNESSEE GAS PIPELINE CO.

Pipeline Application to Amend

DECEMBER 19, 1977.

Take notice that on November 18, 1977, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex., 77001, filed in Docket No. CP76-136 an application to amend the order issued in said docket on March 3, 1977, by requesting temporary and permanent authorization to extend the transportation service authorized herein for Natural Gas Pipeline Co. of America (Natural) and Columbia Gas Transmission Co. (Columbia) for a 2-year period, from November 1, 1977 to November 1, 1979.

Natural and Columbia have advised Tennessee that they anticipate that the availability of volumes for transportation from the Eugene Island Area, offshore Louisiana, in excess of their individual entitlements in the pipeline jointly owned by Tennessee, Natural, and Columbia Gulf Transmission Co. will continue.

Tennessee states that it has entered into an amendment with Natural and Columbia dated September 20, 1977, to an existing Agreement, dated September 10, 1975. Tennessee states that the proposed service will not affect Tennessee's ability to serve its existing customers.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 6, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 77-37023 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. CP78-109]

UNITED GAS PIPE LINE CO.

Application

DECEMBER 19,1977.

Take notice that on December 5, 1977, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-109 an application pursuant to section 7(b) of the Natural Gas Act and Section 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the calendar year 1978, direct sale service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission, it is said.

Any perso n desiring to be heard or to make any protest with reference to said application should on or before January 6, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a 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. 77-37024 Filed 12-28-77; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP77-43]

TRUNKLINE GAS CO.

Notice of Change Tariff; Correction

DECEMBER 12, 1977.

In FR Doc. 77-35093, appearing at page 62044 in the issue for Thursday, December 8, 1977, change the docket number in the caption to read: "Docket No. CP78-43".

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-37027 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. ER78-80]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Proposed Changes in Electric Service Tariffs

DECEMBER 19,1977.

Take notice that Central Illinois Public Service Company (Applicant) on December 8, 1977, tendered for filing:

(1) Service Schedules W-3 (FPC Electric Tariff, Original Volume No. 3) for wholesale electic service to customers purchasing partial requirements to supplement customers' own generation. The Applicant indicates that the proposed tariff would increase revenues from jurisdictional sales and service by $681,665 based on calendar year 1977. The tariff is proposed to become effective January 1, 1978, and the Applicant therefor requests waiver of the Commission's notice requirements. The Applicant indicates that the tariff is applicable to service being provided to the customers upon the expiration of the various effective periods for the rates and charges currently specified in the agreements between the Applicant and the customers. The Applicant further indicates that copies of the tariff were served upon the Applicant's jurisdictional customers and the Illinois Commerce Commission.

(2) Revisions in its Rate Schedule W-1 (FPC Electric Tariff, Original Volume N1) for wholesale electric service to electric cooperatives. The Applicant indicates that the proposed revisions would increase revenues from jurisdictional sales and service by $4,805,708 based on calendar year 1977. The Applicant states that the revisions are proposed to become effective January 1, 1977, and the Applicant therefor requests waiver of the Commission's notice requirements. The Applicant indicates that the proposed revisions resulted from a settlement which was reached after extended negotiations.

(3) Revisions in its Rate Schedule W-2 (FPC Electric Tariff, Original Volume No. 2) for wholesale electric service to municipal customers purchasing their total requirements. The Applicant indicates that the proposed revisions would increase revenues from jurisdictional sales and service by $741,823 based on calendar year 1977. The Applicant proposes that the revisions become effective January 1, 1978, and therefor requests waiver of the Commission's notice requirements. The Applicant indicates that the revised tariff will be applicable to service being provided to municipalities currently served under Rate Schedule W-2, and to the remaining municipalities upon the expiration of the effective period for the rates and charges currently specified in the various agreements between the Applicant and the remaining municipalities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 27, 1977. 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. 77-37125 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. ER78-103]

INDIANA & MICHIGAN ELECTRIC CO.

Filing of Rate Schedule

DECEMBER 19, 1977.

Take notice that Indiana & Michigan Electric Co. (I&MECo) on December 8, 1977, tendered for filing Modification No. 12, dated December 1, 1977, to the Interconnection Agreement dated November 1, 1961 with Northern Indiana Public Service co. (NIPSCO), previously designated by the Commission as I&MECo Rate Schedule FPC No. 22.

I&MECo indicates that the terms and conditions of service proposed in this filing are set forth in Modification No. 12, which extends the comprehensive Interconnection Agreement between I&MECo and NIPSCO for ten years and provides for a new service schedule, Service Schedule G—Firm Power to NIPSCO.

According to I&MECo, NIPSCO has agreed to purchase from I&MECo Firm Power for a period of ten years beginning January 1, 1978. I&MECo states that as established in subsection 3.2 of Service Schedule G, the initial Firm Contract Demand shall be 400,000 kilowatts.

I&MECo indicates that Service Schedule G includes provisions for a Demand Charge, an Energy Charge, a Service Charge and a clause allowing for the collection of all revenue-related charges.

According to I&MECo, copies of the filing were served upon the Northern Indiana Public Service Co. and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1977. 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37127 Filed 12-28-77; 8:45 am]

[6740-02]

[Docket No. FR78-98]

TUCSON GAS & ELECTRIC CO.

Filing

DECEMBER 16, 1977.

Take notice that Tucson Gas & Electric Co. ("TGE") on December 7, 1977, tendered for filing a TGE-PNM 1979-1981 San Juan Generating Station Power Sale Agreement (the "Agreement") dated July 13, 1977, between TGE and Public Service Co. of New Mexico ("PNM"). According to TGE, copies of the filing were served upon PNM on December 2, 1977.

TGE states that the purpose of this agreement is to establish terms and conditions between the parties relative to the delivery by TGE of firm capacity and associated energy as scheduled by PNM.

Any person desiring to be heard or to make application with reference to said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1977. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37126 Filed 12-28-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 835-7; OPP-000478]

PESTICIDE PROGRAMS

Requirement for Certain Pesticide Registrants and Applicants for Registration To Submit Analyses of Pesticides for N-nitroso Contaminants; Extension of Time for Submissions

On September 29, 1977, the Environmental Protection Agency (EPA) published a notice in the FEDERAL REGISTER (42 FR 51640) which outlined the analytical chemistry data requirements for all registrants and applicants for registration of pesticide products that EPA suspected to contain N-nitroso contaminants.

Registrants and applicants were given 90 days from the issuance of that notice to obtain the required pesticide analyses and to submit analytical data to EPA. Comments have been received from affected parties indicating that additional time will be necessary to obtain and submit the required information. Further, a meeting was held with the Association of Official Analytical Chemists which confirmed the need for more time. Additional time is needed because there is, to the best of EPA's knowledge, only one commercial laboratory capable of performing the required testing, and there is otherwise a shortage of equipment available for in-house testing by those companies with the resources to perform the testing themselves. Additionally, if any company finds an unknown N-nitroso contaminant in its pesticide product, a short period of time may not be feasible for identifying the contaminant, much less submitting a quantitative analysis on it.

Consequently, EPA has determined that the original 90-day time period is not realistic and therefore, by this notice, withdraws the 90-day time limitation. The new time requirement for submission of the analytical chemistry data for pesticide products that EPA suspects to contain N-nitroso contaminants is set forth below. These data are to be submitted in the manner discussed in the original FEDERAL REGISTER notice. Further information on EPA policy and possible action as a result of EPA analyses of these data will be discussed in a general statement of policy which will be published in the FEDERAL REGISTER shortly.

EPA has also determined that certain classes of ingredients may pose more of an N-nitroso problem than others and is, at this time, only requesting information on these classes. The classes involved are:

1. Dinitroaniline compounds.

Most of the dinitroaniline compounds analyzed to date have been found to contain N-nitroso contaminants. The source of contamination is strongly suspected to be a nitrosating species occurring as a product of the nitration step in the synthetic process.

2. Secondary and tertiary alkylamines or alkanolamines formulated either as active ingredients, salts of active ingredients or as inerts, with special emphasis to secondary or tertiary amine salts of nitro compounds.

Secondary and tertiary alkyl- or alkanolamines react readily with nitrite or other nitrosating species (e.g., N_2O_4, NOCl, NOBr) to form N-nitroso dialkyl- or dialkanolamines. The risk appears to be greatest when the nitrosating species is present as nitrite or as a residual of a nitration step.

Data on the products listed above shall be submitted to the appropriate Product Manager in the Registration Division, Office of Pesticide Programs, on or before June 30, 1978. EPA has decided, because of the limited testing facilities and the present greater likelihood of N-nitroso contamination occurring in the above products, that it will not at this time require information on other products. However, EPA will require the information when it determines either that testing facilities have become available, or that new information requires adding other products to the list. EPA will then publish another notice in the FEDERAL REGISTER.

Other products in which EPA anticipates interest will include quaternary ammonium compounds, N-alkyl ureas (including uracil derivatives), N-alkyl carbamates, dithio carbamates, and N-alkyl guanidines.

In those cases where the analyses cannot be performed by June 30, 1978, the affected party may, upon establishment of good reason, be granted additional time to complete product analyses. In such cases, the registrant or applicant for registration shall inform the Agency of efforts taken to comply with the analytical chemistry data requirement, reasons for his inability to complete the analyses within the required time period, and provide a schedule for submission of data in response to the requirement. Requests for additional time to complete analyses should be submitted in writing to the approporiate Product Manager in the Registration Division, Office of Pesticide Programs, by April 28, 1978, so that they may be acted upon by EPA in a timely manner.

Dated: December 22, 1977.

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

[FR Doc. 77-36969 Filed 12-28-77; 8:45 am]

[6720-02]

FEDERAL HOME LOAN MORTGAGE CORPORATION

[No. MC 77-55]

PRIVACY ACT OF 1974

Systems of Records; Adoption and Addition

On November 2, 1977 (42 FR 57345), the Corporation published the existing systems of records as required under the Privacy Act (5 U.S.C. 552a). Public comment on the systems was requested through December 2, 1977. No comments were received, therefore, the systems of records as previously

published are effective December 29, 1977.

A new record system is being added at this time, FHLMC-V, which contains information on investors in the Corporation's participation certificates. This record system has only minor relevance under the Privacy Act, as very few of the investors are individuals. Public comment will be accepted on or before January 30, 1978. This system will become effective January 28, 1978, unless the Corporation publishes notice to the contrary.

Comments should be adressed to:

Diana Browne, Assistant General Counsel, Federal Home Loan Mortage Corporation, 311 First Street NW., Washington, D.C. 20001.

FHLMC—V

System name:

Net yield debt side.

System location:

Department of Marketing, Department of Systems, and Department of Accounting, Federal Home Loan Mortgage Corporation, 311 First Street NW., Washington, D.C. 20001.

Categories of individuals covered:

All present and former holders of FHLMC participation certificates.

Categories of records in the system:

The list of registered holders of participation certificates, the monthly payment record, and copies of remittance checks.

Authority for maintenance of the system:

12 U.S.C. § 1452(b).

Routine uses of records maintained in the system, including categories of users and purposes of such use:

Used to make monthly remittances to investors, to make reports to the Internal Revenue Service, and to derive a registered holder profile which is used for statistical purposes by the Marketing Department and has in the past been provided to the Federal Reserve. (While the list of holders is used to derive the registered holder profile, the profile itself identifies holders by category only, and not by name, and therefore does not constitute a part of a record system.) A copy of the list of holders is provided each month to loan accounting, which is responsible for determining the dollar amounts of the checks to the holders, and to accounts payable, which is responsible for mailing the checks. Users are the Marketing, Accounting, and Systems Departments. These records may also be reviewed by the Internal Auditor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Investor lists and monthly payment records are maintained in the Marketing Department, Loan Accounting, and Accounts Payable. All members of the Loan Accounting and Accounts Payable Departments, and those members of the Marketing Department who work in Processing, have access to this information. These records are retained indefinitely. Copies of remittance checks are maintained on microfilm by the Systems Department, and access may be obtained through a request to the Director of the Systems Department. These records are retained indefinitely.

Systems managers and address:

Director of Marketing, Director of Systems, Supervisor of Loan Accounting, and Supervisor of Accounts Payable, Federal Home Loan Mortgage Corporation, 311 First Street NW., Washington, D.C. 20001.

Record source category:

The individual on whom the information is maintained.

By the Board of Directors.

J. J. FINN,
Secretary.

[FR Doc. 77-37036 Filed 12-28-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CHEMICAL NEW YORK CORP.

Proposed Commencement of Reinsurance Activities

Chemical New York Corp., New York, N.Y., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage in the activity of reinsuring credit life and disability insurance sold in connection with extensions of credit made by its banking subsidiaries in the State of New York. Notice of the application was published on October 7, 1977, in the New York Times, a newspaper circulated in New York, N.Y., and in The Plain Dealer, a newspaper circulated in Cleveland, Ohio.

Applicant states that is would engage, through its existing subsidiaries, Sun States Life Insurance Co. and Great Lakes Insurance Co., both of Cleveland, Ohio, in the activity of reinsuring credit life and accident and health insurance that is directly related to extensions of credit made by its banking subsidiaries in the State of New York. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 6, 1978.

Board of Governors of the Federal Reserve System, December 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-37045 Filed 12-28-77; 8:45 am]

[6210-01]

FIRST NATIONAL BANK SHARES, LTD.

Formation of Bank Holding Co.

First National Bank Shares, Ltd., Great Bend, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)), to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank and Trust Co. in Great Bend, Great Bend, Kans. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than January 18, 1978.

Board of Governors of the Federal Reserve System, December 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

FR Doc. 77-37046 Filed 12-28-77; 8:45 am]

[6210-01]

FIRST STATE CORP.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by First State Corp., Chicago, Ill. ("First State"), which has transferred 100 percent of the outstanding shares of Parkway Towers Insurance Agency, Harwood Heights, Ill. ("Parkway Towers"), and First State Travel Service, Des Plaines, Ill. ("First State Travel"), to four individuals, for a determination that First State is not nor will be capable of controlling Parkway Towers or First State Travel notwithstanding the fact that the transferees of Parkway Towers and First State Travel are indebted to First State Bank of Chicago, a subsidiary of First State, which indebtedness resulted from the financing of the purchase of said shares.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company), directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate), to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than January 18, 1978. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, December 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-37047 Filed 12-28-77; 8:45 am]

[6210-01]

WARSAW BANCSHARES, INC.

Formation of Bank Holding Company

Warsaw Bancshares, Inc., Warsaw, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Community Bank of Warsaw, Warsaw, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 17, 1978.

Board of Governors of the Federal Reserve System, December 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-37006 Filed 12-28-77; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 16, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 16, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests clearance of revisions to the Quarterly Report of Train and Yard Service, Form OS-A, required to be filed by some 42 Class I railroads pursuant to section 20 of the Interstate Commerce Act. Data collected by Form OS-A are used for economic regulatory purposes. The form has been revised to conform with the new Uniform System of Accounts for railroads, effective Janary 1, 1978, and to include empty-loaded car miles by car type and other traffic data. Also, the revenue classification for class I railroads has been revised from "railroads with annual operating expenses of $10 million" to the new definition of "railroads with annual operating expenses of $50 million or more." Reports are mandatory and available for use by the public. The ICC estimates that reporting burden averages 154 hours per quarterly report.

ICC Order No. 36367 which was adopted on June 13, 1977, and issued on June 24, 1977, promulgated the revisions which have been incorporated in this form. Although the Order specified that the revisions become effective on January 1, 1978, this effective date is contingent upon ICC's compliance with 44 U.S.C. 3512 which precludes the collection of information from 10 or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed report form is consistent with the provisions of section 3512. The Comptroller General has 45 days from the date of receipt to review the submission and render his advice. This notice represents the beginning of our review.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Dc. 77-37011 Filed 12-28-77; 8:45 am]

[4310-09]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT DES 77-38]

O'NEILL UNIT PROJECT, NEBR.

Availability of Draft Supplement to the Final Environment Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior

has prepared a draft supplement to the final environmental statement for the authorized O'Neill Unit Project, Nebr. The final statement, designated INT FES 72-34, was filed with the Council on Environmental Quality and publicly distributed on September 22, 1972.

The supplement addresses the geology of the Norden damsite, ground water quality in the O'Neill service area, wildlife impacts, and researching techniques for improving livestock and crop production without diminishing ground-water reserves by irrigation. This supplement and its four technical appendices are prepared in response to Civil Action 75-L-96 of the United States District Court for the District of Nebraska judgment that the final statement was inadequate in the above categories.

Written comments may be submitted to the Regional Director (address below) by February 13, 1978.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Department of the Interior, Bureau of Reclamation, Room 7622, Interior Building, Washington, D.C. 20240, telephone 202-343-4991.

Division of Engineering Support, Technical Services and Publications Branch, Engineering and Research Center, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3022.

Office to the Regional Director, Bureau of Reclamation, Lower Missouri Region, Building 20, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3779.

Nebraska Reclamation Office, Second and Locust Streets, Grand Island, Nebr. 68801, telephone 308-832-3660.

Kansas River Projects, 1706 West Third Street, McCook, Nebr. 69001, telephone 308-345-4400.

Libraries in Omaha, Lincoln, O'Neill, Atkinson, Valentine, Bassett, Norfolk, Stuart, and Grand Island, Nebr.; and at Kearney State College, Chadron State College, Wayne State College, and the University of Nebraska at Omaha and Lincoln.

Single copies of the final statement, the supplement, and the technical appendices may be obtained on request to the Commissioner of Reclamation or the Regional Director at the addresses listed above. Copies of the final environmental statement and the supplement are available at no charge. There will be a charge of $5 per copy for the technical appendices.

Dated: December 20, 1977.

DAVID USHIO,
Acting Deputy Assistant Secretary of the Interior.

[FR. Doc. 77-36976 Filed 12-28-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-31]

COMMONWEALTH WHOLESALE DRUG CO.

Denial of Registration

On October 18, 1977, the Administrator of the Drug Enforcement Administration ("DEA"), directed to Commonwealth Wholesale Drug Co., Inc. ("Respondent"), an Order to Show Cause proposing to deny the Respondent's application for registration under the Controlled Substances Act as a distributor of Schedule III through V controlled substances. The Respondent requested a hearing and this matter was docketed by the Administrative Law Judge.

On December 8, 1977, pursuant to 21 CFR §§ 1316.54 and 1316.55, and following the exchange of written prehearing statements, the Administrative Law Judge convened a prehearing conference by telephone. Judge Young and counsel for both the Government and the Respondent participated in this conference. Subsequently, the Administrative Law Judge issued his prehearing ruling, containing, inter alia, the issues which he would consider in the hearing of this matter.

On December 12, 1977, the Respondent, through counsel, withdrew its request for a hearing on the issues raised by the Order to Show Cause and, on December 19, 1977, the Administrative Law Judge terminated all proceedings in this matter then pending before him.

Subsections (a) through (e) of section 303 of the Controlled Substances Act (21 U.S.C. 823(a)-823(e)), set forth the factors which are to be considered in determining whether the issuance of a registration to manufacture or distribute controlled substances would be in the public interest. These factors include the maintenance of effective controls against the diversion of controlled substances from legitimate to illegitimate channels, compliance with applicable State and local laws, the prior conviction record of an applicant under Federal or State laws relating to controlled substances, the applicant's past experience in the handling of controlled substances, and such other factors as may be relevant to the public health and safety.

In a case, such as this one, in which a new application for registration is involved, the applicant's prior experience in the handling of controlled substances may be scant, remote or possibly nonexistent. In such cases, other factors become relatively more important and relevant. The essence of the aforementioned factors is "trust." That is, can the applicant be entrusted with the responsibility of securing controlled substances, taking adequate measures to prevent their diversion and keeping complete and accurate records with respect to their acquisition, inventory and distribution? Controlled substances, if diverted from legitimate medical, scientific, and industrial channels, pose a danger to the public health and safety. Congress has mandated a system of law and regulations designed to maintain a closed system of distribution and thereby to lessen the potential for diversion of these drugs. Distributors and manufacturers of controlled substances can be expected to handle greater quantities and wider varieties of controlled substances than other types of registrants. Consequently, the public trust to be imposed on these registrants or licensees is relatively greater than that imposed on other registrants whose contacts with controlled substances are fewer or more remote.

The Administrator, pursuant to 21 CFR §§ 1301.54(d) and 1301.54(e), has considered all of the facts and circumstances involved in this matter and has concluded that the registration of Commonwealth Wholesale Drug Co., Inc., to be a distributor of controlled substances would not be consistent with the public interest.

Therefore, pursuant to the authority vested in the Attorney General, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator orders that the application of Commonwealth Wholesale Drug Co., Inc., be, and it hereby is, denied.

Dated: December 22, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 77-37049 Filed 12-28-77; 8:45 am]

[1410-03]

LIBRARY OF CONGRESS

TRANSFER OF MATERIAL

Need for Excess Copies of Publications

The Library of Congress needs, uses, and distributes excess copies of all types of books and government publications in all languages and scholarly periodicals, journals, and magazines.

Pursuant to the provisions of the Federal Property and Administrative Services Act of 1949 and the Federal Property Management Regulations (41 CFR Subpart 101-43.3 and Subpart 101-46.3) the Library hereby gives notice of its need for the aforementioned excess personal property (41 CFR 101-43.301) and also hereby gives notice that it uses and distributes such property (41 CFR 101-46.301).

Any Federal agency having such excess property or property available for transfer to the Library of Congress

is requested to contact the Chief of the Exchange and Gift Division, Library of Congress, Washington, D.C. 20540, and make known to him the kind and extent of the material available.

DANIEL J. BOORSTIN,
The Librarian of Congress.

[FR Doc. 77-36923 Filed 12-28-77; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on January 25, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of History sumitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37050 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on January 24, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Art History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37051 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on January 20, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of English Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37052 Filed 12-28-77; 8:45 a.m.]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on January 19, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Sociology submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37053 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 807, from 9 a.m. to 5:30 p.m. on January 18, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Comparative Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Mangement Officer.

[FR Doc. 77-37054 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 314, from 9 a.m. to 5:30 p.m. on January 18, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Rhetoric and Composition submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37055 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended, notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on January 25, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37056 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 23, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1025, from 9 a.m. to 5:30 p.m. on January 23, 1978.

The purpose of the meeting is to review Summer Stipend applications in the field of English and Irish Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37057 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 23, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1025, from 9 a.m. to 5:30 p.m. on January 16, 1978.

The purpose of the meeting is to review Fellowships in residence for

College Teachers applications in the field of Philosophy submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37058 Filed 12-28-77; 8:45 a.m.]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 23, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on January 17, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Music submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37059 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 23, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 1025, from 9 a.m. to 5:30 p.m. on January 20, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of Religion submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37060 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 23, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 314, from 9 a.m. to 5:30 p.m. on January 21, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of European History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37061 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 23, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 807, from 9 a.m. to 5:30 p.m., on January 21, 1978.

The purpose of the meeting is to review summer stipend applications in the field of music submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-37062 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 1025, from 9 a.m. to 5:30 p.m. on January 14, 1978.

The purpose of the meeting is to review Fellowships in Residence for College Teachers applications in the field of American History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-36964 Filed 12-28-77; 8:45 am]

[7536-01]

FELLOWSHIPS PANEL

Meeting

DECEMBER 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, from 9 a.m. to 5:30 p.m. on January 14, 1978.

The purpose of the meeting is to review summer stipend applications in the field of nonwestern history submitted to the National Endowment for the Humanities for projects beginning after May 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 77-36965 Filed 12-28-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

EUROPEAN ATOMIC ENERGY COMMUNITY

Solicitation of Public Comments

The Nuclear Regulatory Commission is soliciting the views of the public on issues raised by nine applications for licenses to export high enriched uranium to the European Atomic Energy Community (EURATOM). The nine applications are.

XSNM-1117 (304.823 kgs. of U-235 contained in 11,234 kgs. of U, enriched to a maximum of 3.00 percent for use as fuel at the Philippsburg 1 reactor—Federal Republic of Germany);

XSNM-1119 (502.234 kgs. of U-235 contained in 15,528.25 kgs. of U, enriched to a maximum of 2.8 percent for use as fuel at the Borselle Nuclear Power Station—The Netherlands);

XSNM-1142 (45.823 kgs. of U-235 contained in 1367.8 kgs. of U, enriched to a maximum of 3.35 percent for use as working stock for the manufacture of fuel assemblies by RBU—Federal Republic of Germany);

XSNM-1145 (265.1 kgs. of U-235 contained in 11,088 kgs. of U, enriched to a maximum of 2.8 percent for use as fuel at the Gundremmingen Atomic Power Station—Federal Republic of Germany);

XSNM-1162 (812.1612 kgs. of U-235 contained in 24,243.615 kgs. of U, enriched to a maximum of 3.35 percent for use as fuel at the Tihange Nuclear Power Plant—Belgium);

XSNM-1167 (489.915 kgs. of U-235 contained in 11,057 kgs. of U, enriched to a maximum of 5.73 percent for use as fuel at the SENA nuclear power reactor—France);

XSNM-1176 (6,526.8743 kgs. of U-235 contained in 217,363.4 kgs. of U, enriched to a maximum of 3.3 percent for use as fuel at the following nuclear reactors in France: Bugey 4, Bugey 5, Tricastin 1, Gravelines 3, Bugey 1 and Saint Laurent B1);

XSNM-1180 (390.988 kgs. of U-235 contained in 10,712 kgs. of U, enriched to a maximum of 3.65 percent for use as fuel at the Doel 1 nuclear power reactor—Belgium); and

XSNM-1181 (1000.136 kgs. of U-235 contained in 36,338 kgs. of U, enriched to a maximum of 3.40 percent for use as fuel at the Isar nuclear power reactor—Federal Republic of Germany).

BACKGROUND

Between May 20, 1977 and September 16, 1977, the Natural Resources Defense Council, Inc. (NRDC) filed petitions with the Nuclear Regulatory Commission seeking leave to intervene and a hearing in proceedings regarding ten[1] pending license applications for the export of low enriched uranium to EURATOM nations.

In response to these petitions, the Commission on October 4, 1977, issued an Opinion in which it concluded that Petitioner lacked standing to intervene in the subject proceedings as a matter of right. In that opinion the Commission deferred its decision on whether public comments should be solicited until Congress either enacted pending nuclear nonproliferation legislation which could resolve issues raised by the Petitioner or recessed without acting upon the legislation. On December 22, 1977, after it became apparent that Congressional action upon pending legislation could not be expected until at least January of 1978, the Commission issued an Opinion inviting the views of the public in connection with issues raised by Petitioner. This FEDERAL REGISTER notice announces the Commission's interest in receiving the public's views on these issues and any others on which the public may wish to comment.

The aforementioned license applications and NRDC petitions are available in the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

The Commission urges all interested persons to express their views to the Commission. Any and all views which the Commission receives will be considered by the Commission in the discharge of its export licensing responsibilities.

[1] The Commission issued License No. XSNM-1116 on November 10, 1977. *See Transnuclear, Inc.*, (Wurgassen), CLI-77——, 6 NRC ——.

Dated at Washington, D.C. this 22nd day of December, 1977.

For the Commission.

SAMUEL J. CHILK,
Secretary.

[FR Doc. 77-36919 Filed 12-28-77; 8:45 am]

[7590-01]

FEDERAL REPUBLIC OF GERMANY

Solicitation of Public Comments

The Nuclear Regulatory Commission is soliciting the views of the public on issues raised by three applications for licenses to export high enriched uranium to the Federal Republic of Germany and specifically on those issues cited by the Natural Resources Defense Council (NRDC) in the three petitions it filed with this Commission between December 27, 1976 and October 6, 1977 seeking leave to intervene and a hearing in proceedings regarding these three export license applications. The three applications are:

XSNM-1026 (16.01 kg. of U-235 contained in 20.35 kg. of U_3O_8 enriched to a maximum of 93.30 percent) for use in the AVR high temperature gas-cooled reactor prototype at Julich; for the FRM liquid metal fast breeder reactor prototype operated by the Techniache Universitat Munchen at Garching; and the KNK-II high temperature gas-cooled reactor prototype at Karlsruhe;

XSNM-1138 (9.353 kg. of U-235 contained in 10.025 kg. of uranium enriched to a maximum of 93.30 percent) for use in the AVR high temperature gas-cooled reactor prototype operated by the Kernforschungsanlage Julich; and

XSNM-1195 (103.138 kg. of U-235 contained in 119.298 kg. of uranium enriched to a maximum of 93.30) for use in a liquid metal fast breeder reactor prototype operated by the Gesellschaft fur Kernforschung Karlsruhe.

BACKGROUND

Between December 27, 1976, and October 6, 1977, the Natural Resources Defense Council, Inc. ("NRDC") filed three petitions with the Nuclear Regulatory Commission seeking leave to intervene and a hearing in proceedings regarding three pending export license applications for the export of high-enriched uranium to the Federal Republic of Germany ("FRG").

In response to these petitions, the Commission on December 22, 1977, issued an Opinion in which it concluded that petitioners lacked standing to intervene in the subject proceedings as a matter of right. However, the Commission also stated that it would "invite and consider any public comments submitted in connection with these license applications, including comments on the issues raised in the three NRDC petitions filed between December 27, 1976 and October 6, 1977 regarding these three export license applications." This FEDERAL REGISTER Notice announces the Commission's interest in receiving the public's views on these issues and any others on which the public may wish to comment.

The aforementioned license applications and NRDC petitions are available in the NRC Public Document Room.

The Commission urges all interested persons to express their views to the Commission. Any and all views which the Commission receives will be considered by the Commission in the discharge of its export licensing responsibilities.

Dated at Washington, D.C. this 22nd day of December, 1977.

For the Commission.

SAMUEL J. CHILK,
Secretary.

[FR Doc. 77-36920 Filed 12-28-77; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-52]

ACCIDENT REPORTS

Availability

The National Transportation Safety Board last week made available to the public printed copies of the following accident investigation reports:

Aircraft: New York Airways, Inc., Sikorsky S-61L, Pan Am Building Heliport, New York, New York, May 16, 1977 (Report No. NTSB-AAR-77-9).—Safety Board investigation revealed that while the helicopter was parked atop the Pan Am Building, the right landing gear, with rotor turning, failed. The aircraft rolled over on its right side and was substantially damaged.

At the time of the accident, four passengers had boarded the aircraft and other passengers were in the process of boarding. The passengers and the three crewmembers onboard received either minor or no injuries; however, four passengers who were still outside the aircraft and were waiting to board were killed and one was seriously injured. One pedestrian on the corner of Madison Avenue and 43rd Street was killed and another was seriously injured when they were struck by a separated portion of one of the main rotor blades of the aircraft.

The Safety Board determined that the probable cause of the accident was the fatigue failure of the upper right forward fitting of the right main landing gear tube assembly. Fatigue originated from a small surface pit of undetermined source. All fatalities were caused by the operating rotor blades as a result of the collapse of the landing gear.

Investigation showed that the landing on the Pan Am heliport had been "gentle," and the Board concluded that the flightcrew was not involved in the landing gear collapse. Laboratory examination showed that material properties of the failed landing gear fitting were normal. There was no indication of stress corrosion.

A fatigue failure of a lower main gear fitting on a parked Los Angeles Airways S-61L in 1963 had resulted in Sikorsky's redesign of the part and the refitting of the four S-61L's then in service. The Board noted that the New York accident involved the first failure of the improved fitting since its redesign.

On the day after the New York accident, the Safety Board recommended that the Federal Aviation Administration (1) require an immediate one-time inspection of all such S-61L fittings (recommendation A-77-32), and (2) reevaluate the existing 9,900-hour inspection interval, and require more frequent periodic inspections, if necessary (A-77-33). The Board said that inspection intervals might be based on operating cycles rather than established operating time. The failed part had a total time of 6,913 hours. (See 42 FR 27076, May 26, 1977.)

FAA on May 20 advised the Safety Board of issuance of a telegraphic Airworthiness Directive requiring immediate fluorescent penetrant inspections and daily visual inspections, and began work with Sikorsky to establish a service life and set additional inspections based on service experience and available data. (See 42 FR 29580, June 9, 1977.)

Investigation further indicated that the helicopter's sliding cockpit door had jammed in a nearly closed position. This forced the pilots to exit through a cockpit window and reenter through a passenger cabin emergency door to assist in passenger evacuation. The Board on July 13 recommended that FAA require that the door be removed or retained in an open position (A-77-51; 42 FR 37459, July 21, 1977). New York Airways, the only airline operator of S-61L's, told FAA it would replace the sliding doors with frangible curtains. FAA plans to recommend that all other S-61L operators remove or retain open their cockpit doors.

Highway: Student Transportation Lines, Inc., Charter Bus Climbing of Bridge Rail and Overturn, near Martinez, California, May 21, 1976 (Report No. NTSB-HAR-77-2).—This report and related safety recommendations H-77-11 through 19 resulted from investigation of the accident which occurred when the bus, chartered by the Yuba City High School choir for a trip to Orinda, California, rolled off the top of the curved bridge rail and

landed on its roof. Twenty-nine of the occupants died and the rest sustained injuries ranging from minor to serious. (See 42 FR 55957, October 20, 1977, for summary.)

Marine: Charter Fishing Boat PEARL-C, Sinking on the Columbia River Bar near Astoria, Oregon, September 13, 1976 (Report No. NTSB-MAR-77-1).—This report and related safety recommendations M-77-15 through 32 resulted from investigation into the capsizing of a charter fishing boat as the boat was being towed through heavy seas in hazardous environmental conditions. (See 42 FR 57577, November 3, 1977, for summary.)

Pipeline: Exxon Gas System, Inc., Natural Gas Explosion and Fire, Robstown, Texas, December 7, 1976 (Report No. NTSB-PAR-77-3).—This report and related safety recommendations P-77-27 through 33 resulted from investigation of the accident which triggered a $5-million natural gas compressor station fire. The station and its two transmission lines linked Houston, Texas, with Exxon's King Ranch gas processing plant. (See 42 FR 58586, November 10, 1977, for summary.)

Railroad: Derailment of Amtrak Train on Burlington Northern Railroad, near Ralston, Nebraska, December 16, 1976 (Report No. NTSB-RAR-77-8).—This report and related safety recommendations R-77-32 through 35 resulted from investigation into the accident in which the locomotive and the first six cars of the train remained upright but the last five cars separated from the lead portion of the train, three tipping over and sliding 40 feet down an embankment. Amended Federal track standards are being sought by the Safety Board. (See 42 FR 56652, October 27, 1977, for summary.)

Railroad: Derailment of Amtrak Train on Louisville and Nashville Railroad, New Castle, Alabama, January 16, 1977 (Report No. NTSB-RAR-77-9).—This report and related safety recommendations R-77-1 and 2 resulted from investigation of the derailment which the Safety Board found was caused by the tipping of the outside rail in a five-degree curve, and the resulting widening of the track gage. Recommendations R-77-1 and 2, issued within two weeks of the accident, urged the Federal Railroad Administration to investigate immediately the interaction between SDP-40-F and P-30CH locomotives of passenger trains and track conditions to determine the causes for the widening of the track gage, and to correct the causes, and to restrict passenger trains with SDP-40-F locomotives to speeds permitting safe operation around curves of 1°30' or more on Class 4 or less track. A third recommendation, No. R-77-36, was issued November 7, asking the National Railroad Passenger Corporation to establish inspection and repair procedures that will insure that locomotive units with defective truck components will not be dispatched. (See 42 FR 59437, November 17, 1977, for summary.)

NOTE.—All safety recommendations referenced above are reproduced in the related accident reports. Single copies of the reports may be obtained without charge by writing to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please identify all requests by report number and provide the date of publication of this notice in the FEDERAL REGISTER.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U. S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

DECEMBER 23, 1977.

[FR Doc. 77-37038 Filed 12-28-77; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Working Group on Basic Research in the Department of Defense.

Date: January 26 and 27, 1978.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

Type of meeting: Open.

Contact Person: Dr. William P. Raney, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-3934.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of advisory committee: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in Mission Agencies, the Working Group on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near term and long term technical objectives.

Agenda: 9 a.m. to 4 p.m.—Working meeting. Editing and redrafting of working papers.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc. 77-36978 Filed 12-28-77; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-7/151]

ADVISORY COMMITTEE ON AMBASSADORIAL APPOINTMENTS

Meeting

The Advisory Committee on Ambassadorial Appointments will meet on January 21, 1978, from 9 a.m. to 5 p.m., in Room 7214, Department of State, 2201 C Street NW., Washington, D.C.

The meeting will be closed to the public under the provisions of 5 U.S.C. 552b(c)(6). It will involve discussion of individual personnel records of the candidates, the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

BEN H. READ,
Executive Secretary, Advisory Committee on Ambassadorial Appointments.

DECEMBER 20, 1977.

[FR Doc. 77-36979 Filed 12-28-77; 8:45 am]

[4710-01]

[Public Notice 584]

PHARR, TEX.

Application for Bridge Permit

Notice is hereby given that the Department of State has received an application for a permit authorizing the construction, operation, and maintenance of an international bridge in the Pharr-McAllen, Tex., area. The application has been filed by the City of Pharr, Tex., for a permit authorizing a highway bridge connecting Pharr and the Lower Rio Grande Valley area to the Reynosa-Rio Bravo area of Mexico.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, and the International Bridge Act of 1972 (Pub. L. 92-343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department is circulating this application to concerned agencies for comment. In addition, the Office of Environmental Affairs of the Department of State is initiating an assessment of

the environmental effects of the proposal to determine if an environmental impact statement will be required.

Interested persons may submit their views regarding this application in writing by February 1, 1978, to Mr. Franklin K. Willis, Acting Assistant Legal Adviser for Economic and Business Affairs, Room 6420, Department of State, 2201 C Street NW., Washington, D.C. 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for inspection and copying in the Office of the Assistant Legal Adviser for Economic and Business Affairs during normal business hours.

Any questions relating to this notice may be addressed to Mr. Willis at the above address (phone (202) 632-0242), or to Ms. Diane Wood (phone (202) 632-0349), of that office.

For the Secretary of State.

Dated: December 16, 1977.

FRANKLIN K. WILLIS,
Acting Assistant Legal Adviser for Economic and Business Affairs.

[FR Doc. 77-36977 Filed 12-28-77; 8:45 am]

[4710-01]

[Public Notice CM-7/153]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The Working Group on Subdivision and Stability of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 9:30 a.m. on Wednesday, January 25, 1978, in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to review the report of the 21st Session and discuss the preparation of the agenda for the 22d Session of the Subcommittee on Subdivision, Stability and Load Lines of the Intergovernmental Maritime Consultative organization (IMCO).

Requests for further information should be directed to Mr. Edward H. Middleton, U.S. Coast Guard (G-M/82), Washington, D.C. 20590, telephone area code 202-426-2170.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

DECEMBER 21, 1977.

[FR Doc. 77-36981 Filed 12-28-77; 8:45 am]

[4710-01]

[Public Notice CM-7/152]

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

Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on January 24 and 25, 1978, at 10 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Committee will discuss international telecommunications questions relating to telegraph and telex services, public data networks, leased channel services and maritime services, in order to develop U.S. positions to be taken at various international CCITT meetings to be held during 1978 in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: December 21, 1977.

ARTHUR L. FREEMAN,
Chairman, U.S. CCITT National Committee.

[FR Doc. 77-36980 Filed 12-28-77; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-436; 5 U.S.C. App. I) notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held January 17, 18 and 19, 1978 in Washington, D.C.

The agenda for this meeting is as follows:

On January 17 from 8:30 a.m. to 10:45 a.m., the full Committee will meet in a General Session in room 2230 of the DOT Headquarters Building for discussion and vote on proposed revisions to the Committee's Bylaws. The members will also hear a briefing on current proposed legislative package on the 402 program, a presentation on current legislative package on the safety construction program and a presentation of FHWA views on the Indiana Tri-Level Study.

From 11 a.m. to 1 p.m. on January 17 in room 6200 the Adjudication and Alcohol Subcommittee will meet to hear a briefing on proposed site visits to several New Mexico Indian reservations to explore problems in adjudicating alcohol-related driving offenses, a discussion of NHTSA-sponsored, American Academy of Judicial Education-developed "Pilot Seminar on Screening Alcohol Problems Among Misdemeanants," and old and new business.

Also on January 17 from 2 p.m. to 4 p.m. in room 2230 the Vehicle Subcommittee will meet to hear the status of the proposed demonstration program on the Drinking Driver Warning System (DDWS), a discussion of motorcycle tire safety-rims, an overview of NHTSA research and operational programs on pedestrian safety, and old and new business.

On January 18 from 9 a.m. to 12 noon the Highway Environment Subcommittee will meet in room 2230 to hear a status report on the evaluation of FHWA's Division Highway Safety Engineers (Coordinators) positions, a discussion of FHWA's bridge replacement program, and old and new business.

At 1 p.m. to 2 p.m. on January 18 the State-Federal Relations Subcommittee will meet in room 6200 to discuss the future activities and role of the subcommittee in the States' implementation of the newly-developed 402-403 highway safety program, and old and new business.

Also on January 18 in room 2230 from 2 p.m. to 5 p.m. the Driver Subcommittee will meet to hear a presentation by NHTSA on the IIHS study entitled "Driver Education and Fatal Crash Involvement of Teenaged Drivers", a discussion by a media representative of programming procedures and practices for safety belt usage and other safety messages, an overview of NHTSA's emergency medical services (EMS) program, including the MAST program (Military Assistance for Safety and Traffic), and old and new business.

On January 19 from 9 a.m. to 1 p.m. in room 2230 the full Committee will meet to get an update on NHTSA's National Center for Statistics and Analysis, a discussion and vote on the resolution of the Adjudication and Alcohol Subcommittee on "Training Programs in Traffic Safety Law Adjudication at the Transportation Safety Institute," reports of the subcommittee chairmen, and old and new business.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT official.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW (DOT Headquarters Building), Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on: December 21, 1977.

ROBERT DOHERTY,
Assistant Executive Secretary.

[FR Doc. 77-36850 Filed 12-28-77; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN STEEL WIRE NAILS FROM CANADA

Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of steel wire nails from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally means that the prices of the merchandise sold for exportation to the United States are less than the prices of such or similar merchandise sold in the home market.

EFFECTIVE DATE: December 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On November 21, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Armco Steel Corp., Atlantic Steel Co., Bethlehem Steel Corp., CF & I Steel Corp., Davis Walker Corp., Keystone Steel & Wire, Northwest Steel & Wire, and Pen-Dixie Steel Corp., indicating a possibility that certain steel wire nails from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The term "certain steel wire nails" for purposes of this notice refers to steel wire brads, nails, spikes, staples, and tacks of one-piece construction which are one inch or more in length and 0.065 inch or more in diameter.

There is evidence on record concerning injury to, or the likelihood of injury to, or the prevention of establishment of, an industry in the United States. This evidence indicates that imports of steel wire nails from Canada have increased, as a share of United States, during the first seven months of this year over 1976, and that in absolute terms imports of this merchandise have increased dramatically from 1975 to 1976 and again from 1976 to the first nine months of 1977. There is also evidence showing a decline in capacity utilization of domestic firms and evidence showing sales lost by domestic manufacturers to the imported merchandise. Further there is information indicating that domestic manufacturers are being significantly undersold by Canadian imports, and that this margin of underselling would be eliminated by elimination of sales at less than fair value.

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

Dated: December 21, 1977.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 77-36916 Filed 12-28-77; 8:45 am]

[4810-40]

Office of the Secretary

[Supplement to Department Circular, Public Debt Series—No. 30-77]

7¼ PERCENT TREASURY NOTES OF SERIES X-1979

Announcement of Interest Rate

DECEMBER 22, 1977.

The Secretary of the Treasury announced on December 21, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 30-77, dated December 14, 1977, will be 7¼ percent per annum. Accordingly, the notes are hereby redesignated 7¼ percent Treasury Notes of Series X-1979. Interest on the notes will be payable at the rate of 7¼ percent per annum.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 77-37028 Filed 12-28-77; 8:45 a.m.]

[8320-01]

VETERANS ADMINISTRATION

HEALTH MANPOWER GRANTS REVIEW COMMITTEE

Consolidation

Consolidation of the Medical School Assistance Review Committee and the Health Manpower Training Assistance Review Committee into one committee, the Health Manpower Grants Review Committee.

The consolidation of these two active committees into one is in the public interest, and fits well into the plans for continuity of the activities originally authorized under the Veterans Administration Medical School Assistance and Health Manpower Training Act of 1972. It is the intent of this agency to establish this consolidated committee in fiscal year 1978 for the purpose of the meeting two times per year to review grants submitted under this authority. Therefore, this notice will serve to cancel the charters for the two presently active committees and to establish the charter for the new, consolidated committee.

The 15-day waiting period from the publication of this notice to the filing of the charter of the committee has been waived by the Committee Management Secretariat, GSA, under the provisions cited in paragraph 6.a. of OMB Circular A-63.

By direction of the Administrator.

Dated: December 23, 1977.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 77-37032 Filed 12-28-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[No. 36574]

RAILROADS SEEKING AUTHORIZATION TO WAIVE DEMURRAGE CHARGES CAUSE BY SEVERE WINTER WEATHER

Petition

DECEMBER 22, 1977.

In an order served August 12, 1977, the Commission granted specified rail carriers the right to waive a portion of demurrage charges caused by severe winter weather. (Published in the FEDERAL REGISTER, on August 19, 1977, Vol. 42, p. 41,948.) In that order, the Commission stated that other carriers who want to participate in the proposal could, upon notifying the Commis-

sion in writing of their intent to do so. In an order entered November 30, 1977 (published in the FEDERAL REGISTER on December 7, 1977, 42 FR 61910), a 30-day extension in time for the filing of claims was granted. By a letter filed December 16, 1977, the Canton Railroad Company notified the Commission of its intent to participate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-37072 Filed 12-28-77; 8:45 am]

[7035-01]

[No. 36782]

SOUTHERN RAILWAY CO. AND NORFOLK AND WESTERN RAILWAY CO.

Elimination of Walnut Cove, N.C., Interchange

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding.

SUMMARY: The Interstate Commerce Commission is instituting a proceeding pursuant to a joint petition filed by Southern Railway Co. and Norfolk and Western Railway Co. requesting permission to eliminate their Walnut Cove, N.C., interchange. North Carolina Utilities Commission also requested that a proceeding be instituted. Our permission for elimination of the Walnut Cove junction is required as a condition imposed by our order entered Nov. 25, 1949, in Finance Docket No. 16577, Southern Railway Co. Purchase, by which Southern Railway Co. was required to maintain routes via existing junctions of the Atlantic and Yadkin Railway Co. The purpose of the proposed elimination is to make local train operations more efficient and safer by transferring Walnut Cove interchange to nearby Winston-Salem, N.C. Changes in rates may also result from the propsed closing of the Walnut Cove interchange.

DATES: Persons wishing to participate must file statements of intent to participate on or before January 18, 1978.

ADDRESSES: Send statements of intent to participate to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275-7963 or 275-7656.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-37073 Filed 12-28-77; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 23, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 9, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 51146 (Sub-No. E26), filed January 8, 1976. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Paper and paper products* (except commodities in bulk) from points in New Hampshire to Evansville, Ind., Memphis, Tenn., East St. Louis, Ill., and Mobile Ala. and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 85, thence along Georgia Highway 85 to junction Georgia Highway 41, thence along Georgia Highway 41 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 27 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction Florida Highway 363, thence along Florida Highway 363 to its termination on the Gulf of Mexico, those points in Nebraska on, west, and south of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 183 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 281 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction South Dakota Highway 45, thence along South Dakota Highway 45 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line, those points in North Dakota on and west of a line beginning at the International Boundary of the United States and Canada and extending along North Dakota Highway 1 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction U.S. Highway 281, thence along U.S. Highway 281 to the North Dakota-South Dakota State line, and (1)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (1)(a) above to points in New Hampshire. Restriction: The authorities in (1)(a) above and (1)(b) above are restricted against the transportation of traffic originating at Nashua and Merrimack, N.H. (*Paxinos, Pa. and Nicholasville, Ky.)

(2)(a) *Paper and paper products* (except commodities in bulk) from those points in New Hampshire on and north of U.S. Highway 4 to Mobile, Ala. and Memphis, Tenn., and those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 93, thence along Georgia Highway 93 to the Georgia-Florida State line, and those points in Florida on and west of U.S. Highway 319, and (2)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (2)(a) above to points in the origin territory described in (2)(a) above. (*Paxinos, Pa. and Nicholasville, Ky.)

(3)(a) *Paper and paper products* (except commodities in bulk) from

those points in New Hampshire on and north of U.S. Highway 2 to Evansville, Ind., Memphis, Tenn., East St. Louis, Ill., and Mobile, Ala. and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, and Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 129 to junction Georgia Highway 53, thence along Georgia Highway 53 to junction Georgia Highway 11, thence along Georgia Highway 11 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along Florida Highway 145 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Florida Highway 84, thence along Florida Highway 84 to the Atlantic Ocean near Fort Lauderdale, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Nebraska-Iowa State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 25 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Nebraska State line, and those points in North Dakota on and west of North Dakota Highway 1, and (3)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (3)(a) above to points in the origin territory described in (3)(a) above. (*Paxinos, Pa. and Nicholasville, Ky.)

(4)(a) *Paper and paper products* (except commodities in bulk) from Hinsdale, N.H. to Evansville, Ind., Memphis, Tenn., Mobile, Ala., and East St. Louis, Ill. and points in Montana, Idaho, Washington, Oregon, California, Nevada, Utah, Wyoming, Colorado, Arizona, New Mexico, Texas, Oklahoma, Kansas, Missouri, Arkansas, Louisiana, Mississippi, and those points in Alabama on and north of U.S. Highway 78, those points in Illinois on and south of U.S. Highway 460, those points in North Dakota on, north, and west of a line beginning at the Minnesota-North Dakota State line and extending along U.S. Highway 10 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the North Dakota-South Dakota State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 25 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Nebraska State line, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Nebraska-Iowa State line, and those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 93, thence along Georgia Highway 93 to the Georgia-Florida State line, those points in Florida on and west of U.S. Highway 319, and (4)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (4)(a) above to Hinsdale, N.H. (*Paxinos, Pa. and Nicholasville, Ky.)

(5)(a) *Paper and paper products* (except commodities in bulk) from Claremont, N.H. to Evansville, Ind., Memphis, Tenn., Mobile, Ala., and East St. Louis, Ill. and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, those points in Alabama on and north of U.S. Highway 78, those points in Illinois on and south of U.S. Highway 460, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 19 to junction Florida Highway 361, thence along Florida Highway 361 to the Gulf of Mexico near Keatons Beach, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along Georgia Highway 11 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Georgia Highway 33, thence along Georgia Highway 33 to junction Georgia Highway 133, thence along Georgia Highway 133 to the Georgia-Florida State line, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Nebraska-Iowa State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 25 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Nebraska State line and extending along U.S. Highway 10 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the North Dakota-South Dakota State line, and (5)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (5)(a) above to Claremont, N.H. (*Paxinos, Pa. and Nicholasville, Ky.)

(6)(a) *Paper and paper products* (except commodities in bulk) from points in Vermont to Memphis, Tenn., Evansville, Ind., East St. Louis, Ill., and Mobile, Ala. and points in Mississippi, Louisiana, Arkansas, Texas, Oklahoma, Kansas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 85, thence along Georgia Highway 85 to junction Georgia Highway 41, thence along Georgia Highway 41 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 27 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction Florida Highway 363, thence along Florida Highway 363 to the Gulf of Mexico, those points in Missouri on and south of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 36 to junction Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Missouri-Illinois State line, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 385 to junction U.S. Highway 26, thence along U.S.

Highway 26 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Nebraska-Kansas State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 85 to junction U.S. Highway 385, thence along U.S. Highway 385 to the South Dakota-Nebraska State line, and those points in North Dakota on and west of U.S. Highway 85, and (6)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (6)(a) above to points in Vermont. Restriction: The authorities in (6)(a) above and (6)(b) above are restricted against the transportation of traffic originating at Gilman, Vt. (*Paxinos, Pa. and Nicholasville, Ky.)

(7)(a) *Paper and paper products* (except commodities in bulk) from those points in Vermont on and north of U.S. Highway 4 to Memphis, Tenn. and Mobile, Ala. and those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along Georgia Highway 11 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Georgia Highway 33, thence along Georgia Highway 33 to junction Georgia Highway 133, thence along Georgia Highway 133 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 221 to junction Florida Highway 361, thence along Florida Highway 361 to the Gulf of Mexico near Keatons Beach, and (7)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (7)(a) above to points in the origin territory described in (7)(a) above. Restriction: The authorities in (7)(a) above and (7)(b) above are restricted against the transportation of traffic originating at Gilman, Vt. (*Paxinos, Pa. and Nicholasville, Ky.)

(8)(a) *Paper and paper products* (except commodities in bulk) from those points in Vermont on and north of U.S. Highway 2 to Memphis, Tenn. and Mobile, Ala. and those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along Georgia Highway 11 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Georgia-Florida State line, and those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 129 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Florida Highway 52, thence along Florida Highway 52 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Florida Highway 70, thence along Florida Highway 70 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Atlantic Ocean near Miami, and (8)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (8)(a) above to points in the origin territory described in (8)(a) above. (*Paxinos, Pa. and Nicholasville, Ky.)

(9)(a) *Paper and paper products* (except commodities in bulk) from Brattleboro, Vt. to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala. and points in Mississippi, Louisiana, Arkansas, Missouri, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 93, thence along Georgia Highway 93 to the Georgia-Florida State line, and those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 319 to junction Florida Highway 363, thence along Florida Highway 363 to the Gulf of Mexico, and (9)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (9)(a) above to Brattleboro, Vt. (*Paxinos, Pa. and Nicholasville, Ky.)

(10)(a) *Paper and paper products* (except commodities in bulk) from East Ryegate, Vt. to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala. and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along Georgia Highway 11 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Georgia Highway 31, thence along Georgia Highway 31 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along Florida Highway 53 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Florida Highway 51, thence along Florida Highway 51 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Gulf of Mexico near Fort Myers, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 85 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Nebraska-Iowa State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 25 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Nebraska State line, and those points in North Dakota on, west, and north of a line beginning at the South Dakota-North Dakota State line and extending along North Dakota Highway 1 to junction U.S. Highway 2, thence along U.S. Highway 2 to the North Dakota-Minnesota State line, and (10)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (10)(a) above to East Ryegate, Vt. (*Paxinos, Pa. and Nicholasville, Ky.)

(11)(a) *Paper and paper products* (except commodities in bulk) from Sheldon Springs, Vt. to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala. and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Montana, Wyoming, New Mexico, Colorado, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 129 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction Georgia Highway 49, thence along Georgia Highway 49 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction Georgia Highway 125, thence along Georgia Highway 125 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 41 to junction U.S. Highway 98,

thence along U.S. Highway 98 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Florida Highway 84, thence along Florida Highway 84 to the Atlantic Ocean near Fort Lauderdale, those points in Nebraska on, west, and south of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 183 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 83 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 183, thence along U.S. Highway 183 to the South Dakota-Nebraska State line, and those points in North Dakota on and west of North Dakota Highway 3, and (11)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (11)(a) above to Sheldon Springs, Vt. (*Paxinos, Pa. and Nicholasville, Ky.)

(12)(a) *Paper and paper products* (except commodities in bulk), from points in Massachusetts to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala., and points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, New Mexico, Colorado, Oklahoma, Texas, Kansas, Missouri, Arkansas, Louisiana, Mississippi, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in North Dakota on, west, and north of a line beginning at the South Dakota-North Dakota State line and extending along North Dakota Highway 1 to junction U.S. Highway 2, thence along U.S Highway 2 to the North Dakota-Minnesota State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 281 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line, those points in Nebraska on, south, and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 183 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Nebraska-Iowa State line, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along Georgia Highway 11 to junction U.S. Highway 76, thence along U.S. Highway 76 to junction U.S. Highway 411, thence along U.S. Highway 411 to junction Georgia Highway 61, thence along Georgia Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, and those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along Florida Highway 65 to junction Florida Highway 67, thence along Florida Highway 67 to the Gulf of Mexico near Carrabelle, and (12)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (12)(a) above to points in Massachusetts. Restriction: The authorities in (12)(a) above and (12)(b) above are restricted against the transportation of traffic originating at Lee, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(13)(a) *Paper and paper products* (except commodities in bulk), from those points in Massachusetts on and east of U.S. Highway 75 to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala., and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along Georgia Highway 11 to junction U.S. Highway 76, thence along U.S. Highway 76 to junction U.S. Highway 411, thence along U.S. Highway 411 to junction Georgia Highway 61, thence along Georgia Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, and those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along Florida Highway 65 to junction Florida Highway 67, thence along Florida Highway 67 to the Gulf of Mexico near Carrabelle, and (13)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (13)(a) above to points in the origin territory described in (13)(a) above. (*Paxinos, Pa. and Nicholasville, Ky.)

(14)(a) *Paper and paper products* (except commodities in bulk), from Boston, Mass. to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala., and points in Mississippi, Louisiana, Arkansas, Texas, Missouri, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 85, thence along Georgia Highway 85 to junction Georgia Highway 41, thence along Georgia Highway 41 to junction Georgia Highway 45, thence along Georgia Highway 45 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, and those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 27 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction Florida Highway 363, thence along Florida Highway 363 to the Gulf of Mexico, and (14)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (14)(a) above to Boston, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(15)(a) *Paper and paper products* (except commodities in bulk), from Attleboro, Mass., to those points in Georgia on the west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 85, thence along Georgia Highway 85 to junction Alternate U.S. Highway 27, thence along Alternate U.S. Highway 27 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, and (15)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (15)(a) above to Attleboro, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(16)(a) *Paper and paper products* (except commodities in bulk), from Fitchburg, Mass., to those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 85, thence along Georgia Highway 85 to junction Georgia Highway 41, thence along Georgia Highway 41 to Georgia Highway 45, thence along Georgia Highway 45 to junction U.S. Highway 27, thence along U.S. High-

way 27 to the Georgia-Florida State line, and (16)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (16)(a) above to Fitchburg, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(17)(a) *Paper and paper products* (except commodities in bulk), from Monroe Bridge, Mass. to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala., and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, and Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 129 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 20, thence along Georgia Highway 20 to junction Georgia Highway 81, thence along Georgia Highway 81 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Georgia Highway 33, thence along Georgia Highway 33 to junction Georgia Highway 133, thence along Georgia Highway 133 to the Georgia-Florida State line, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 221 to junction Florida Highway 361, thence along Florida Highway 361 to the Gulf of Mexico near Keatons Beach, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Nebraska-Iowa State line, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 15 to junction South Dakota Highway 10, thence along South Dakota Highway 10 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Nebraska State line, those points in North Dakota on, north, and west of a line beginning at the South Dakota-North Dakota State line and extending along North Dakota Highway 18 to junction U.S. Highway 10, thence along U.S. Highway 10 to the North Dakota-Minnesota State line, and (17)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (17) (a) above to Monroe Bridge, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(18)(a) *Paper and paper products* (except commodities in bulk), from Holyoke, Mass. to Memphis, Tenn., and Mobile, Ala., and those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 411 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 19, thence along U.S. Highway 19 to the Georgia-Florida State line, and those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along Florida Highway 65 to junction Florida Highway 67, thence along Florida Highway 67 to the Gulf of Mexico near Carrabelle, and (18)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (18)(a) above to Holyoke, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(19)(a) *Paper and paper products* (except commodities in bulk), from Housatonic and South Lee, Mass., to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala., and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Florida on and west of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 319 to junction Florida Highway 363, thence along Florida Highway 363 to the Gulf of Mexico, and those points in Georgia on and west of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 19 to junction Georgia Highway 111, thence along Georgia Highway 111 to the Georgia-Florida State line, and (19)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (19)(a) above to Housatonic and South Lee, Mass. (*Paxinos, Pa. and Nicholasville, Ky.)

(20)(a) *Paper and paper products* (except commodities in bulk), from points in Connecticut to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala., and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on and north of U.S. Highway 78, those points in Florida on and west of U.S. Highway 231, those points in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 27 to the Georgia-Alabama State line, and (20)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (20)(a) above to points in Connecticut. (*Paxinos, Pa. and Nicholasville, Ky.)

(21)(a) *Paper and paper products* (except commodities in bulk), from points in New Jersey to Evansville, Ind., East St. Louis, Ill., and Memphis, Tenn., to points in Louisiana, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Utah, Wyoming, Montana, Idaho, Arizona, Nevada, California, Washington, Oregon, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on, west, and north of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction Secondary Alabama Highway 41, thence along Secondary Highway 41 to junction Alabama Highway 20, thence along Alabama Highway 20 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Tennessee State line, those points in Mississippi on and west of a line beginning at the Gulf of Mexico and extending along U.S. Highway 49 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Mississippi-Alabama State line, those points in Missouri on, south, and west of a line beginning at the Iowa-Missouri State line and extending along Missouri Highway 149 to junction Missouri Highway 6, thence along Missouri Highway 6 to the Mississippi River near West Quincy, and (21)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (21)(a) above to points in New Jersey. Restriction: The authorities in (21)(a) above and (21)(b) above are restricted against the transportation of traffic originating at Riegelsville, Milford, Hughesville, and Warren Glen, N.J. (*Paxinos, Pa. and Nicholasville, Ky.)

(22)(a) *Paper and paper products* (except commodities in bulk), from those points in New Jersey on and north of New Jersey Highway 70 to Evansville, Ind., East St. Louis, Ill.,

Memphis, Tenn., and Mobile, Ala., and points in Mississippi, Louisiana, Arkansas, Missouri, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, Oregon, California, Washington, and those points in Illinois on and south of U.S. Highway 460, those points in Alabama on, north, and west of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Tennessee State line, and those points in Florida on and west of U.S. Highway 29, and (22)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from the points in the destination territory described in (22)(a) above to points in the origin territory described in (22)(a) above. Restriction: The authorities in (22)(a) above and (22)(b) above are restricted against the transportation of traffic originating at Riegelsville, Milford, Hughesville, and Warren Glen, N.J. (*Paxinos, Pa. and Nicholasville, Ky.)

(23)(a) *Paper and paper products* (except commodities in bulk), from those points in New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along Interstate Highway 78 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 287, thence along Interstate Highway 287 to Raritan Bay, to Mobile, Ala. and those points in Alabama on and north of U.S. Highway 78, those points in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 27 to junction Georgia Highway 6, thence along Georgia Highway 6 to the Georgia-Alabama State line, and those points in Florida on and west of a line beginning at the Alabama-Florida State line and extending along Florida Highway 83 to junction U.S. Highway 331, thence along U.S. Highway 331 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Gulf of Mexico, and (23)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (23)(a) above to points in the origin territory described in (23)(a) above. (*Paxinos, Pa. and Nicholasville, Ky.)

(24)(a) *Paper and paper products* (except commodities in bulk), from Camden and Delair, N.J. to Memphis, Tenn., and Mobile, Ala., and those points in Alabama on, north, and west of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Tennessee State line, and those points in Florida on and west of U.S. Highway 29, and (24)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (24)(a) above to Camden and Delair, N.J. (*Paxinos, Pa. and Nicholasville, Ky.)

(25)(a) *Paper and paper products* (except commodities in bulk), from those points in Maryland on and east of Interstate Highway 81 and west of the Susquehanna River and Chesapeake Bay to points in Washington, California, Oregon, Utah, Arizona, New Mexico, Nevada, and those points in Montana on and west of U.S. Highway 91, those points in Idaho on, west, and south of a line beginning at the Montana-Idaho State line and extending along U.S. Highway 91 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Idaho-Wyoming State line, those points in Colorado on, south, and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction Colorado Highway 131, thence along Colorado Highway 131 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line, and those points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 287 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction Texas Highway 16, thence along Texas Highway 16 to junction Texas Highway 285, thence along Texas Highway 285 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction Texas Highway 186, thence along Texas Highway 186 to the Gulf of Mexico, and (25)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (25)(a) above to points in the origin territory described in (25)(a) above. (*Paxinos, Pa. and Nicholasville, Ky.)

(26)(a) *Paper and paper products* (except commodities in bulk), from Baltimore, Md. to Evansville, Ind. and Memphis, Tenn. and points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, Oklahoma, Texas, Arkansas, and those points in North Dakota on and west of U.S. Highway 85, those points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and Extending along U.S. Highway 85 to junction U.S. Highway 385, thence along U.S. Highway 385 to the South Dakota-Nebraska State line, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 385 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-Kansas State line, those points in Kansas on, south, and west of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 77 to junction Kansas Highway 9, thence along Kansas Highway 9 to junction U.S. Highway 159, thence along U.S. Highway 159 to the Kansas-Missouri State line, those points in Louisiana on and west of a line beginning at the Gulf of Mexico and extending along Louisiana Highway 333 to junction Louisiana Highway 82, thence along Louisiana Highway 82 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 165, thence along U.S. Highway 165 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Louisiana-Mississippi State line, those points in Mississippi on and west of a line beginning at the Louisiana-Mississippi State line near Vicksburg and extending along U.S. Highway 61 to junction Mississippi Highway 3, thence along Mississippi Highway 3 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction U.S. Highway 61, thence along U.S. Highway 61 to the Mississippi-Tennessee State line, those points in Illinois on and south of a line beginning at the Mississippi River near Chester and extending along Illinois Highway 3 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Indiana State line, and those points in Missouri on and south of a line beginning at the Kansas-Missouri State line and extending along Missouri Highway 2 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Missouri Highway 34, thence along Missouri Highway 34 to junction Missouri Highway 51, thence along Missouri Highway 51 to the Missouri-Illinois State line, and (26)(b) *equipment, materials, and supplies* used in the manufacture of distribution of paper and paper products

(except commodities in bulk) from points in the destination territory described in (26)(a) above to Baltimore, Md. (*Paxinos, Pa. and Nicholasville, Ky.)

(27)(a) *Paper and paper products* (except commodities in bulk), from Finksburg, Md. to Memphis, Tenn. and those points in Mississippi on and west of a line beginning at the Tennessee-Mississippi State line and extending along U.S. Highway 45 to junction Mississippi Highway 6, thence along Mississippi Highway 6 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Mississippi-Louisiana State line, and those points in Louisiana on and west of a line beginning at the Mississippi-Louisiana State line and extending along U.S. Highway 51 to juction U.S. Highway 61, thence along U.S. Highway 61 to junction Louisiana Highway 45, thence along Louisiana Highway 45 to the Gulf of Mexico, and (27)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (27)(a) above to Finksburg, Md. (*Paxinos, Pa. and Nicholasville, Ky.)

(28)(a) *Paper and paper products* (except commodities in bulk), from those points in Virginia on and east of Interstate Highway 95 to points in Washington, Oregon, California, Nevada, Idaho, Utah, and those points in Arizona on and west of a line beginning at the California-Arizona State line and extending along U.S. Highway 80 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Arizona Highway 64, thence along Arizona Highway 64 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Alternate U.S. Highway 89, thence along Alternate U.S. Highway 89 to the Arizona-Utah State line, those points in Colorado on and west of a line beginning at the the New Mexico-Colorado State line and extending along U.S. Highway 550 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction Colorado Highway 9, thence along Colorado Highway 9 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Colorado Highway 14, thence along Colorado Highway 14 to junction Colorado Highway 125, thence along Colorado Highway 125 to the Colorado-Wyoming State line, those points in Wyoming on and west of a line beginning at the Colorado-Wyoming State line and extending along Wyoming Highway 230 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Wyoming-Montana State line, and those points in Montana on and west of a line beginning at the Wyoming-Montana State line and extending along U.S. Highway 87 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Interstate Highway 15, thence along Interstate Highway 15 to the International Boundary of United States and Canada, and (28)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (28)(a) above to points in the origin territory described in (28)(a) above. Restriction: The authorities in (28)(a) above and (28)(b) above are restricted against the transportation of traffic originating at points in Fairfax and Prince Williams Counties, Va. (*Paxinos, Pa. and Nicholasville, Ky.)

(29)(a) *Paper and paper products* (except commodities in bulk) from Angola, Ind., to Memphis, Tenn., and Mobile, Ala., and points in Florida, Georgia, South Carolina, Mississippi, Louisiana, New Mexico, Arizona, California, and those points in Alabama on and north of U.S. Highway 78, those points in North Carolina on and south of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 1 to junction U.S. Highway 158, thence along U.S. Highway 158 to its termination on the Atlantic Ocean, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 52 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Virginia-North Carolina State line, those points in Arkansas on, south, and east of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 64 to junction Arkansas Highway 9, thence along Arkansas Highway 9 to the Arkansas-Missouri State line, those points in Oklahoma on and south of Interstate Highway 40, those points in Texas on, south, and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 287 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Texas-Oklahoma State line, those points in Colorado on, south, and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 50 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Colorado-New Mexico State line, those points in Utah on and south of a line beginning at the Nevada-Utah State line and extending along U.S. Highway 6 to junction Utah Highway 26, thence along Utah Highway 26 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Utah-Colorado State line, those points in Nevada on, west, and south of a line beginning at the Oregon-Nevada State line and extending along U.S. Highway 95 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Nevada Highway 46, thence along Nevada Highway 46 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah State line, those points in Oregon on and west of a line beginning at the Washington-Oregon State line and extending along U.S. Highway 395 to junction Oregon Highway 78, thence along Oregon Highway 78 to junction U.S. Highway 95, thence along U.S. Highway 95 to the Oregon-Nevada State line, and those points in Washington on and west of a line beginning at the International Boundary of United States and Canada and extending along Washington Highway 21 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Washington-Oregon State line, and (29)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (29)(a) above to Angola, Ind. Restriction: The authorities in (29)(a) above and (29)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(30)(a) *Paper and paper products* (except commodities in bulk) from Warsaw, Ind., to Memphis, Tenn., and Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, Mississippi, Louisiana, Arizona, California, and those points in Alabama on and north of U.S. Highway 78, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction Virginia Highway 33, thence along Virginia Highway 33 to its termination on the Chesapeake Bay, those points in Arkansas on and south of U.S. Highway 70, those points in Texas on and south of U.S. Highway 70, those points in Oklahoma on and south of U.S. Highway 70, those points in New Mexico on, west, and north of a line beginning at the New Mexico-Colorado State line and extending along U.S. Highway 550 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas State line, those points in Utah on,

south, and west of a line beginning at the Nevada-Utah State line and extending along U.S. Highway 50 to junction Utah Highway 26, thence along Utah Highway 26 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line, those points in Nevada on, south, and west of a line beginning at the Oregon-Nevada State line and extending along U.S. Highway 95 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Nevada Highway 8A, thence along Nevada Highway 8A to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah State line, those points in Oregon on and west of a line beginning at the Washington-Oregon State line and extending along U.S. Highway 395 to junction Oregon Highway 205, thence along Oregon Highway 205 to the Oregon-Nevada State line, and those points in Washington on and west of a line beginning at the international boundary of United States and Canada and extending along Washington Highway 21 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Washington-Oregon State line, and (30)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (30)(a) above to Warsaw, Ind. Restriction: The authorities in (30)(a) above and (30)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(31)(a) *Paper and paper products* (except commodities in bulk) from Plymouth, Ind., to Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, Louisiana, and those points in Alabama on and north of U.S. Highway 78, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction Virginia Highway 33, thence along Virginia Highway 33 to its termination on Chesapeake Bay, those points in Mississippi on, south, and east of a line beginning at the Mississippi River near Greenville and extending along U.S. Highway 82 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Mississippi Highway 30, thence along Mississippi Highway 30 to the Mississippi-Alabama State line, those points in Arkansas on and south of U.S. Highway 82, those points in Texas on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 380 to junction Interstate Highway 30, thence along Interstate Highway 30 to the Texas-Arkansas State line, those points in New Mexico on and south of a line beginning at the Arizona-New Mexico State line and extending along U.S. Highway 60 to junction U.S. Highway 380, thence along U.S. Highway 380 to the New Mexico-Texas State line, those points in Arizona on, south, and west of a line beginning at the Utah-Arizona State line and extending along U.S. Highway 89 to junction U.S. Highway 180, thence along U.S. Highway 180 to the Arizona-New Mexico State line, those points in Nevada on and south of a line beginning at the California-Nevada State line and extending along Nevada Highway 29 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Interstate Highway 15, thence along Interstate Highway 15 to the Arizona-Nevada State line, those points in California on and west of a line beginning at the Oregon-California State line and extending along U.S. Highway 97 to junction California Highway 89, thence along California Highway 89 to junction U.S. Highway 50, thence along U.S. Highway 50 to the California-Nevada State line, and those points in Oregon on, south, and west of a line beginning at the Pacific Ocean near Newport and extending along U.S. Highway 20 to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line, and (31)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (31)(a) above to Plymouth, Ind. Restriction: The authorities in (31)(a) above and (31)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(32)(a) *Paper and paper products* (except commodities in bulk), from Bloomington, Ind., to Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, Virginia, Maryland, Delaware, New Jersey, Rhode Island, Connecticut, Massachusetts, Maine, New Hampshire, Vermont, Arizona, California, Nevada, Utah, Idaho, Oregon, Washington, the District of Columbia, and those points in Alabama on, east, and north of a line beginning at the Tennessee-Alabama State line and extending along Alabama Highway 79 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line, those points in New York on the east of New York Highway 14, those points in Mississippi on the south of a line beginning at the Louisiana-Mississippi State line and extending along U.S. Highway 84 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Mississippi-Alabama State line, those points in Louisiana on and south of U.S. Highway 84, those points in Texas on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 380 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-Louisiana State line, those points in New Mexico on, west, and south of a line beginning at the Colorado-New Mexico State line and extending along U.S. Highway 550 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 380, thence along U.S. Highway 380 to the New Mexico-Texas State line, those points in Colorado on and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 50 to junction U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line, those points in Wyoming on and west of a line beginning at the Idaho-Wyoming State line and extending along Wyoming Highway 22 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Wyoming Highway 430, thence along Wyoming Highway 430 to the Wyoming-Colorado State line, and those points in Montana on, north, and west of a line beginning at the Wyoming-Montana State line and extending along U.S. Highway 212 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Montana Highway 16, thence along Montana Highway 16 to junction Montana Highway 200, thence along Montana Highway 200 to the Montana-North Dakota State line, and (32)(b) *equipment, materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (32)(a) above to Bloomington, Ind. Restriction: The authorities in (32)(a) above and (32)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(33)(a) *Paper and paper products* (except commodities in bulk), from Richmond, Ind., to Cairo, Ill., Memphis, Tenn., and Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, Louisiana, Mississippi, New Mexico, Texas, Colorado, Montana, Wyoming, Utah, Idaho, Arizona, Nevada, California, Oregon, Washington, and those points in Alabama on the north of U.S. Highway 78, those points in Arkansas on and south of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 64 to junction U.S. Highway 67, thence along U.S. Highway 67 to the Arkansas-Missouri State line, those points in Missouri on and south of a line beginning at the Arkansas-Missouri State line and extending along U.S. High-

way 67 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Illinois State line, those points in Oklahoma on and south of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 270 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Oklahoma-Arkansas State line, those points in Kansas on and west of U.S. Highway 83, those points in Nebraska on and west of a line beginning at the Wyoming-Nebraska State line and extending along U.S. Highway 26 to junction Nebraska Highway 71, thence along Nebraska Highway 71 to the Nebraska-Colorado State line, those points in North Dakota on, north, and west of a line beginning at the South Dakota-North Dakota State line and extending along North Dakota Highway 49 to junction North Dakota Highway 200, thence along North Dakota 200 to junction North Dakota Highway 3, thence along North Dakota Highway 3 to junction North Dakota Highway 5, thence along North Dakota Highway 5 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the International Boundary of United States and Canada, and (33)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (33)(a) above to Richmond, Ind. Restriction: The authorities in (33)(a) above and (33)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(34)(a) *Paper and paper products* (except commodities in bulk), from Vicennes, Ind., to points in Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Washington, Oregon, Nevada, California, the District of Columbia, and those points in Georgia on, south, and east of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 34 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 411, thence along U.S. Highway 411 to the Georgia-Tennessee State line, those points in Florida on and east of Florida Highway 79, those points in Arizona on and west of U.S. Highway 89, those points in Utah on, south, and west of a line beginning at the Nevada-Utah State line and extending along Interstate Highway 80 to junction Utah Highway 36, thence along Utah Highway 36 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Utah Highway 132, thence along Utah Highway 132 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line, those points in Idaho on and west of U.S. Highway 191, those points in Montana on, west, and north of a line beginning at the Wyoming-Montana State line and extending along U.S. Highway 191 to junction Montana Highway 200, thence along Montana Highway 200 to the Montana-North Dakota State line, and (34)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (34)(a) above to Vincennes, Ind. Restriction: The authorities in (34)(a) above and (34)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(35)(a) *Paper and paper products* (except commodities in bulk), from Kokomo and Marion, Ind., to Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, Louisiana, Arizona, Nevada, California, Washington, Oregon, and those points in Alabama on and north of U.S. Highway 78, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway 360, thence along U.S. Highway 360 to its termination on the Chesapeake Bay, those points in Mississippi on, south, and east of a line beginning at the Arkansas-Mississippi State line and extending along U.S. Highway 82 to junction Mississippi Highway 7, thence along Mississippi Highway 7 to junction Mississippi Highway 30, thence along Mississippi Highway 30 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Mississippi-Tennessee State line, those points in Arkansas on and south of U.S. Highway 82, those points in Texas on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 380 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Texas-Oklahoma State line, those points in New Mexico on, west, and south of a line beginning at the Colorado-New Mexico State line and extending along U.S. Highway 550 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 380, thence along U.S. Highway 380 to the New Mexico-Texas State line, those points in Utah on and south of a line beginning at the Nevada-Utah State line and extending along U.S. Highway 6 to junction Utah Highway 26, thence along Utah Highway 26 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 163, thence along U.S. Highway 163 to junction U.S. Highway 666, thence along U.S. Highway 666 to the Utah-Colorado State line, those points in Idaho on and west of U.S. Highway 93, those points in Montana on and west of U.S. Highway 93, and (35)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (35)(a) above to Kokomo and Marion, Ind. Restriction: The authorities in (35)(a) above and (36)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(36)(a) *Paper and paper products* (except commodities in bulk), from Eaton, Ind., to Memphis, Tenn., and Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, Mississippi, Louisiana, New Mexico, Utah, Nevada, California, Oregon, Idaho, Washington, Arizona, and those points in Alabama on and north of U.S. Highway 78, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction Virginia Highway 33, thence along Virginia Highway 33 to its termination on the Chesapeake Bay, those points in Arkansas on and south of a line beginning at the Oklahoma-Arkansas State line and extending along Arkansas Highway 28 to junction Arkansas Highway 60, thence along Arkansas Highway 60 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Tennessee State line, those points in Oklahoma on, south, and east of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 271 to junction U.S. Highway 270, thence along U.S. Highway 270 to the Oklahoma-Arkansas State line, those points in Texas on, south, and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 287 to junction Texas Highway 79, thence along Texas Highway 79 to the Texas-Oklahoma State line, those points in Colorado on, south, and west of a line beginning at the Wyoming-Colorado State line and extending along Colorado Highway 13 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Colorado-Oklahoma State line, those points in Wyoming on, south, and west of a line beginning at the Idaho-Wyoming State line and extending along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Wyoming Highway 430, thence along Wyoming Highway 430 to the Wyoming-Colorado State line, and those points in Montana on and west

of a line beginning at the International Boundary of United States and Canada and extending along Montana Highway 233 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Montana-Wyoming State line, and (36)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (36)(a) above to Eaton, Ind. Restriction: The authorities in (36)(a) above and (36)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(37)(a) *Paper and paper products* (except commodities in bulk), from Michigan City and Hebron, Ind., to Mobile, Ala., and points in Florida, Georgia, North Carolina, South Carolina, and those points in Alabama on and north of U.S. Highway 78, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay, those points in Mississippi on, south, and east of a line beginning at the Louisiana-Mississippi State line and extending along U.S. Highway 84 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to junction Mississippi Highway 25, thence along Mississippi Highway 25 to the Mississippi-Tennessee State line, those points in Louisiana on and south of U.S. Highway 84, those points in Texas on and south of a line beginning at the International Boundary of United States and Mexico and extending along U.S. Highway 67 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-Louisiana State line, those points in Arizona on and south of a line beginning at the Nevada-Arizona State line and extending along Arizona Highway 68 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Arizona-New Mexico State line, and those points in California on, west, and south of a line beginning at the Oregon-California State line and extending along U.S. Highway 101 to junction California Highway 36, thence along California Highway 36 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line, and (37)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (37)(a) above to Michigan City and Hebron, Ind. Restriction: The authorities in (37)(a) above and (37)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(38)(a) *Paper and paper products* (except commodities in bulk), from Newport, Ind. to Mobile, Ala. and points in Florida, Georgia, North Carolina, South Carolina, Delaware, Connecticut, Rhode Island, Maine, California, the District of Columbia, and those points in Alabama on, east, and north of a line beginning at the Georgia-Alabama State line and extending along U.S. Highway 11 to junction Alabama Highway 77, thence along Alabama Highway 77 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line, those points in Virginia on, south, and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 460 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 211, thence along U.S. Highway 211 to the Potomac River near Washington, D.C., those points in Maryland on and east of Interstate Highway 95, those points in New Jersey on and east of U.S. Highway 1, those points in New York on, east, and south of a line beginning at the New Jersey-New York State line and extending along Interstate Highway 87 to junction New York Highway 23, thence along New York Highway 23 to the New York-Massachusetts State line, those points in Massachusetts on and east of Interstate Highway 91, those points in New Hampshire on and east of a line beginning at the Vermont-New Hampshire State line and extending along New Hampshire Highway 11 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to junction New Hampshire Highway 16, thence along New Hampshire Highway 16 to the New Hampshire-Maine State line, those points in Texas on and south of a line beginning at the International Boundary of United States and Mexico and extending along U.S. Highway 90 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction Texas Highway 44, thence along Texas Highway 44 to the Gulf of Mexico, those points in Oregon on and west of U.S. Highway 395, and those points in Washington on and west of U.S. Highway 395, and (38)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (38)(a) above to Newport, Ind. Restriction: The authorities in (38)(a) above and (38)(b) above and restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(39)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk) from Richmond, Va. to points in Minnesota, Iowa, Wisconsin, Illinois (except Chicago and East St. Louis and points in their Commercial Zones and except points on and south of U.S. Highway 460), those points in Indiana on and west of a line beginning at the Michigan-Indiana State line and extending along Indiana Highway 15 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Indiana-Ohio State line (except Evansville and points in its Commercial Zone), those points in Michigan on, north, and west of a line beginning at Little Bay de Noc near Escanaba and extending along U.S. Highway 2 to junction Michigan Highway 117, thence along Michigan Highway 117 to junction Michigan Highway 28, thence along Michigan Highway 28 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary of United States and Canada, and those points in the Lower Peninsula of Michigan on and west of a line beginning at Lake Michigan and extending along Michigan Highway 140 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Michigan Highway 40, thence along Michigan Highway 40 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Michigan Highway 103, thence along Michigan Highway 103 to the Michigan-Indiana State line, those points in Ohio on and west of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 33 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Ohio Highway 122, thence along Ohio Highway 122 to junction Ohio Highway 48, thence along Ohio Highway 48 to junction U.S. Highway 42, thence along U.S. Highway 42 to the Ohio-Kentucky State line, those points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 27 to junction Kentucky Highway 36, thence along Kentucky Highway 36 to junction Kentucky Highway 11, thence along Kentucky Highway 11 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line,

those points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 53 to junction Tennessee Highway 96, thence along Tennessee Highway 96 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line (except Memphis and points in its Commercial Zone), and (39)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (39)(a) above to Richmond, Va. Restriction: The authorities in (39)(a) above and (39)(b) above are restricted against the transportation of (a) pulpboard, pulpboard products, and waste paper from and to points in Illinois, Ohio, Indiana, Kentucky, Minnesota, and the Lower Peninsula of Michigan; and (b) paper and paper products originating at Lockland, Hamilton, Cincinnati, and Middletown, Ohio and Florence, Ky. (*Nicholasville, Ky.)

(40)(a) *Equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from West Point, Va. to points in Minnesota, Iowa, Wisconsin, and points in Illinois (except Chicago and East St. Louis and points in their Commercial Zones and except points on and south of U.S. Highway 460), those points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 53 to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line (except Memphis and points in its Commercial Zone), those points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line near Maysville and extending along Kentucky Highway 11 to junction Kentucky Highway 92, thence along Kentucky Highway 92 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line, those points in Ohio on and west of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 33 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Ohio Highway 49, thence along Ohio Highway 49 to junction Ohio Highway 48, thence along Ohio Highway 48 to junction Ohio Highway 28, thence along Ohio Highway 28 to junction Ohio Highway 133, thence along Ohio Highway 133 to the Ohio River, points in Indiana (except Evansville and points in its Commercial Zone and except points north and east of a line beginning at the Michigan-Indiana State line and extending along U.S. Highway 31 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Indiana Highway 15, thence along Indiana Highway 15 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Indiana-Ohio State line), those points in the Lower Peninsula of Michigan on and west of a line beginning at Lake Michigan near St. Joseph and extending along U.S. Highway 31 to the Michigan-Indiana State line, and those points in the Upper Peninsula of Michigan on and west of a line beginning at Lake Superior near Munising and extending along unnumbered highway to Lake Michigan near Fairport, and (40)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (40)(a) above to West Point, Va. Restriction: The authorities in (40)(a) above and (40)(b) above are restricted against the transportation of (a) pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and the Lower Peninsula of Michigan, and (b) paper and paper products originating at Lockland, Hamilton, Cincinnati, and Middletown, Ohio and Florence, Ky. (*Nicholasville, Ky.)

(41)(a) *Paper and paper products* (except commodities in bulk), from Urbana, Ohio to Memphis, Tenn. and Mobile, Ala. and points in Arkansas, Louisiana, Mississippi, Florida, Georgia, South Carolina, those points in Alabama on and north of U.S. Highway 78, and those points in North Carolina on and south of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 421 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean, and (41)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (41)(a) above to Urbana, Ohio. Restriction: The authorities in (41)(a) above and (41)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(42)(a) *Paper and paper products* (except commodities in bulk), from Bucyrus, Ohio to Mobile, Ala. and points in Arkansas, Mississippi, Louisiana, Florida, Georgia, South Carolina, those points in Alabama on and north of U.S. Highway 78, and those points in North Carolina on, south, and west of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 321 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction North Carolina Highway 731, thence along North Carolina Highway 731 to junction North Carolina Highway 211, thence along North Carolina Highway 211 to junction U.S. Highway 74, thence along U.S. Highway 74 to Onslow Bay near Wilmington, and (42)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (42)(a) above to Bucyrus, Ohio. Restriction: The authorities in (42)(a) above and (42)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(43)(a) *Paper and paper products* (except commodities in bulk), from Columbus, Ohio to Mobile, Ala. and Memphis, Tenn. and points in Mississippi, Louisiana, Arkansas, Florida, Georgia, those points in Alabama on and north of U.S. Highway 78, those points in South Carolina on and southwest of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 521 to junction South Carolina Highway 341, thence along South Carolina Highway 341 to junction South Carolina Highway 512, thence along South Carolina Highway 512 to junction U.S. Highway 701, thence along U.S. Highway 701 to Winyah Bay near Georgetown, and those points in North Carolina on and southwest of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 23 to junction U.S. Highway 74, thence along U.S. Highway 74 to junction North Carolina Highway 274, thence along North Carolina Highway 274 to the North Carolina-South Carolina State line, and (43)(b) *equipment, materials, and supplies,* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (43)(a) above to Columbus, Ohio. Restriction: The authorities in (43)(a) above and (43)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper (*Nicholasville, Ky.)

(44)(a) *Paper and paper products* (except commodities in bulk), from Erie, Pa. to Memphis, Tenn. and Mobile, Ala. and points in Arkansas, Louisiana, Mississippi, Florida, Georgia, those points in Alabama on and north of U.S. Highway 78, those points in South Carolina on and southwest of Interstate Highway 26, and those points in North Carolina on and southwest of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 23 to junction Interstate Highway 26,

thence along Interstate Highway 26 to the North Carolina-South Carolina State line, and (44)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (44)(a) above to Erie, Pa. (*Nicholasville, Ky.)

(45)(a) *Paper and paper products* (except commodities in bulk), from Spring Grove, Pa. to Memphis, Tenn. and Mobile, Ala. and points in Mississippi, Arkansas, Louisiana, and those points in Alabama on and north of U.S. Highway 78, those points in Florida on and west of Florida Highway 71, and those points in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 27 to junction Georgia Highway 100, thence along Georgia Highway 100 to junction Georgia Highway 166, thence along Georgia Highway 166 to the Georgia-Alabama State line, and (45)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (45)(a) above to Spring Grove, Pa. (*Nicholasville, Ky.)

(46)(a) *Paper and paper products* (except commodities in bulk), from Lancaster, Pa. to Memphis, Tenn. and Mobile, Ala. and points in Mississippi, Arkansas, Louisiana, and those points in Alabama on and north of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction Alabama Highway 74, thence along Alabama Highway 74 to the Alabama-Georgia State line, those points in Florida on and west of Florida Highway 71, and those points in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 27 to Georgia Highway 6, thence along Georgia Highway 6 to the Georgia-Alabama State line, and (46)(b) *equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (46)(a) above to Lancaster, Pa. (*Nicholasville, Ky.)

(47)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Charleston, S.C. to points in Minnesota, Iowa, Michigan, Wisconsin, points in Indiana (except Evansville and points in its Commercial Zone), points in Illinois (except points in the East St. Louis and Chicago Commercial Zones and except points on and south of U.S. Highway 460), those points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 426 to junction Pennsylvania Highway 277, thence along Pennsylvania Highway 277 to junction Pennsylvania Highway 77, thence along Pennsylvania Highway 77 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Pennsylvania Highway 168, thence along Pennsylvania Highway 168 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Pennsylvania-Ohio State line, those points in Ohio on, west, and north of a line beginning at the Kentucky-Ohio State line near Ironton and extending along Ohio Highway 93 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction Ohio Highway 39, thence along Ohio Highway 39 to the Ohio-West Virginia State line, those points in Kentucky on, north, and west of a line beginning at the Tennessee-Kentucky State line and extending along Kentucky Highway 163 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 461, thence along Kentucky Highway 461 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Interstate Highway 64, thence along Interstate Highway 64 to the Kentucky-West Virginia State line, and (47)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (47)(a) above to Charleston, S.C. Restriction: The authorities in (47)(a) above and (47)(b) above are restricted against the transportation (a) of pulpboard, pulpboard products, and waste paper from or to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and points in that part of Michigan on and south of Michigan Highway 21, and (b) of paper and paper products originating at Lockland, Cincinnati, Hamilton, Middletown, and Cleveland, Ohio and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(48)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk) from St. Marys, Ga. to points in Minnesota, Wisconsin, Iowa, Michigan, Ohio, points in Illinois (except Chicago and East St. Louis and points in their Commercial Zones and except points on and south of U.S. Highway 460), points in Indiana (except points in the Evansville Commercial Zone), and those points in Pennsylvania on, north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along U.S. Highway 40 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 449, thence along Pennsylvania Highway 449 to the Pennsylvania-New York State line, those points in West Virginia on and north of U.S. Highway 40, those points in Kentucky on and north of a line beginning at the Indiana-Kentucky State line and extending along Kentucky Highway 54 to junction Kentucky Highway 259, thence along Kentucky Highway 259 to junction Kentucky Highway 88, thence along Kentucky Highway 88 to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Kentucky Highway 40, thence along Kentucky Highway 40 to the Kentucky-West Virginia State line, and (48)(b) *paper and paper products* (except commodities in bulk) from points in the destination territory described in (48)(a) above to St. Marys, Ga. Restriction: The authorities in (48)(a) above and (48)(b) above are restricted against the transportation of (a) pulpboard, pulpboard products, and waste paper from or to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and points in that part of Michigan on and south of Michigan Highway 21, and (b) paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio and Florence, Ky. and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(49)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk) from those points in Florida on and west of U.S. Highway 231 to points in Ohio, Michigan, Wisconsin, those points in Minnesota on, north, and east of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 30 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line, those points in Iowa on, north, and east of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 69 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Mississippi River near Guttenberg, those points in Illinois on, north, and east of a line beginning at the Mississippi River near Savannah and extending along U.S. Highway 52 to junction Illinois High-

way 47, thence along Illinois Highway 47 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 49, thence along Illinois Highway 49 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Indiana-Illinois State line (except Chicago and points in its Commercial Zone), those points in Indiana on, north, and east of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Indiana-Kentucky State line, those points in Kentucky on and north of a line beginning at the Indiana-Kentucky State line and extending along Kentucky Highway 44 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 119, thence along U.S. Highway 119 to the Kentucky-West Virginia State line, those points in West Virginia on and north of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 119 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, and those points in Pennsylvania on, north, and west of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 11 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Interstate Highway 276, thence along Interstate Highway 276 to the Pennsylvania-New Jersey State line, and (49)(b) *Paper and paper products* (except commodities in bulk), from points in the destination territory described in (49)(a) above to points in the origin territory described in (49)(a) above. Restriction: The authorities in (49)(a) above and (49)(b) above are restricted against the transportation of (a) pulpboard, pulpboard products, and waste paper from or to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and that part of Michigan on and south of Michigan Highway 21, and (b) paper and paper products originating at Lockland, Hamilton, Cincinnati, Cleveland, and Middletown, Ohio and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(50) *Paper and paper products* (except commodities in bulk), from Hamilton, Ohio to Memphia, Tenn. and Mobile, Ala. and points in Mississippi, Florida, Georgia, South Carolina, those points in Alabama on and north of U.S. Highway 78, and those points in North Carolina on, south, and west of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 158, thence along U.S. Highway 158 to Albermarle Sound near Point Harbor. Restriction: The above authority is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Richmond, Ind. and Nicholasville, Ky.)

(51)(a) *Paper and paper products* (except commodities in bulk) from those points in Kentucky on and west of U.S. Highway 41 to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Washington, the District of Columbia, and those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 52 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line, those points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 220 to junction U.S. Highway 421, thence along U.S. Highway 421 to Onslow Bay near Wilmington, those points in Oregon on and west of a line beginning at the Washington-Oregon State line and extending along U.S. Highway 197 to junction U.S. Highway 97, thence along U.S. Highway 97 to the California-Oregon-Washington State line, those points in California on, north, and west of a line beginning at the Pacific Ocean near San Francisco and extending along Interstate Highway 80 to junction California Highway 99, thence along California Highway 99 to junction Interstate Highway 5, thence along Interstate Highway 5 to the California-Oregon State line, those points in Idaho on and west of a line beginning at the Washington-Idaho State line near Lewiston and extending along U.S. Highway 95 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Idaho-Montana State line, and those points in Montana on and north of a line beginning at the Idaho-Montana State line and extending along U.S. Highway 2 to junction U.S. Highway 91, thence along U.S. Highway 91 to the International Boundary Line of the United States and Canada, and (51)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (51)(a) above to points in the origin territory described in (51)(a) above. Restriction: The authorities in (51)(a) and (51)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(52)(a) *Paper and paper products* (except commodities in bulk) from those points in Kentucky bounded by a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 41 to the Kentucky-Tennessee State line, thence along the Kentucky-Tennessee State line to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line, thence along the Kentucky-Indiana State line to point of beginning, to points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Washington, Oregon, California, Nevada, the District of Columbia, and those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 52 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line, those points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 220 to junction U.S. Highway 421, thence along U.S. Highway 421 to Onslow Bay near Wilmington, those points in Idaho on and west of a line beginning at the Montana-Idaho State line and extending along U.S. Highway 91 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Idaho-Utah State line, those points in Montana on, west, and north of a line beginning at the Idaho-Montana State line and extending along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Montana Highway 16, thence along Montana Highway 16 to junction Montana Highway 200, thence along Montana Highway 200 to the Montana-North Dakota State line, and those points in Arizona bounded by a line beginning at the Nevada-Arizona State line and extending along U.S. Highway 93 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Arizona-California State line, thence along the Arizona-California State line to junction Arizona-Nevada State line, thence along the Arizona-Nevada State line to point of beginning, and (52)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (52)(a) above to points in the origin territory described in (52)(a) above. Restriction: The authorities in (52)(a) above and (52)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(53)(a) *Paper and paper products* (except commodities in bulk) from those points in Kentucky bounded by a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 25 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-Indiana State line, thence along the Kentucky-Indiana State line to junction Kentucky-Ohio State line, thence along the Kentucky-Ohio State line to point of beginning, to Mobile, Ala. and points in California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Texas, Florida, North Carolina, South Carolina, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Washington, Oregon, the District of Columbia, and those points in Nebraska on, north, and west of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line, those points in Kansas on and west of U.S. Highway 81, those points in Oklahoma on, south, and west of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 77 to junction U.S. Highway 177, thence along U.S. Highway 177 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Oklahoma-Texas State line, those points in Louisiana on, south, and west of a line beginning at the Arkansas-Louisiana State line and extending along U.S. Highway 167 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Louisiana-Mississippi State line, those points in Arkansas on, south, and west of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 62 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to the Arkansas-Louisiana State line, those points in Mississippi on and south of a line beginning at the Louisiana-Mississippi State line and extending along U.S. Highway 80 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Mississippi-Alabama State line, those points in Georgia on, south, and east of U.S. Highway 411, those points in Virginia on and south of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 3, thence along Virginia Highway 3 to the Potomac River near Stratford, those points in Maryland on and east of U.S. Highway 13, those points in Delaware on and east of a line beginning at the Maryland-Delaware State line and extending along U.S. Highway 13 to junction Delaware Highway 8, thence along Delaware Highway 8 to the Delaware River, those points in New Jersey on, north, and east of a line beginning at the New Jersey-New York State line and extending along New Jersey Highway 17 to junction Secondary New Jersey Highway 7, thence along Secondary New Jersey Highway 7 to junction Garden State Parkway, thence along Garden State Parkway to junction U.S. Highway 1, thence along U.S. Highway 1 to the Hudson River near Jersey City, and those points in New York on, east, and south of a line beginning at the International Boundary Line of the United States and Canada and extending along New York Highway 37 to junction New York Highway 56, thence along New York Highway 56 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction Interstate Highway 87, thence along Interstate Highway 87 to the New York-New Jersey State line, and (53)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (53)(a) above to points in the origin territory described in (53)(a) above. Restriction: The authorities in (53)(a) above and (53)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper, and further restricted against the transportation of traffic originating at Florence, Ky. and points in its Commercial Zone and points in Kentucky within the Cincinnati, Ohio Commercial Zone as defined by the Commission. (*Nicholasville, Ky.)

(54)(a) *Paper and paper products* (except commodities in bulk), from those points in Kentucky bounded by a line beginning at the Kentucky-Tennessee State line and extending along Interstate Highway 65 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 25, thence along U.S. Highway 25 to the Kentucky-Tennessee State line, thence along the Kentucky-Tennessee State line to point of beginning to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, North Dakota, South Dakota, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Nebraska Highway 21, thence along Nebraska Highway 21 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Nebraska-Kansas State line, those points in Kansas on, north, and west of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 83 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Kansas Highway 27, thence along Kansas Highway 27 to junction Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line, those points in Colorado on and northwest of a line beginning at the New Mexico-Colorado State line and extending along Interstate Highway 25 to junction U.S. Highway 350, thence along U.S. Highway 350 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Kansas State line, those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line and extending along Interstate Highway 25 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line, those points in Texas on and west of U.S. Highway 54, and those points in New Jersey on and north of New Jersey Highway 33, and (54)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (54)(a) above to points in the origin territory described in (54)(a) above. Restriction: The authorities in (54)(a) above and (54)(b) above are restricted against the transportation of pulpboard, pulpboard products and waste paper. (*Nicholasville, Ky.)

(55)(a) *Paper and paper products* (except commodities in bulk), from those points in Kentucky bounded by a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 25 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Kentucky-Ohio State line, thence along the Kentucky-Ohio State line to point of beginning to Memphis, Tenn. and Mobile, Ala. and points in Georgia, Florida, South Carolina, Mississippi, Louisiana, Arkansas, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, and those points in Alabama on and north of U.S. Highway 78, those points in North Carolina

on and southeast of a line beginning at the Tennessee-North Carolina State line and extending along Interstate Highway 40 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 158, thence along U.S. Highway 158 to junction U.S. Highway 29, thence along U.S. Highway 29 to the North Carolina-Virginia State line, those points in Virginia on and south of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 29, to Junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 258, thence along U.S. Highway 258 to Chesapeake Bay near Norfolk, those points in Illinois on and south of a line beginning at the Mississippi River near Chester and extending along Illinois Highway 3 to junction Illinois Highway 146, thence along Illinois Highway 146 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Illinois-Kentucky State line, those points in Missouri on and south of a line beginning at the Kansas-Missouri State line near St. Joseph and extending along U.S. Highway 36 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Missouri-Illinois State line, and (55)(b) *equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (55)(a) above to points in the origin territory described in (55)(a) above. Restriction: The authorities in (55)(a) above and (55)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper, and further restricted against the transportation of traffic originating at points in the Cincinnati, Ohio Commercial Zone as defined by the Commission which lie in Kentucky, and at Florence, Ky. and points in its Commercial Zone as defined by the Commission. (*Nicholasville, Ky.)

(56)(a) *Paper and paper products* (except commodities in bulk), from those points in Kentucky on and east of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 68 to junction U.S. Highway 25, thence along U.S. Highway 25 to the Kentucky-Tennessee State line to Memphis, Tenn., East St. Louis, Ill., and Evansville, Ind. and points in Missouri, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, Oregon, Washington, California, Arkansas, and those points in Illinois on and south of U.S. Highway 460, those points in Mississippi on and west of a line beginning at the Tennessee-Mississippi State line and extending along U.S. Highway 61 to junction Mississippi Highway 3, thence along Mississippi Highway 3 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction U.S. Highway 82, thence along U.S. Highway 82 to the Mississippi River near Greenville, those points in Louisiana on, west, and north of a line beginning at the Arkansas-Louisiana State line and extending along U.S. Highway 165 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Louisiana-Texas State line, and (56)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (56)(a) above to points in the origin territory described in (56)(a) above. Restriction: The authorities in (56)(a) above and (56)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(57)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Hopewell, Va. to points in Minnesota, Iowa, Wisconsin, Illinois (except Chicago and East St. Louis and points in their Commercial Zones and except points on and south of U.S. Highway 460), Indiana (except Evansville and points in its Commercial Zone and except points north and east of a line beginning at the Michigan-Indiana State line and extending along U.S. Highway 33 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Indiana Highway 28, thence along Indiana Highway 28 to the Indiana-Ohio State line), those points in the Upper Peninsula of Michigan on, west, and north of a line beginning at Lake Michigan near Manistique and extending along U.S. Highway 2 to junction Michigan Highway 117, thence along Michigan Highway 117 to junction Michigan Highway 28, thence along Michigan Highway 28 to junction Interstate Highway 75, thence along Interstate Highway 75 to Sault Ste. Marie, those points in the Lower Peninsula of Michigan on and west of a line beginning at Lake Michigan near St. Joseph and extending along U.S. Highway 31 to the Michigan-Indiana State line, those points in Ohio on and west of a line beginning at the Indiana-Ohio State line near Union City and extending along Ohio Highway 571 to junction Ohio Highway 49, thence along Ohio Highway 49 to junction Ohio Highway 48, thence along Ohio Highway 48 to junction Ohio Highway 132, thence along Ohio Highway 132 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Ohio River near Aberdeen, those points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 68 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line, and those points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 42 to junction U.S. Highway 70S, thence along U.S. Highway 70S to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line (except Memphis and points in its Commercial Zone), and (57)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (57)(a) above to Hopewell, Va. Restriction: The authorities in (57)(a) above and (57)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and the Lower Peninsula of Michigan, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, and Middletown, Ohio, and Florence, Ky. and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(58)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Florence, S.C. to points in Minnesota, Iowa, Wisconsin, Michigan, Illinois (except Chicago and East St. Louis, and points in their Commercial Zones as defined by the Commission, and except points on and south of U.S. Highway 460), Indiana (except Evansville and points in its Commercial Zone as defined by the Commission), and those points in Ohio on and west of a line beginning at Lake Erie near Sandusky and extending along U.S. Highway 250 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction Interstate Highway 71, thence along Interstate Highway 71 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Ohio River near Aberdeen, those points in

Kentucky on and west of a line beginning at the Ohio-Kentucky State line near Maysville and extending along U.S. Highway 68 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Kentucky-Tennessee State line, and those points in Tennessee on, north, and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 79 to junction Tennessee Highway 54, thence along Tennessee Highway 54 to junction Tennessee Highway 22, thence along Tennessee Highway 22 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Tennessee Highway 20, thence along Tennessee Highway 20 to the Tennessee-Missouri State line, and (58)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (58)(a) above to Florence, S.C. Restriction: The authorities in (58)(a) above and (58)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, and Middletown, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(59)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Lumberton, N.C., to points in Minnesota, Iowa, Wisconsin, Michigan, Illinois (except Chicago and East St. Louis, and points in their Commercial Zones as defined by the Commission, and except points on and south of U.S. Highway 460), Indiana (except points in the Evansville Commercial Zone), those points in Ohio on and west of a line beginning at Lake Erie near Catawba Island and extending along Ohio Highway 53 to junction Ohio Highway 67, thence along Ohio Highway 67 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Ohio Highway 72, thence along Ohio Highway 72 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Ohio River near Aberdeen, those points in Kentucky on, north, and west of a line beginning at the Ohio River near Maysville and extending along U.S. Highway 68 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Kentucky-Tennessee State line, and those points in Tennessee on, north, and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 79 to junction Tennessee Highway 54, thence along Tennessee Highway 54 to junction Tennessee Highway 22, thence along Tennessee Highway 22 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Tennessee Highway 20, thence along Tennessee Highway 20 to the Tennessee-Missouri State line, and (59)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (59)(a) above to Lumberton, N.C. Restriction: The authorities in (59)(a) above and (59)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, and Middletown, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(60)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Franklin, Va., to points in Minnesota, Iowa, Wisconsin, Illinois (except Chicago and East St. Louis and points in their Commercial Zones as defined by the Commission and except points on and south of U.S. Highway 460), those points in Michigan on and west of a line beginning at Lake Michigan near Mackinaw City and extending along Interstate Highway 75 to junction Michigan Highway 32, thence along Michigan Highway 32 to junction U.S. Highway 131, thence along U.S. Highway 131 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Michigan Highway 66, thence along Michigan Highway 66 to the Michigan-Indiana State line, points in Indiana except Evansville and points in its Commercial Zone and except points east of a line beginning at the Michigan-Indiana State line and extending along Indiana Highway 9 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Indiana Highway 28, thence along Indiana Highway 28 to the Indiana-Ohio State line, those points in Ohio on, south, and west of a line beginning at the Indiana-Ohio State line and extending along Ohio Highway 571 to junction Ohio Highway 49, thence along Ohio Highway 49 to junction Ohio Highway 48, thence along Ohio Highway 48 to junction Ohio Highway 132, thence along Ohio Highway 132 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Ohio River near Aberdeen, those points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line near Maysville and extending along U.S. Highway 68 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line, and those points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 31E to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 43, thence along U.S. Highway 43 to the Tennessee-Alabama State line (except Memphis and points in its Commercial Zone as defined by the Commission), and (60)(b) *Paper and paper products* (except commodities in bulk), from points in the destination territory described in (60)(a) above to Franklin, Va. Restriction: The authorities in (60)(a) above and (60)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, and Middletown, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission (*Nicholasville, Ky.)

(61)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Sylva, N.C., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, Illinois (except Chicago and East St. Louis, and points in their Commercial Zones as defined by the Commission and except points on and south of U.S. Highway 460), Indiana (except points in the Evansville Commercial Zone), those points in Kentucky on and north of a line beginning at the Ohio River near Paducah and extending along U.S. Highway 62 to U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-West Virginia State line, those points in West Virginia on and north of Interstate Highway 70, and those points in Pennsylvania on, north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 504, thence

along Pennsylvania Highway 504 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, and (61)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (61)(a) above to Sylva, N.C. Restriction: The authorities in (61)(a) above and (61)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Cleveland, and Middletown, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(62)(a) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Canton, N.C., to points in Minnesota, Iowa, Wisconsin, Michigan, Illinois (except Chicago and East St. Louis, and points in their Commercial Zones as defined by the Commission and except points on and south of U.S. Highway 460), Indiana (except points in the Evansville Commercial Zone), those points in Kentucky on and north of a line beginning at the Ohio River near Paducah and extending along U.S. Highway 62 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-West Virginia State line, those points in Ohio on, west, and north of a line beginning at the Kentucky-Ohio State line and extending along Ohio Highway 93 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Ohio River near Bridgeport, those points in West Virginia on and north of U.S. Highway 40, those points in Pennsylvania on, north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along U.S. Highway 40 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, and (62)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (62)(a) above to Canton, N.C. Restriction: The authorities in (62)(a) above and (62)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(63)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from Jacksonville, Fla., to points in Minnesota, Wisconsin, Michigan, Iowa, Ohio, Illinois (except Chicago and East St. Louis and points in their commercial zones as defined by the Commission and except points on and south of U.S. Highway 460), Indiana (except points in the Evansville commercial zone), those points in West Virginia on and north of Interstate Highway 70, those points in Pennsylvania on, north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, those points in Kentucky on and north of a line beginning at the Ohio River near Hawesville and extending along U.S. Highway 60 to junction Kentucky Highway 86, thence along Kentucky Highway 86 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-West Virginia State line, and (63)(b) *paper and paper products* (except commodities in bulk) from points in the destination territory described in (63)(a) above and (63)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Minnesota, Illinois, Indiana, Kentucky, Ohio, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their commercial zones as defined by the Commission. (*Nicholasville, Ky)

(64)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from Fernandina Beach, Fla., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, Illinois (except Chicago and East St. Louis and points in their commercial zones as defined by the Commission and except points on and south of U.S. Highway 460), Indiana (except points in the Evansville commercial zone), those points in Kentucky on and north of a line beginning at the Ohio River near Hawesville and extending along U.S. Highway 60 to junction Kentucky Highway 86, thence along Kentucky Highway 86 to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-West Virginia State line, those points in West Virginia on, north, and west of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction Interstate Highway 77, thence along Interstate Highway 77 to the West Virginia-Ohio State line and also those points in West Virginia on and north of U.S. Highway 40 those points in Pennsylvania on, north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line, and (64)(b) *paper and paper products* (except commodities in bulk) from points in the destination territory described in (64)(a) above to Fernandina Beach, Fla. Restriction: The authorities in (64)(a) above and (64)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their commercial zones as defined by the Commission. (*Nicholasville, Ky.)

(65)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from Palatka, Fla., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, Illinois (except Chicago and East St. Louis and points in their commercial zones as defined by the Commission and except points on and south of U.S. Highway 460), Indiana (except points in the Evansville commercial zone), those points in Pennsylvania on,

north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, those points in West Virginia on and north of Interstate Highway 70 and those points on, north, and west of a line beginning at the Ohio-West Virginia State line near Huntington and extending along U.S. Highway 60 to junction Interstate Highway 77, thence along Interstate Highway 77 to the West Virginia-Ohio State line, those points in Kentucky on and north of a line beginning at the Ohio River near Owensboro and extending along Kentucky Highway 54 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-West Virginia State line, and (65)(b) *Paper and paper products* (except commodities in bulk) from points in the destination territory described in (65)(a) above to Palatka, Fla. Restriction: The authorities in (65)(a) above and (65)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their commercial zones as defined by the Commission. (*Nicholasville, Ky.)

(66)(a) *Equipment, materials, and supplies* used in the manufacture or distrubution of paper and paper products (except commodities in bulk) from Atlanta, Ga., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, those points in Kentucky on and north of a line beginning at the Ohio River near West Point and extending along U.S. Highway 60 to junction Kentucky Highway 44, thence along Kentucky Highway 44 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 11, thence along Kentucky Highway 11 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Kentucky Highway 40, thence along Kentucky Highway 40 to the Kentucky-West Virginia State line, those points in West Virginia on and northwest of a line beginning at the Kentucky-West Virginia State line near Kermit and extending along U.S. Highway 52 to junction West Virginia Highway 65, thence along West Virginia Highway 65 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line, those points in Pennsylvania on, north, and west of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 220 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, those points in Indiana on, north, and east of a line beginning at the Illinois-Indiana State line near Vincennes and extending along U.S. Highway 50 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Indiana-Kentucky State line, and those points in Illinois on and north of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 36 to junction Illinois Highway 32, thence along Illinois Highway 32 to junction Illinois Highway 33, thence along Illinois Highway 33 to the Illinois-Indiana State line (except Chicago and points in its commercial zone as defined by the Commission), and (66)(b) *paper and paper products* (except commodities in bulk) from points in the destination territory described in (66)(a) above to Atlanta, Ga. Restriction: The authorities in (66)(a) above and (66)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their commercial zones as defined by the Commission. (*Nicholasville, Ky.)

(67)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from Krannert, Ga., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, those points in Illinois on and north of a line beginning at the Mississippi River near Hamilton and extending along U.S. Highway 136 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Illinois Highway 121, thence along Illinois Highway 121 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Illinois-Indiana State line (except Chicago and points in its commercial zone as defined by the Commission), those points in Indiana on, north, and west of a line beginning at the Illinois-Indiana State line and extending along Indiana Highway 154 to junction Indiana Highway 63, thence along Indiana Highway 63 to junction Indiana Highway 58, thence along Indiana Highway 58 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 135, thence along Indiana Highway 135 to the Indiana-Kentucky State line, those points in Kentucky on and north of a line beginning at the Ohio River near West Point and extending along U.S. Highway 60 to junction Kentucky Highway 44, thence along Kentucky Highway 44 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 89, thence along Kentucky Highway 89 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Kentucky Highway 40, thence along Kentucky Highway 40 to the Kentucky-West Virginia State line, those points in West Virginia on, north, and west of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 52 to junction West Virginia Highway 65, thence along West Virginia Highway 65 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 219, thence along U.S. Highway 219 to the West Virginia-Maryland State line, and those points in Pennsylvania on, west, and north of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 522 to junction Interstate Highway 76, thence along Interstate Highway 76 to the Pennsylvania-New Jersey State line, and (67)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (67)(a) above to Krannert, Ga. Restriction: The authorities in (67)(a) above and (67)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their com-

mercial zones as defined by the Commission. (*Nicholasville, Ky.)

(68)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Athens, Ga., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, those points in Pennsylvania on, north, and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to the Pennsylvania-New York State line, those points in West Virginia on and north of Interstate Highway 70, those points in Kentucky on and north of a line beginning at the Ohio River near Hawesville and extending along U.S. Highway 60 to junction Kentucky Highway 259, thence along Kentucky Highway 259 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 89, thence along Kentucky Highway 89 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-West Virginia State line, those points in Indiana on and north of a line beginning at the Illinois-Indiana State line near New Harmony and extending along Indiana Highway 68 to junction Indiana Highway 245, thence along Indiana Highway 245 to the Indiana-Kentucky State line, and those points in Illinois (except Chicago and East St. Louis and points in their Commercial Zones as defined by the Commission and except points on and south of U.S. Highway 460), and (68)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (68)(a) above to Athens, Ga. Restriction: The authorities in (68)(a) above and (68)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(69)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Savannah, Ga., to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, Indiana (except points in the Evansville Commercial Zone), points in Illinois (except Chicago and East St. Louis and points in their Commercial Zones as defined by the Commission and except points on and south of U.S. Highway 460), those points in Kentucky on and north of a line beginning at the Ohio River near Henderson and extending along U.S. Highway 60 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Kentucky 32, thence along Kentucky Highway 32 to the Kentucky-West Virginia State line, those points in Pennsylvania on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along Pennsylvania Highway 68 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-New York State line, and those points in West Virginia on and north of West Virginia Highway 27, and (69)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (69)(a) above to Savannah, Ga. Restriction: The authorities in (69)(a) above and (69)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(70)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from those points in Georgia on and south of a line beginning at the Alabama-Georgia State line and extendig along Georgia Highway 8 to junction Interstate Highway 20, thence along Interstate Highway 20 to the Georgia-South Carolina State line to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, those points in Indiana on, north, and west of a line beginning at the Wabash River near Merom and extending along Indiana Highway 58 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 135, thence along Indiana Highway 135 to the Ohio River near Mauckport, those points in Illinois on and north of a line beginning at the Mississippi River near Hamilton and extending along U.S. Highway 136 to junction Illinois Highway 97, thence along Illinois Highway 97 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Illinois Highway 16, thence along Illinois Highway 16 to the Illinois-Indiana State line (except Chicago and points in its Commercial Zone as defined by the Commission), those points in Pennsylvania on, north, and west of a line beginning at the Ohio-Pennsylvania State line and extending along Pennsylvania Highway 68 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-New York State line, those points in West Virginia on and north of West Virginia Highway 27, those points in Kentucky on and north of a line beginning at the Ohio River near Stites and extending along Kentucky Highway 44 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 89, thence along Kentucky Highway 89 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-West Virginia State line, and (70)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (70)(a) above to points in the origin territory described in (70)(a) above. Restriction: The authorities in (70)(a) above and (70)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their Commercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(71)(a) *Equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from Stevenson, Ala., to points in Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, those points in Iowa on, north, and west of a line beginning at the Missouri-Iowa State line and extending along U.S. Highway 71 to junction Iowa Highway 92, thence along Iowa Highway 92 to the Mississippi River near Muscatine,

those points in Illinois on and north of a line beginning at the Mississippi River near Moline and extending along Interstate Highway 80 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line (except Chicago and points in its Commercial Zone as defined by the Commission), those points in Indiana on, north, and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 52 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 7, thence along Indiana Highway 7 to the Ohio River near Madison, those points in Kentucky on and north of a line beginning at the Ohio River near Milton and extending along U.S. Highway 421 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 119, thence along U.S. Highway 119 to the Kentucky-West Virginia State line, those points in West Virginia on, north, and west of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 119 to junction West Virginia Highway 4, thence along West Virginia Highway 4 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction West Virginia Highway 28, thence along West Virginia Highway 28 to the West Virginia-Maryland State line, and (71)(b) *paper and paper products* (except commodities in bulk), from points in the destination territory described in (71)(a) above to Stevenson, Ala. Restriction: The authorities in (71)(a) above and (71)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper from and to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and those points in Michigan on and south of Michigan Highway 21, and further restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their Commmercial Zones as defined by the Commission. (*Nicholasville, Ky.)

(72)(a) *Paper and paper products* (except commodities in bulk), from Louisville, Ky., to Mobile, Ala., and points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Texas, Louisiana, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New York, New Jersey, Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, and those points in Kansas on and west of U.S. Highway 77, those points in Oklahoma on, south, and west of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 75 to junction U.S. Highway 264, thence along U.S. Highway 264 to the Arkansas-Oklahoma State line, those points in Arkansas on and south of a line beginning at the Oklahoma-Arkansas State line and extending along Arkansas Highway 8 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Arkansas-Mississippi State line, those points in Mississippi on and south of U.S. Highway 82, those points in Alabama on, east, and north of a line beginning at the Georgia-Alabama State line and extending along U.S. Highway 11 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line, and (72)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (72)(a) above to Louisville, Ky. Restriction: The authorities in (72)(a) above and (72)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(73)(a) *Paper and paper products* (except commodities in bulk), from Hawesville, Ky., to points in Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Maryland, Delaware, Virginia, North Carolina, South Carolina, Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, the District of Columbia, and those points in Georgia on, east, and south of a line beginning at the North Carolina-Georgia State line and extending along U.S. Highway 129 to junction Georgia Highway 15, thence along Georgia Highway 15 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Georgia Highway 91, thence along Georgia Highway 91 to the Georgia-Florida State line, those points in Florida on and east of Florida Highway 71, those points in North Dakota on, west, and north of a line beginning at the South Dakota-North Dakota State line and extending along U.S. Highway 281 to junction U.S. Highway 2, thence along U.S. Highway 2 to the North Dakota-Minnesota State line, those points in South Dakota on and west of U.S. Highway 83, those points in Nebraska on, west, and north of a line beginning at the Colorado-Nebraska State line and extending along U.S. Highway 385 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Nebraska Highway 61, thence along Nebraska Highway 61 to the Nebraska-South Dakota State line, those points in Colorado on and west of U.S. Highway 85, those points in New Mexico on, west, and south of a line beginning at the Colorado-New Mexico State line and extending along U.S. Highway 85 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 60, thence along U.S. Highway 60 to the New Mexico-Texas State line, and those points in Texas on, south, and west of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico near Port Lavaca, and (73)(b) *equipment, materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (73)(a) above to Hawesville, Ky. Restriction: The authorities in (73)(a) above and (73)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(74)(a) *Paper and paper products* (except commodities in bulk) from Versailles, Ky. to Evansville, Ind., East St. Louis, Ill., Memphis, Tenn., and Mobile, Ala. and points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Mississippi, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, the District of Columbia, and those points in Illinois on and south of U.S. Highway 460, and those points in Alabama on and north of U.S. Highway 78, and (74)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (74)(a) above to Versailles, Ky. Restriction: The authorities in (74)(a) above and (74)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(75)(a) *Paper and paper products* (except commodities in bulk) from Henderson, Ky. to points in Washington, . Oregon, California, Nevada, Idaho, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, Vermont, Maine, New Hampshire, the District of

Columbia, and those points in Montana on, north, and west of a line beginning at the Wyoming-Montana State line and extending along U.S. Highway 310 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Montana-North Dakota State line, those points in North Dakota on, north, and west of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 10 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the International Boundary of United States and Canada, those points in Utah on and west of a line beginning at the Wyoming-Utah State line and extending along U.S. Highway 189 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line, those points in Arizona on and west of a line beginning at the Utah-Arizona State line and extending along U.S. Highway 89 to junction Interstate Highway 17, thence along Interstate Highway 17 to junction U.S. Highway 80, thence along U.S. Highway 80 to the International Boundary of United States and Mexico, those points in Wyoming on and west of U.S. Highway 89, those points in Florida on, south, and east of a line beginning at the Georgia-Florida State line and extending along Florida 121 to junction Florida Highway 24, thence along Florida Highway 24 to the Gulf of Mexico near Cedar Key, those points in Georgia on and east of a line beginning at Lake Keowee at Hartwell and extending along Georgia Highway 77 to junction Georgia Highway 17, thence along Georgia Highway 17 to junction Georgia Highway 121, thence along Georgia Highway 121 to the Georgia-Florida State line, those points in South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 178 to junction U.S. Highway 29, thence along U.S. Highway 29 to the South Carolina-Georgia State line, those points in North Carolina on and east of North Carolina Highway 28, and (75)(b) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (75)(a) above to Henderson, Ky. Restriction: The authorities in (75)(a) above and (75)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

(76)(a) *Paper and paper products* (except commodities in bulk) from Morgan Field, Ky. to points in Washington, Oregon, California, Nevada, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, and those points in Idaho on, west, and north of a line beginning at the Nevada-Idaho State line and extending along U.S. Highway 93 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Idaho-Montana State line, those points in Montana on, north, and west of a line beginning at the Wyoming-Montana State line and extending along U.S. Highway 89 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Montana Highway 16, thence along Montana Highway 16 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Montana-North Dakota State line, those points in North Carolina on and east of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 441 to junction North Carolina Highway 107, thence along North Carolina Highway 107 to the North Carolina-South Carolina State line, those points in South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 178 to junction U.S. Highway 25, thence along U.S. Highway 25 to the South Carolina-Georgia State line, those points in Georgia on and east of a line beginning at the South Carolina-Georgia State line and extending along U.S. Highway 25 to junction Georgia Highway 99, thence along Georgia Highway 99 to the Atlantic Ocean near Valona, and those points in Florida on and south of a line beginning at the Gulf of Mexico near St. Petersburg and extending along U.S. Highway 92 to junction Florida Highway 50, thence along Florida Highway 50 to the Atlantic Ocean near Titusville, and (76)(b) *equipment, materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (76)(a) above to Morgan Field, Ky. Restriction: The authorities in (76)(a) above and (76)(b) above are restricted against the transportation of pulpboard, pulpboard products, and waste paper. (*Nicholasville, Ky.)

The asterisk (*) references indicate the gateway or gateways to be eliminated in connection with each proposal.

No. MC 59292 (Sub-No. E9), filed May 15, 1974. Applicant: MARYLAND TRANSPORTATION CO., 1111 Frankfurst Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Brown, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel products*, except those requiring special equipment, between Baltimore, Md., on the one hand, and, on the other, those points in Maryland, Pennsylvania, Virginia, and West Virginia within 150 miles of Brunswick, Md., on and west of a line beginning at a point north of Haneyville, Pa., and extending along Pennsylvania Highway 44 to junction Pennsylvania Highway 664, to junction Pennsylvania Highway 120, to junction Pennsylvania Highway 144, to junction Pennsylvania Highway 53, to junction U.S. Highway 322, to junction U.S. Highway 220, to junction Pennsylvania Highway 350, to junction U.S. Highway 22, to junction U.S. Highway 522, to junction Pennsylvania Highway 16, to junction U.S. Highway 11, to junction U.S. Highway 40, to junction Maryland Highway 67, to junction Maryland Highway 17, to junction Maryland Highway 79, to junction Virginia Highway 287, to junction Virginia Highway 672, to junction U.S. Highway 15, to junction Virginia Highway 7, to junction Virginia Highway 653, to junction Virginia Highway 659, to junction Virginia Highway 647, to junction Virginia Highway 642, to junction Virginia Highway 659, to junction Virginia Highway 621, to junction Virginia Highway 733, to junction Virginia Highway 734, to junction Virginia Highway 748, to junction Virginia Highway 626, to junction Virginia Highway 55, to junction Virginia Highway 721, to junction Virginia Highway 647, to junction U.S. Highway 522, to junction Virginia Highway 231, to junction Virginia Highway 230, to junction U.S. Highway 15, to junction U.S. Highway 33, to junction Virginia Highway 659, to junction Virginia Highway 690, to junction Virginia Highway 610, to junction U.S. Highway 15 to a point near Farmville, Va. The purpose of this filing is to eliminate the gateway of Brunswick, Md., and points within 5 miles of Brunswick, Md.

No. MC 61825 (Sub-No. E1165), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, California, and those points in Arkansas on, south and west of a line beginning at West Memphis, Ark., and extending northwest along U.S. Highway 63 to junction Arkansas Highway 14, to junction U.S. Highway 67, to junction U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Oklahoma State line; those points in Oklahoma on, south and west of a line beginning at the Oklahoma-Arkansas State line, and extending along Oklahoma Highway 9A, to junction U.S. Highway 271, to junction Oklahoma Highway 31, to junction Oklahoma

Highway 1, to junction Oklahoma Highway 7, to junction U.S. Highway 81, to junction Oklahoma Highway 53, to junction Oklahoma Highway 5, to junction U.S. Highway 283, to junction U.S. Highway 62, thence along U.S. Highway 62 to the Oklahoma-Texas State line; those points in Texas on, south and west of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 62 to junction U.S. Highway 83, to junction U.S. Highway 66, thence along U.S. Highway 66 to the Texas-New Mexico State line, those points in New Mexico on, south, and west of a line beginning at the New Mexico-Texas State line, and extending along U.S. Highway 66 to junction New Mexico Highway 39, to junction U.S. Highway 56, to junction U.S. Highway 85, to junction New Mexico Highway 58, to junction U.S. Highway 64, to junction New Mexico Highway 38, to junction New Mexico Highway 3, thence along New Mexico Highway 3 to the New Mexico-Colorado State line; those points in Colorado on, south and west of a line beginning at the Colorado-New Mexico State line, and extending along Colorado Highway 159 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Colorado-Utah State line; those points in Utah on, south and west of a line beginning at the Utah-Colorado State line, and extending along U.S. Highway 666, to junction U.S. Highway 163, to junction Utah Highway 95, to junction Utah Highway 24, to junction U.S. Highway 89, to junction Utah Highway 26, to junction U.S. Highway 50, thence along U.S. Highway 50 to the Utah-Nevada State line; those points in Nevada on, south and west of a line beginning at the Nevada-Utah State line, and extending along U.S. Highway 50 to junction Nevada Highway 8A, to junction U.S. Highway 40, to junction U.S. Highway 95, to the Nevada-Oregon State line; those points in Oregon on, south and west of a line beginning at the Oregon-Nevada State line, and extending along U.S. Highway 95 to the Oregon-Idaho State line; those points in Idaho on and west of a line beginning at the Idaho-Oregon State line, and extending along U.S. Highway 95 to junction Interstate Highway 80 to the Idaho-Oregon State line; those points in Oregon on, south and west of a line beginning at the Oregon-Idaho State line, and extending along Interstate Highway 80 to junction Oregon Highway 32, to the Oregon-Washington State line; those points in Washington on and west of a line beginning at the Washington-Oregon State line, and extending along Washington Highway 14, to junction Washington Highway 221, to junction U.S. Highway 12, to junction Washington Highway 410, to junction Washington Highway 169, to junction Interstate Highway 405, to junction Washington Highway 522, to junction Washington Highway 9, and thence north along Washington Highway 9 to the United States-Canadian International Boundary line, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Martinsville, Va. and Elizabeth City, N.C.

No. MC 61825 (Sub-No. E1166), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP. P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, class A and B explosives, commodities requiring special equipment, between points in Huron, Lorain, Lucas, Medina, Ottawa, Sandusky, Stark, Summit, and Wayne Counties, Ohio, on the one hand, and, on the other, points in South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending south along U.S. Highway 1 to junction U.S. Highway 21 to Columbia, S.C., thence south along U.S. Highway 21 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1167), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except those of unusual value, class A and B explosives, commodities in bulk, and those requiring special equipment, between points in Belmont County, Ohio, on the one hand, and, on the other, points in Berkeley, Charleston, Chesterfield, Clarendon, Darlington, Dillion, Florence, Georgetown, Horry, Lee, Marion, Marlboro, Sumter, and Williamsburg. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1168), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 20478. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, class A and B explosives, commodities requiring special equipment, between points in Guernsey County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Dillion, Horry and Marion Counties, S.C. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1169), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Harrison County, Ohio, on the one hand, and, on the other, points in South Carolina except those points in Anderson, Greenville, Oconee, Pickens, and Spartansburg Counties.

The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1170), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Monroe County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Berkeley, Charleston, Clarendon, Dillon, Florence, Georgetown, Horry, Lee, Marion, Sumter, and Williamsburg Counties, S.C.

The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1171), filed May 13, 1974. Applicant: ROY STONE

TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Stark County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in South Carolina.

The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1172), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Tuscarawas County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in South Carolina except those points in Abbeville, Anderson, Greenville, Greenwood, Laurens, Oconee, Pickens, and Spartanburg Counties.

The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1173), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Brooke County, W. Va., on the one hand, and, on the other, points in South Carolina except those points in Greenville, Oconee, and Pickens Counties.

The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1174), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Wetzel County, W. Va., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Berkeley, Charleston, and Georgetown Counties, S.C.

The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1175), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Ohio County, W. Va., on the one hand, and, on the other, points in South Carolina except those points in Abbeville, Anderson, Greenville, Laurens, Oconee, Pickens, and Spartanburg Counties.

The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1176), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Marshall County, W. Va., on the one hand, and, on the other, points in Berkeley, Charleston, Georgetown, and Horry Counties, S.C.

The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1177), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Ontario, Seneca, Steuben, Wayne, and Yates Counties, N.Y., on the one hand, and, on the other, points in Beaufort, Hampton, and Jasper Counties, S.C.

The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1178), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Allegheny, Armstrong, Cameron, Elk, Jefferson, and McKean Counties, Pa., on the one hand, and, on the other, points in South Carolina on and southeast of U.S. Highway 1.

The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. Va.

No. MC 61825 (Sub-No. E1179), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between Washington, Pa., on the one hand, and, on the other, points in South Carolina on and south of a line beginning at the Georgia-South Carolina State line and extending east along U.S. Highway 123 to junction U.S. Highway 76, to junction South Carolina Highway 72, to junction South Carolina Highway 9, to junction South Carolina Highway 109

to the South Carolina-North Carolina State line, and thence east along the South Carolina-North Carolina State line to the Atlantic Ocean.

The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va. and Weirton, W. VA.

No. MC 61825 (Sub-No. E1180), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, except commodities in bulk, those of unusual value, commodities requiring special equipment, between points in Westmoreland County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Berkeley, Charleston, Clarendon, Florence, Georgetown, Horry, Marion, Sumter, and Williamsburg Counties, S.C. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., Clarksburg, W. Va., and Lynchburg, Va., and in reverse direction Lynchburg, Va., and Weirton, W. Va.

No. MC 61825 (Sub-No. E1181), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, from points in Henry County, Va., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of points in Georgia; Martinsville, Va., Lynchburg, Va., and Smyth County, Va.

No. MC 107012 (Sub-No. E45), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in Kansas to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee; (2) from points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, and Wyandotte Counties, Kans., to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, and Union Counties, Ark; Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurell, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, and Whitley Counties, Ky.; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapides, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, La.; points in Mississippi; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe, Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albermarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, and the independent cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Bedford, Bristol, Buena Vista, Clifton, Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, South Boston, Staunton, Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Charlottesville, Colonia Heights, Hopewell, Petersburg, Richmond, Waynesboro, Harrisonburg, and Winchester, Va.; (3) from points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Mead, Morton, Pawnee, Seward, Stanton, and Stevens Counties, Kans., to points in Kentucky; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montogmery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Chocktaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Okitbbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, and Yalobusha Counties, Miss., and points in Virginia; (4) from points in Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush Scott, Sheridan, Sherman, Thomas, Trego, Wallace, and Wichita Counties, Kans., to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, Ark.; points in Kentucky; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana, Parishes, La.; and points in Mississippi, Virginia; (5) from points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, and Woodson Counties, Kans., to points in Kentucky; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, La.; and points in Mississippi and Virginia; (6) from points in Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingham, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne,

Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner, and Washington Counties, Kans., to points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonston, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble, Warren, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union, and Webster Counties, Ky.; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, La.; points in Mississippi; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Allegany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe, Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albermarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, and the Independent Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Bedford, Bristol, Buena Vista, Clifton, Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, South Boston, Staunton, Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, and Waynesboro Counties, Va. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 107012 (Sub-No. E48), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in Louisiana, to points in Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, and Washington; (2) from points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapides, Saint Landry, and Vernon Parishes, La., to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, and Trinity Counties, Calif., Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, Colo.; points in Iowa; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, and Wyandotte Counties, Kans.; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenburg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union, and Webster Counties, Ky.; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, and Washoe Counties, Nev.; Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, Tenn.; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Wever, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier, and Wayne Counties, Utah; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Alleghany, Amherst, Appomatox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe, Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah, Warren, and the independent cities of Alexamdria, Fairfax, Falls Church, Fredericksburg, Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, South Boston, Staunton, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, Harrisburg, and Winchester Counties, Va.; and points in Wyoming; (3) from points in Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson, Davis, Lafayette, Vermillion Parishes, La., to points in Glenn, Humboldt, Lake, Mendicino, Tehama, and Trinity Counties, Calif.; points in Iowa; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, and Wyandotte Counties, Kans.; points in Kentucky; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, Tenn.; points in Virginia; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, Wyo.; (4) from points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, West Carroll, and Winn Parishes, La., to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanis-

laus, Sutter, Tuolumne, and Yolo Counties, Calif.; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, and Yuma Counties, Colo.; points in Iowa; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, and Wichita Counties, Kans., points in Kentucky; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, and Washoe Counties, Nev.; Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, Tenn.; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Umitah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier, and Wayne Counties, Utah; points in Virginia, and Wyoming.

(5) From points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, La., to points in Butte, Lassen, Modoc, Nevada, Plumas Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, and Yolo Counties, Calif.; points in Colorado, Iowa; Atchison, Brown, Doniplan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, Kans.; points in Nevada; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, and Washington Counties, Okla., points in Utah and Wyoming; (6) from points in Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster Parishes, La., to points in Glenn, Humboldt, Lake, Mendicino, Tehama, and Trinity Counties, Calif.; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, and Woodbury Counties, Iowa; points in Kentucky; Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, and Washoe Counties, Nev.; points in North Carolina; Clarendon, Dillon, Florence, Georgetown, Horry, Marion, and Williamsburg Counties, S.C.; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hablben, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, Tenn.; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, and Weber Counties, Utah; points in Virginia; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, and Weston Counties, Wyo. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 114211 (Sub-No. E855), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: John M. Warren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements*, and *parts* thereof, except those commodities the transportation of which because of size or weight requires special equipment (a) from Valley, Nebr., to points in Wisconsin, (b) from Valley, Nebr., to those points in Indiana on and north of a line beginning at the Indiana-Illinois State line, and extending along Interstate Highway 74, to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 40, thence along U.S. Highway 40 east to the Indiana-Ohio State line, (c) from Valley, Nebr., to those points in Illinois on and north of a line beginning at the Illinois-Iowa State line, and extending along U.S. Highway 20 to junction Illinois Highway 26, thence along Illinois Highway 26 south to junction U.S. Highway 52, thence along U.S. Highway 52 east to junction U.S. Highway 51, thence along U.S. Highway 51 south to junction U.S. Highway 6, thence along U.S. Highway 6 east to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateways of Omaha, Nebr., Council Bluffs, Iowa, and Fort Dodge, Iowa.

No. MC 123407 (Sub-No. E339), filed May 9, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, except commodities in bulk, from Port Clinton, Ohio, to points in Minnesota, South Dakota, Nebraska, and Kansas. The purpose of this filing is to eliminate the gateway of Warren, Ill.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

ELIMINATION OF GATEWAY APPLICATIONS

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before March 3, 1978. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 MCC 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

MC 124211 (Sub-No. 305G) (Correction), filed September 13, 1977, previously published in the FEDERAL REGISTER issue of December 22, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (a) between points in Nebraska, on the one hand, and, on the other points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, and Texas; and (b) from points in Nebraska, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. Applicant states the purpose of this application is to eliminate gateways at various points in Nebraska and requests cancellation of all duplicating E-letter notice authorities upon issuance of the authority requested herein. The purpose of this correction is to publish in the correct section of the FEDERAL REGISTER.

MC 124211 (Sub-No. 307G) (Correction), filed September 14, 1977, published in the FEDERAL REGISTER issue of November 3, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix "1" to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (a) from points in Arkansas, to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming, (b) from points in Kansas, to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Dakota, Ohio, South Dakota, Texas, Wisconsin, and Wyoming, (c) from points in Louisiana, to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming, (d) from points in Mississippi, to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming, (e) from points in Missouri, to points in Iowa, Kansas, Minnesota, North Dakota, South Dakota, Wisconsin, and Wyoming, (f) from points in Oklahoma, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, (g) from points in Texas, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, (h) from Chicago, Ill., to points in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, (i) from Kansas City, Mo., to points in Nebraska; (2) *canned meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (a) from points in Illinois and Iowa, to points in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, (b) from points in Kansas, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destinations.

NOTE.—Common control may be involved. Applicant states the purpose of this application is to eliminate gateways located at points in Nebraska and requests cancellation of all duplicating E-letter notice authorities upon issuance of the authority requested herein. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr. The purpose of this correction is to publish in the correct section of the FEDERAL REGISTER and to add the restriction to the above authority.

[FR Doc. 77-37071 Filed 12-28-77; 8:45 am]

[7035-01]

[Volume No. 49]

MOTOR CARRIER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

DECEMBER 23, 1977.

The following applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method, whether by joinder, interline, or other means, by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after

the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2392 (Sub-No. 107), filed November 8, 1977. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68124. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *resin*, in bulk, in tank vehicles, from Midland, Mich., to Omaha, Nebr.; and (2) *vinyl acetate*, in bulk, in tank vehicles from Longview, Tex., to Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Nebr.

No. MC 3468 (Sub-No. 169), filed November 7, 1977. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in truckaway service, in initial movements, from the plantsites or storage facilities of the Cadillac Division of General Motors Corp., at Detroit, Mich., to points in Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Detroit, Mich., or Washington, D.C.

No. MC 8600 (Sub-No. 34) (Correction), filed October 3, 1977, published in the FEDERAL REGISTER issue of November 25, 1977, and republished, as corrected, this issue. Applicant: WERNER CONTINENTAL, INC., P.O. Box 3609, Roseville, Minn. 55113. Applicant's representative: John E. Fullerton, 407 North Front Street, Harrisburg, Pa. 17101. 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, commodities in bulk, commodities requiring special equipment), (1) between Mansfield, Ohio, and Mt. Vernon, Ohio, from Mansfield, over Ohio Highway 13 to Mount Vernon, and return over the same route; (2) between Mt. Vernon, Ohio, and Mt. Gilead, Ohio, from Mt. Vernon, over Ohio Highway 229, to the junction of Ohio Highway 229 and Ohio Highway 61, thence over Ohio Highway 61 to Mount Gilead (also over Ohio Highway 13 to junction of Ohio Highway 13, and Ohio Highway 95, thence over Ohio Highway 95 to Mount Gilead), and return over the same routes; and (3) between Mt. Gilead, Ohio, and Marion, Ohio, from Mt. Gilead over Ohio Highway 95 to Marion, and return over the same routes, in (1), (2) and (3) above, as alternate routes for operating convenience only.

NOTE.—The purpose of this correction is to show authority requested to operate over regular routes in lieu of irreguar routes as previously published. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio, or Washington, D.C.

No. MC 17745 (Sub-No. 11), filed November 15, 1977. Applicant: CONTRACTORS CARGO CO., 11100 South Garfield Avenue, South Gate, Calif. 90280. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting *condenser sections*, between Orange, Calif., and Hanford, Wash., under a continuing contract or contracts with Westinghouse Electric Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 30844 (Sub-No. 596), filed November 11, 1977. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing and wearing apparel, and all component parts used in the manufacture thereof, and materials, supplies and equipment* used in the manufacture and sale of clothing and wearing material, (a) from Hamilton and Guin, Ala., to Minneapolis, Minn.; Memphis, Tenn., and Winnfield, La., (b) from Crossville, Tenn., to Minneapolis, Minn., (c) from Gastonia, Belmont, and Albemarle, N.C., to Minneapolis, Minn., (d) from Thomaston, Ga., to Minneapolis, Minn., (e) from points in South Carolina and Florida, to Minneapolis, Minn., (f) from Paris, Tex., to Memphis, Tenn., and Arkadelphia, Ark., (g) from Winnfield, La., to Memphis, Tenn., (h) from Minneapolis, Minn., to points in Alabama, Florida, Georgia, Tennessee, Texas, and Virginia. Restricted to traffic originating at the plantsites and storage facilities of Munsingwear Co., and destined to the above named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 43867 (Sub-No. 37), filed November 7, 1977. Applicant: A. LEANDER McALISTER TRUCKING CO., a corporation, P.O. Box 2214, Wichita Falls, Tex. 76307. Applicant's representative: Brian E. Brewton, P.O. Box 2214, Wichita Falls, Tex. 76307. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Colorado to points in Texas, New Mexico, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC 44639 (Sub-No. 93), filed November 14, 1977. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Robert B. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk) between Lovingston, Va. and New York, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Newark, N.J.

No. MC 47583 (Sub-No. 55), filed November 14, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over iregular routes, transporting: *Fiber glass products* and fiber glass roving, yarn, matting and chopped strand; from the plantsite and storage facilities of Certain Teed Corp. at or near Wichita Falls, Tex., to all points and places in the United States (except Hawaii and Alaska).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 48958 (Sub-No. 146), filed November 11, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colo., 80216. Applicant's representative: Lee E. Lucero (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products* and *meat by-products*, and *articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dallas, Fort Worth and Mansfield, Tex., to points in Nevada and California.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 51146 (Sub-No. 543), filed November 11, 1977. Applicant:

SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products* (1) from the facilities of Champion International at Hamilton, Ohio to points in Illinois south and east of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 36 to I-57, then along I-57 to the Missouri-Illinois State line; to points in Indiana south and east of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 231 to Indiana Highway 54, then along Indiana Highway 54 to Indiana Highway 45, then along Indiana Highway 45 to Indiana Highway 37, then along Indiana Highway 37 to U.S. Highway 40, then along U.S. Highway 40 to the Indiana-Ohio State line; to points in Kentucky east of U.S. Highway 45; to points in Tennessee (except points in Sullivan, Washington, Unicoi, Carter, and Johnson Counties and except points south and west of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 41 to Murfreesboro, then along Tennessee Highway 30 to U.S. Highway 411, then along U.S. Highway 411 to the Tennessee-Georgia State line); to points in Virginia west of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 250 to U.S. Highway 11, then along U.S. Highway 11 to U.S. Highway 52, then along U.S. Highway 52 to the Virginia-North Carolina State line; and to points in West Virginia; and (2) from the facilities of Champion International at Cincinnati, Ohio to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana. Restriction: The authority granted herein is restricted to traffic originating at the named plantsites and destined to the named destination States.

NOTE.–Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 54200 (Sub-No. 6), filed November 14, 1977. Applicant: SEIGLE'S EXPRESS, INC., 81 Porete Avenue, North Arlington, N.J. 07032. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, Household goods as defined by the Commission, Commodities in bulk, Commodities requiring special equipment, and those injurious or contaminating to other lading), between points in New York, N.Y. on the one hand, and, on the other, points in the State of New Jersey, and Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 56082 (Sub-No. 73), filed November 11, 1977. Applicant: DAVIS & RANDALL, INC., 42 Central Avenue, Fredonia, N.Y. 14063. Applicant's representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. Applicant seeks authority to operate as a *common carrier*, by motor vehicle in interstate commerce, over irregular routes, in the transportation of: *Canned goods* and *preserved foodstuffs;* from: Coleman, Eden, Gillett, New Richmond, Oakfield, Poynette, and Waunakee, Wisconsin to points in New York.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held either in Milwaukee, Wis., or Chicago, Ill. Common control may be involved.

No. MC 61231 (Sub-No. 109), filed November 11, 1977. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets and plumbing fixtures* from Ottumwa, Iowa to points in Arkansas, Indiana, Kansas, Kentucky, Michigan, Missouri, Nebraska, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Des Moines, Iowa or Kansas City, Mo.

No. MC 61231 (Sub-No. 110), filed November 14, 1977. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials* (except iron and steel articles and commodities in bulk), from the plantsite of CertainTeed Corp. at Kansas City, Kans., to points in Indiana and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Kansas City, Mo.

No. MC 61231 (Sub-No. 111), filed November 8, 1977. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used irrigation systems* and *parts and accessories* for used irrigation systems between points in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, restricted to traffic moving for the account of Valmont Industries, Inc., of Valley, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, Nebr.

No MC 82079 (Sub-No. 54), filed November 9, 1977. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the plantsite and warehouse facilities of Roman Meal Frozen Food Co. In Decatur, Ind., to points in Michigan and Ohio. Restricted to transportation of shipments originating at named origin and destined to named destination points; and further restricted to traffic in mechanically refrigerated vehicles.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Lansing, Mich., or Chicago, Ill.

No. MC 87103 (Sub-No. 22), filed November 9, 1977. Applicant: MILLER TRANSFER & RIGGING CO., P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority is sought by Applicant, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Air compressors and earth drilling machinery and equipment*, between Claremont, New Hampshire, on the one hand, and, on the other, points in the United States (except Hawaii and Alaska).

NOTE.—Dual operations may be involved. If oral hearing is deemed necessary, Applicant requests it be held at Philadephia, Pa., or Washington, D.C.

No. MC 89369 (Sub-No. 18), filed November 9, 1977. Applicant: JOART TRUCKING CO., P.O. Box 332, New Brunswick, N.J. 08903. Applicant's representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry synthetic plastics*, in bulk, in tank or hopper-type vehicles, from Delaware City, Del., to Anderson, S.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J.

No. MC 93840 (Sub-No. 32) (Correction), filed September 12, 1977, pub-

lished in the FEDERAL REGISTER issue of November 3, 1977, as No. MC 93840 (Sub-No. 22), and republished, as corrected, this issue. Applicant: GLESS BROS., INC., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., located at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota.

NOTE.—Common control may be involved. The purpose of this correction is to show the correct number as No. MC 93840 (Sub-No. 32) in lieu of No. MC 93840 (Sub-No. 22) as previously published. If a hearing is deemed necessary, applicant requests it be held at either Des Moines, Iowa, or St. Paul, Minn.

No. MC 93840 (Sub-No. 33), filed October 20, 1977. Applicant: GLESS BROS., INC., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, from the facilities of Pro-Flo, Inc., at or near Galesburg, Ill., to points in Illinois, Missouri, Iowa, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo., or Kansas City, Mo.

No. MC 93840 (Sub-No. 34) (correction), filed September 12, 1977, published in the FEDERAL REGISTER issue of November 3, 1977, as No. MC 93840 (Sub-No. 22), republished, as corrected, this issue. Applicant: GLESS BROS., INC., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota.

NOTE.—The purpose of this correction is to show the correct Number as MC 93840 (Sub-No. 34) in lieu of MC 93840 (Sub-No. 22). Common control may be involved. If a hearing is deemed applicable, applicant requests that it be held at either Des Moines, Iowa, or St. Paul, Minn.

No. MC 95876 (Sub-No. 222), filed November 11, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought as a *common carrier*, over irregular routes, transporting: *Metal culverts*, from Shakopee, Minn., to points in Nebraska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 100463 (Sub-No. 26), filed November 2, 1977. Applicant: SMITH TRANSPORT (U.S.) LTD., 150 Commissioners Street, Toronto, Ontario, Canada M5A 3R9. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Syracuse, N.Y., and ports of entry on the United States-Canada boundary line located at Buffalo, Niagara Falls, and Lewiston, N.Y., serving the intermediate off-route points of Albion, Albany, Buffalo, Canandaigua, Fairport, Geneva, Lockport, Medina, Palmyra, Rochester, and Waterloo, N.Y., as follows: (1) from Syracuse, N.Y. over Interstate Highway 90 to junction Interstate Highway 190, thence over Interstate Highway 190 to Buffalo, N.Y., thence over access roads to the United States-Canada boundary line at Buffalo, and return over the same route, (2) from Syracuse, N.Y. over Interstate Highway 90 to junction New York Highway 33, thence over New York Highway 33 to Buffalo, N.Y., thence over city streets and access roads to the United States-Canada boundary line located at Buffalo, and return over the same route, (3) from Buffalo, N.Y. over Interstate Highway 190 to Niagara Falls, N.Y., thence over access roads to the United States-Canada boundary line located at Niagara Falls and return over the same route, and from Niagara Falls, N.Y. over Interstate Highway 190 to junction with the access routes to the United States-Canada boundary line located at or near Lewiston, N.Y. (Lewiston-Queenston Bridge), and return over the same route, restricted to traffic moving in foreign commerce.

NOTE.—The purpose of this application is to establish the Niagara River ports of entry as alternate gateways to authorized operations now being conducted via the St. Lawrence River port of entry located at or near Alexandria Bay, N.Y. The applicant states that it does not seek any additional authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Buffalo, N.Y.

No. MC 103051 (Sub-No. 415), filed November 14, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Fertilizer*, in bags, from Lumberton and Salisbury, N.C., to points in South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 105045 (Sub-No. 76), filed November 10, 1977. Applicant: R. L. JEFFERIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plate bending machinery and parts thereof* from the facilities of Bertsch & Co., Inc., Cambridge City, Ind., to points in the United States (except Alaska, Hawaii, Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Indianapolis, Ind., but modified procedure is suggested.

No. MC 106074 (Sub-No. 54), filed November 7, 1977. Applicant: B AND P MOTOR LINES, INC., Oakland Road, P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Edison, N.J.; Oil City, Reno, and Rouseville, Pa.; and Congo (Hancock County), W. Va., to points in North Carolina and South Carolina.

NOTE.—Applicant holds contract carrier authority in No. MC 140842 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Charlotte, N.C., or Washington, D.C.

No. MC 109584 (Sub-No. 172), filed November 11, 1977. Applicant: ARIZONA-PACIFIC TANK LINES, 3980 Quebec Street, P.O. Box 7240, Denver, Colo. 80207. Applicant's representative: Rick Barker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, from points in Pima County, Ariz., to points in New Mexico and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 110525 (Sub-No. 1217), filed November 14, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien, same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Polystyrene pellets and rubber pellets*, in bulk, in tank vehicles from: Belpre, Ohio, to points in Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, Wisconsin, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Houston, Tex.

No. MC 111268 (Sub-No. 3), filed November 10, 1977. Applicant: KERNS TRUCKING, INC., Highway 161 and I-85, P.O. Box 206, Kings Mountain, N.C. 28086. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ground lithium ore waste*, in bulk, in dump vehicles, from the minesite and facilities utilized by Lithium Corp. of America, at or near Bessemer City, N.C., to the plantsite and facilities utilized by Lithium Corp. of America, Spartan Minerals Division; at or near Pacolet, S.C., under a continuing contract, or contracts, with Lithium Corp. of America.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Charlotte, N.C.

No. MC 112989 (Sub-No. 54), filed November 4, 1977. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Oreg. 97405. Applicant's representative: John W. White, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products and supplies, materials and equipment* used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Casa Grande, Ariz., Long Beach, Riverside, Santa Fe Springs, Visalia, Perris Valley, and Woodland, Calif., Boise and Twin Falls, Idaho; Stayton, Oreg.; and Spokane and Ferndale, Wash., on the one hand, and, on the other, points in Montana, Idaho, Utah, Arizona, California, Nevada, Oregon, Washington, and ports of entry located on the International Boundary line between the United States and Canada in Washington; and (2) *zinc and zinc alloys* (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif., on the one hand, and on the other, points in Montana, Idaho, Utah, Arizona, California, Nevada, Oregon, Washington, and ports of entry located on the International Boundary line between the United States and Canada in Washington, restricted in (1) and (2) above to traffic originating and terminating in Provinces of Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either San Francisco, Calif., or Portland, Oreg.

No. MC 112989 (Sub-No. 55), filed November 14, 1977. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Oreg. 97405. Applicant's representative: John W. White, Jr., 85647 Highway 99 South, Eugene, Oreg. 97405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems, equipment, material, and supplies*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of irrigation systems, between the facilities and shipping points of Western Irrigation and Manufacturing, Inc., and their subsidiaries located in Oregon and Washington, on the one hand, and on the other, points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Portland, Oreg., or San Francisco, Calif.

No. MC 113271 (Sub-No. 41), filed November 14, 1977. Applicant: CHEMICAL TRANSPORT, a corporation, P.O. Box 2644, Great Falls, Mont. 59403. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concentrated herbicide*, in bulk, in tank vehicles, from Great Falls, Mont., to Denver, Colo., Omaha, Nebr., and Kansas City, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at any city in Montana.

No. MC 113651 (Sub-No. 243), filed November 8, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, Ind. 47305. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items* (except commodities in bulk), and *advertising and display materials* in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of E. J. Brach & Sons, at or near Chicago, Ill., to points in Alabama, Arkansas, Louisiana, and Mississippi. Restriction: Restricted to traffic at the aboved-named facility.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 484), filed November 11, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, Medicines and related display*, from Los Angeles, Calif., to Houston, Tex., and Atlanta, Ga. (except commodities in bulk), in vehicles equipped with mechanical refrigeration.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y., or Chicago, Ill.

No. MC 114273 (Sub-No. 305), filed November 7, 1977. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances* and *commodities* used in the production and distribution thereof between Fayetteville, Tenn., and Amana, Iowa, on the one hand, and, on the other, points in Alabama, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 114273 (Sub-No. 306), filed November 7, 1977. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods, non-frozen foodstuffs* in containers (except meats, meat byproducts, and articles distributed by meat packinghouses), from the plantsites and storage facilities of Beaver Valley Canning Co. at Grimes, Iowa; Reinbeck Canning Co., Reinbeck, Iowa; Ackley Foods Processors, Ackley, Iowa; and Vista Products Co. at Storm Lake, Iowa to points in the states of Michigan and Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 114301 (Sub-No. 93), filed November 15, 1977. Applicant: DELAWARE EXPRESS CO., a Corporation, P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of plastic material, dry, in bulk, from Leominster, Mass., to points in Connecticut, Georgia, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 114457 (Sub-No. 338), filed November 10, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bagged insulation*, from points in Tazewell County, Ill.; Franklin County, Kans.; Hennepin County, Minn.; and Stark County, N. Dak. to points in the United States (except Hawaii and Alaska), and (2) *materials, equipment*, and *supplies* from points in the United States (except Hawaii and Alaska), to points in Tazewell County, Ill.; Franklin County, Kans.; Hennepin County, Minn.; and Stark County, N. Dak.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 114896 (Sub-No. 60), filed November 11, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metals, precious metal items, gold, silver and plating salt*, moving in armored vehicles under armed guard. Between Freeport, N.Y., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, Pennsylvania, and Rhode Island, under continuing contract or contracts with Lea Ronal, of Freeport, N.Y.

NOTE.—Applicant holds common carrier authority in MC 140345, Sub No. 1, and, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 115826 (Sub-No. 277), filed November 11, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, Denver, Colo. 80217. Applicant's representative: Howard Gore, P.O. Box 5088 Terminal Annex, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items*, dessert preparations, and gum ball machines and stands (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Leaf Confectionery, Inc. at Chicago, Ill., to points in Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Denver, Colo.

No. MC 115841 (Sub-No. 575), filed November 14, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, Tenn. 37922. Applicant's representative: E. Stephen Heisley, Ames, Hill & Ames, P.C., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk) between the facilities of Louisville Freezer Center at or near Louisville, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Louisville, Ky., or Washington, D.C.

No. MC 116110 (Sub-No. 23), filed November 14, 1977. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: (1) *Steel doors, mirrors, plastic articles, moldings and metal shapes, and materials* and accessories thereto, and items used in the installation thereof, from the plantsite of Slimfold Manufacturing Co., Inc., located at or near Dothan, Ala., to points in the United States (except Alaska and Hawaii), and (2) *materials, equipment and supplies* used or useful in the manufacture or installation of the commodities described above, from points in the destination territory named in (1) above, to the plantsite or storage facilities of Slimfold Manufacturing Co., Inc., located at or near Dothan, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 116915 (Sub-No. 39), filed September 29, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 2015 Alsop Lane, P.O. Box 1279, Owensboro, Ky. 42301. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* and building and construction materials, machinery, supplies, and equipment between the plantsite and facilities of Penn-Dixie Steel Corp. and/or Penn Dixie Industries, Inc. located at or near Kokomo, Ind.; Fort Wayne, Ind.; Cicero, Ind.; Elkhart, Ind.; North Judson, Ind.; Centerville, Iowa; West Des Moines, Iowa; Joliet, Ill.; Blue Island, Ill.; Chicago, Ill.; Newton, Kans.; Jackson, Miss.; Lansing, Mich.; Grand Rapids, Mich.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; North Arlington, N.J.; Albuquerque, N. Mex.; Salisbury, N.C.; Toledo, Ohio; Columbus, Ohio; Nazareth, Pa.; Cabot, Pa.; Kingsport, Tenn.; South Pittsburg, Tenn.; Knoxville, Tenn.; Milwaukee, Wis.; Atlanta, Ga.; and Denver, Colo.; on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico. Restricted to shipments either originating at or destined to the facilities of Penn-Dixie Steel Corp. and/or Penn Dixie Industries, Inc., and further restricted against the transportation of commodities in bulk, in tank vehicles.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., Louisville, Ky., or Washington, D.C.

No. MC 116915 (Sub-No. 43), filed November 11, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate Street, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* in bulk, in dump vehicles, between the port site and facility of the Owensboro Riverport Authority, located at or near Owensboro, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky., Lexington, Ky., or Frankfort, Ky.

No. MC 117574 (Sub-No. 294), filed November 2, 1977. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yard tractors*, between Lyons, Ill., on the one hand, and, on the other, points in and east of Arkansas, Illinois, Louisiana, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 118159 (Sub-No. 230), filed November 11, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* (except in bulk) from the storage facilities and plantsite locations of Beatrice Foods, Co. at Archbold, Ohio, to points in Arkansas, Louisiana, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it take place at Chicago, Ill.

No. MC 118202 (Sub-No. 78), filed November 10, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) from points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wyoming, and the District of Columbia, to facilities of Watkins Products, Inc., at Winona, Minn., restricted to traffic destined to the above-named facilities.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 118202 (Sub-No. 79), filed November 14, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* from Green Bay, Wis. and Rochelle, Ill., to Winona, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn.

No. MC 118806 (Sub-No. 57), filed November 8, 1977. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, suite 200, Winnipeg, Manitoba, Canada R25 3K4. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: A. *Motor graders and motor grader parts, attachments, and accessories*, from the ports of entry on the International Boundary Line between the United States and Canada, located in New York and Michigan, to points in the United States (except Alaska Hawaii); and B. *equipment, materials, and supplies*, used in the manufacture, sale, and/or distribution of the commodities named in A above, from points in the United States (except Alaska and Hawaii)— to the ports of entry on the International Boundary Line between the United States and Canada, located in New York and Michigan; and C. (1) *experimental and show display motor graders;* (2) *parts, attachments, and accessories* for the commodities described in (1) above; and (3) *incidental paraphernalia* which at the time is being transported for purposes of display or experiment, between points in the United States (except Alaska and Hawaii). Restricted in A and B above to traffic originating at or destined to facilities of Champion Road Machinery International Corp., and moving in foreign commerce, and restricted in C above to traffic moving from or to exhibits, displays, experimental stations, or facilities operated or utilized by Champion Road Machinery International Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held either at Chicago, Ill., or Columbia, S.C.

No. MC 118989 (Sub-No. 169), filed November 15, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers and container ends*, (a) from Indianapolis, Ind. to Griffin, Ga.; Fairmont, Minn.; Newport and Tellico Plains, Tenn.; Dallas, Tex.; and Cumberland, Frederick, and Friesland, Wis.; (b) from Newport, Tenn. to Lawrence, Kans. and Dallas, Tex.; and (c) from Rockford, Ill. to Croswell, Hart, and Scottville, Mich.; Fairmont, Minn.; Appleton, Beaver Dam, Columbus, Cumberland, Frederick, Friesland, Plymouth, and Sheboygan, Wis.; and (2) *canned fruits and vegetables*, from the destinations in (a), (b), and (c) of part (1), to Tipton, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Indianapolis, Ind.

No. MC 119522 (Sub-No. 35), filed November 14, 1977. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, Ind. 46011. Applicant's representative: John B. Leatherman, Jr. (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and building and construction materials:* (1) between Cicero, Elkhart, Kokomo, North Judson, and Fort Wayne, Ind.; Chicago, Joliet, and Blue Island, Ill.; Columbus and Toledo, Ohio; and Detroit, Grand Rapids, Holland, Lansing, and Petoskey, Mich; (2) from each of the above-named points, to points in Indiana; Ohio; and lower peninsula of Michigan; St. Louis, Mo.; Chicago, Ill., and those points in Illinois on and south of U.S. Highway 36. Restricted to shipments either originating at or destined to the Penn Dixie Steel Corp., Penn Dixie Industries, Inc., and wholly owned subsidiaries of Penn Dixie Industries, Inc.; and further restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 120618 (Sub-No. 4), filed November 8, 1977. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis, Ind. 46241. Applicant's representative: John R. Bagileo, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with no exceptions, between points in Indiana.

NOTE.—Applicant presently holds authority to perform the proposed service under its certificate of registration in No. MC 120618. The purpose of this application is to convert that authority into a certificate of public convenience and necessity upon applicant becoming a multistate carrier. If a hearing is deemed necessary, applicant requests that it be held in Indianapolis or Terre Haute, Ind.

No MC 121568 (Sub-No. 10), filed November 3, 1977. Applicant: HUMBOLDT EXPRESS, INC., P.O. Box 11080, Nashville, Tenn. 37211. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, classes A and B explosives, commodities in bulk, and articles requiring special equipment), (1) between Memphis and Hall, Tenn., over U.S. Highway 51, serving all intermediate points, and serving all points in Tipton and Lauderdale Counties as off-route points; (2) between Covington and Brownsville, Tenn., over Tennessee Highway 54, serving all intermediate points, and serving Friendship, Maury City, and Crockett Mills, as off-route points; (3) between Memphis, Tenn.,

and junction of Tennessee Highways 14 and 54, over Tennessee Highway 14, serving all intermediate points; (4) between Bells and Halls, Tenn., over Tennessee Highway 88, serving all intermediate points; (5) between the junction of U.S. Highway 79 and Tennessee Highway 20, and Alamo, Tenn., from the junction of U.S. Highway 79 and Tennessee Highway 20, over Tennessee Highway 20 to Alamo, Tenn., and return over the same route, serving all intermediate points; (6) between Memphis and Nashville, Tenn., from Memphis, over U.S. Highway 70 to Brownsville, thence over U.S. Highway 70A to Huntingdon, thence over U.S. Highway 70 to Nashville, and return over the same route, serving all intermediate points between Humboldt (including Humboldt) and the Fayette-Shelby County line, and serving the plantsite of the Firestone Tire & Rubber Co., at or near Nashville, as an off-route point; (7) between Memphis and Brownsville, Tenn., over Interstate Highway 40, serving junction of Interstate Highway 40 and Tennessee Highway 59 as an intermediate point; (8) between Braden, Tenn., and the junction of Tennessee Highway 59 and Interstate Highway 40, over Tennessee Highway 59, serving all intermediate points; (9) between Nashville, Tenn., and junction of Tennessee Highway 76 and Interstate Highway 40, over Interstate Highway 40, together with any and all connecting roads between Interstate Highway 40 and carrier's regular route service over U.S. Highway 70 and 70A, which are west of the Tennessee River, as alternate routes for operating convenience only; (10) between Nashville and Bristol, Tenn., from Nashville over Interstate Highway 40 to junction with Interstate Highway 81, thence over Interstate Highway 81 to Bristol, and return over the same route, serving all intermediate points on and east of U.S. Highway 25E, and serving Knoxville and the junction of Interstate Highway 40 and Interstate Highway 81, for purposes of joinder only; (11) between Greeneville and Kingsport, Tenn., from Greeneville over Tennessee Highway 70 to junction U.S. Highway 11W, thence over U.S. Highway 11W to Kingsport, and return over the same route, serving all intermediate points; (12) between Greeneville and Kingsport, Tenn., over Tennessee Highway 93, serving all intermediate points; (13) between Greeneville and Bristol, Tenn., over U.S. Highway 11E, serving all intermediate points; (14), between Johnson City and Elizabethton, Tenn., over Tennessee Highway 67, serving all intermediate points; (15), between Johnson City and Kingsport, Tenn., over U.S. Highway 23, serving all intermediate points; (16) between Kingsport and Bristol, Tenn., over U.S. Highway 11W, serving all intermediate points; (17), between Knoxville and Greeneville, Tenn., over U.S. Highway 11E, serving Jefferson City and all intermediate points between Jefferson City and Greeneville, and serving Knoxville for joinder only; (18) between Morristown and junction Interstate Highway 81 and U.S. Highway 25E, over U.S. Highway 25E, serving Morristown and all intermediate points; (19) between White Pine and Newport, Tenn., over U.S. Highway 25E, serving all intermediate points; (20) between Newport and Greeneville, Tenn., over U.S. Highway 411, serving all intermediate points; (21) between junction of Interstate Highway 40 and Interstate Highway 81 (Jefferson County) and Newport, Tenn., from the junction of Interstate Highway 40 and Interstate Highway 81, over Interstate Highway 40 to junction with U.S. Highway 411, thence over U.S. Highway 411 to Newport, and return over the same route, serving no intermediate points, and serving the junction of Interstate Highway 40 and Interstate Highway 81 for the purposes of joinder only; and (22) (A) between Memphis, Tenn., and Fort Smith, Ark., over Interstate Highway 40, serving all intermediate points; and (B) between Little Rock and Texarkana, Ark., over Interstate Highway 30, serving all intermediate points, restricted in (22) (A and B) above, (1) against serving points in the Texarkana, Ark., commercial zone lying outside Arkansas; and (2) against the handling of traffic which originates at, is destined to, or interlined, at Little Rock, Ark., and points in its commercial zone, on one hand, and, on the other, that which originates at, is destined to, or interlined at Memphis, Tenn., and points in its commercial zone, and restricted in (1) through (22) above, against service at points in the Memphis, Tenn., commercial zone lying outside Tennessee.

NOTE.—Applicant states that routes (1) through (18) above represent presently held certificates of registration, and routes (19), (20), and (21) for which application for a certificate of registration is presently pending before the Commission. Applicant seeks to convert the above certificates of registration to a certificate of public convenience and necessity. Route 22 constitutes a request for an extension of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 123272 (Sub-No. 16), filed November 14, 1977. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baking powder*, from Terre Haute, Ind. to Birmingham, Dothan, Mobile, and Montgomery, Ala.; Phoenix, Ariz.; Little Rock, Ark.; Denver and Grand Junction, Colo.; Los Angeles, Fresno, Sacramento, and San Francisco, Calif.; Boise and Pocatello, Idaho; Wichita, Kans.; Shreveport, Monroe, and New Orleans, La.; Jackson and Greenville, Miss.; Billings, Mont.; Grand Island and Omaha, Nebr.; Albuquerque, N. Mex.; Portland, Oreg.; Chattanooga and Nashville, Tenn.; Dallas, El Paso, Houston, Lubbock, San Angelo, San Antonio, and Tyler, Tex.; Salt Lake City, Utah; and Seattle and Spokane, Wash.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 124947 (Sub-No. 85), filed November 11, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tubing, welded and seamless*, from Shelby, Ohio to Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. Restricted against the transportation of commodities in bulk and further restricted to shipments originating at the plantsite and shipping facilities of Ohio Steel Tube Co., Division of the Copperweld Tubemakers at or near Shelby, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Chicago, Ill.

No. MC 125950 (Sub-No. 13), filed November 8, 1977. Applicant: C. B. S. TRANSPORTATION, INC., 1207 Columbus Circle, Wilmington, N.C. 28401. Applicant's attorney: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable containers*, (1) from the plantsite of the Talley-Corbett Box Co., located at or near Adel, Ga., to those points in Tennessee on and east of U.S. Highway 231 (except points in Hamilton County, Tenn.), and to points in Florida, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York; and, (2) from the plantsite of the Talley-Corbett Box Co., located at or near Springfield, S.C., to those points in Tennessee on and east of U.S. Highway 231 (except points in Hamilton County, Tenn.), and points in Florida, Georgia, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 126402 (Sub-No. 17), filed November 14, 1977. Applicant: JACK WALKER TRUCKING SERVICE, INC., 1506 Fort Sumpter Court, Lexington, Ky. 40505. Applicant's representative: George M. Catlett, 708 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Eden (Rockingham County), N.C., to points in Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lexington, Ky., or Louisville, Ky.

No. MC 127042 (Sub-No. 194), filed November 15, 1977. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar, P.O. Box 98-Leeds Station, Sioux City, Iowa 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coatings, adhesives, tape, sound deadeners, caulking and sealing compounds, glue and paint* (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from Riverside, Calif., to Wichita, Kans., and Mansfield, Tex.; and (2) from Kankakee, Ill., to Mansfield, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127303 (Sub-No. 24), filed November 11, 1977. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, Ill. 63126. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis. to points in Nebraska and Missouri.

NOTE.—If a hearing is to be held on this proceeding, applicant requests that it be scheduled for Omaha, Nebr., or Kansas City, Mo.

No. MC 128007 (Sub-No. 114), filed November 7, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock feeders, yard carts, boat trailers, fly control units, and pond deicers* (except plastic containers and commodities in bulk), from the plantsite of Poli-Tron, Inc., located in Crawford County, Kans., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used or useful in the manufacture of the above-described commodities (except plastic containers and commodities in bulk), from points in the United States (except Alaska and Hawaii), to the plantsite of Poli-Tron, Inc., located in Crawford County, Kans. Restriction: The operations authorized immediately above are restricted to the transportation of shipments originating at or destined to the above-named plantsite.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 128383 (Sub-No. 73), filed November 1, 1977. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Leonard C. Zucker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives and commodities in bulk) having a prior or subsequent movement by air, over irregular routes, between the John F. Kennedy Airport, LaGuardia Airport, New York, N.Y., Newark Airport, Newark, N.J., Teterboro Airport, Teterboro, N.J., Steward Airport, Newburgh, N.Y., Bradely Airport, Hartford, Conn., Thos. Green Airport, Providence, R.I., Logan International Airport, Boston, Mass., and the States of New York, Connecticut, Rhode Island, and Massachusetts. Tacking: Applicant proposes to tack this authority at New York, N.Y., with its authority in MC 128383 and Sub-Nos. 3, 6, 13, 14, 17, 22, 28, 29, 30, 41, 43, 47, 50, 57, 58, 61, and 70.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Boston, Mass., or Hartford, Conn.

No. MC 128638 (Sub-No. 17), filed November 8, 1977. Applicant: CENTRAL GRAIN HAULERS, INC., Route 7, Van Meter Road, Winchester, Ky. 40391. Applicant's representative: William L. Willis, attorney at law, 708 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural limestone and gypsum* (except in tank vehicles), from Irvington, Ky., and points in its commercial zone to points and places in Alabama, Arkansas, Connecticut, District of Columbia, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville or Frankfort, Ky.

No. MC 133133 (Sub-No. 17), filed November 11, 1977. Applicant: FULLER MOTOR DELIVERY CO., 802 Plum Street, Cincinnati, Ohio 45202. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Clarksville, Ind., to points in Indiana, Kentucky, Ohio, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Ohio, or Indianapolis, Ind.

No. MC 133689 (Sub-No. 153), filed November 8, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, commodities of unusual value, household goods as defined by the Commission and foodstuffs), from points in Connecticut, Massachusetts, New Jersey, and that portion of New York on, south, and east of the following described territory: beginning at the New York-Vermont boundary line at New York Highway 7 and extending over New York Highway 7 to its junction with Interstate Highway 90 west of Schnectady, N.Y., thence over Interstate Highway 90 to its junction with Interstate Highway 87, thence over Interstate Highway 87 to its junction with New York Highway 17 at or near Hilburn, N.Y., thence over New York Highway 17 to the New York-New Jersey boundary line to the Hudson River, and thence along the Hudson River to the Atlantic Ocean, to points in Minnesota, North Dakota, South Dakota, and Wisconsin. Restriction: The above authority is restricted to traffic moving on bills of lading of the Charter Oaks Shippers Cooperative Association, Inc., a Shipper association.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133689 (Sub-No. 154), filed November 2, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority saught to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), from Poplar, Wis. to points in Nebraska, Kansas, Iowa, Missouri, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, Alabama, Georgia, North Carolina, South Carolina, Virginia, West Vir-

ginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, Minnesota, and the District of Columbia. Restricted to traffic orginating at the plantsite and storage facilities of P.V. Foods, Inc., located at or near Poplar, Wis. and destined to the named destinations and (2) *ingredients, materials, and supplies*, used in the manufacture of commodities named in (1) above (except commodities in bulk), from points in Minneskota, Iowa, Kansas, Missouri, Illinois, Indiana, Ohio, Kentucky, New York, New Jersey, and Pennsylvania, to Poplar, Wis. Restricted to traffic originating at the named origin states and destined to the plantsite and storage facilities of P.V. Foods, Inc., located at or near Poplar, Wis.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minn.

No. MC 133708 (Sub-No. 31), filed November 14, 1977. Applicant: FIKSE BROS., INC., 12647 East South Street, Artesia, Calif. 90701. Applicant's representative: R. Y. Schureman, Suite 606, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *sand*, in bulk, from Oceanside, Calif., to points in Arizona and Nevada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles or San Diego, Calif.

No. MC 133828 (Sub-No. 8), filed December 1, 1977. Applicant: CASAZZA TRUCKING CO. (a corporation), 1250 Glendale Avenue, Sparks, Nev. 89431. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Road construction machinery and equipment*, as described in Appendix VIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, 766, and *excavation and logging machinery and equipment*, the transportation of which because of size or weight requires the use of special equipment, between points in Alpine, El Dorado, Mono, Nevada, Placer, and Sierra Counties, Calif., Douglas, Lyon, and Ormsby Counties, Nev., and those points in Washoe County, Nev., on and south of U.S. Highway 40 on the one hand, and, on the other, points in Plumas, Yuba, Sierra, Butte, Lassen, San Francisco, San Mateo, Santa Clara, Solano, Marin, Contra Costa, Sonoma, Alameda, Amador, Calaveras, Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa, Merced, Monterey, Orange, Riverside, San Benito, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Sierra, Tulare, Tuolumne, and Ventura Counties, Calif.

NOTE.—Applicant states the purpose of this application is to eliminate the gateways of Nevada, Alpine, El Dorado, Mono, and Placer Counties, Calif. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 134467 (Sub-No. 24), filed November 8, 1977. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, Ark. 74764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsites and/or warehouse facilities utilized by La Choy Food Products, a division of Beatrice Foods Co., at or near Archbold, Ohio, to points in Arkansas, Louisiana, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 135213 (Sub-No. 11), filed November 3, 1977. Applicant: JOE GOOD, d.b.a. GOOD TRANSPORTATION, 830 Shoshone Avenue, P.O. Box 335, Lovell, Wyo. 82431. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board paper* from points in Mayes County, Okla., to points in Sevier County, Utah, under a continuing contract or contracts with Georgia Pacific Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg., or Washington, D.C.

No. MC 135234 (Sub-No. 10), filed November 10, 1977. Applicant: TRENCO, INC., 2109 Marydale Avenue, P.O. Box 697, Williamsport, Pa. 17701. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric cables; aluminum rods; and aluminum articles;* and (2) *materials, equipment and supplies*, used in the manufacture, assembly, production, distribution, and sale of the above-specified commodities (except commodities in bulk), between the facilities of Alcan Aluminum Corp., at or near Bay St. Louis, Miss., on the one hand, and on the other, points in the United States (except Alaska and Hawaii). Restriction: The above authority is restricted to the transportation of traffic transported under a continuing contract or contracts with Alcan Aluminum Corp.

NOTE.—Applicant also holds common carrier authority, so dual operations are involved. If a hearing is deemed necessary, it is requested at either Cleveland, Ohio, or Washington, D.C.

No. MC 135861 (Sub-No. 19), filed October 31, 1977. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, Tex. 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Candy, chewing gum and related premiums and advertising materials*, from the facilities of Topps Chewing Gum, Inc., at Duryea and Scranton, Pa., to points in Arkansas, Arizona, California, Colorado, Louisiana, Missouri, New Mexico, Oklahoma, Texas, and Kansas, under continuing contract, or contracts, with Topps Chewing Gum, Inc., Duryea, Pa.

NOTE.—If a hearing is deemed necessary, applicant request that it be held at Dallas or Fort Worth, Tex.

No. MC 136828 (Sub-No. 19), filed November 14, 1977. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, Ala. 35233. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Pipe; fittings; valves; hydrants; castings; and equipment, materials, and supplies* used in or in connection therewith (except commodities in bulk), from Jefferson County, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant request that it be held at Birmingham, Ala., or Nashville, Tenn.

No. MC 138875 (Sub-No. 62), filed November 15, 1977. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank L. Sigloh, 11900 Franklin Road, Boise, Idaho 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recyclable materials:* (1) *Scrap metals*, (2) *Crushed auto bodies, engines and transmissions*, and (3) *Junk*, from points in Utah, Wyoming, and those in Bannock, Bear Lake, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, and Teton Counties, Idaho, to points in Oregon, Washington, California, Nevada, and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boise or Pocatello, Idaho, or Salt Lake City, Utah.

No. MC 139495 (Sub-No. 281), filed November 9, 1977. Applicant: NA-

TIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene shapes and forms and disposable plastic tableware*, from the plantsite and warehouses of Mobil Chemical Co., located at or near Temple, Tex., to points in Arkansas, Colorado, Georgia, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Tennessee.

NOTE.-If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139495 (Sub-No. 284), filed November 14, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Valves, hydrants, pipe fittings, connectors and hangers, indicator posts, and castings* from Elmira, N.Y., to points in Alabama, Mississippi, Florida, Tennessee, Virginia, West Virginia, Maryland, Ohio, Michigan, Pennsylvania, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139579 (Sub-No. 6), filed November 15, 1977. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, N.Y. 14094. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *clay, in bags*, from McIntyre and Attapulgus, Ga., to points in Erie and Niagara Counties, N.Y., and Ohio; (2) *resins and pine oil* from Pensacola, Tallahassee, and Tampa, Fla., to points in Erie and Niagara Counties, N.Y., and Ohio, under a continuing contract or contracts with Meyers Chemicals, Inc., located at Buffalo, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y.

No. MC 140267 (Sub-No. 7), filed November 10, 1977. Applicant: R A TRANSPORTATION, INC., 115 Jacobus Avenue, South Kearny, N.J. 07032. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheat flour, Grain flour, Flour prepared, Flour edible, Donut Sugar Topping* (except in bulk), from The Pillsbury Co. plant located in Martel, Ohio (County of Marion), to points in Maryland, New Jersey, New York and the District of Columbia; under a continuing contract or contracts with The Pillsbury Co., located at Minneapolis, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Chicago, Ill.

No. MC 140363 (Sub-No. 15), filed November 11, 1977. Applicant: CHAMP'S TRUCK SERVICE, INC., POB 1233, Meraux, La. 70075. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alloys and ores*, in bulk, in dump trucks, between points in Louisiana, on the one hand, and on the other, points in Alabama and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Baton Rouge, or New Orleans, La.

No. MC 140452 (Sub-No. 8), filed November 11, 1977. Applicant: ROSE BROTHERS TRUCKING, INC., R. R. 31, Box 9, Terre Haute, Ind. 47803. Applicant's representative: John J. Thar, 5101 Madison Avenue, Indianapolis, Ind. 46227. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from points and places in Pike, Gibson, Warrick, and Spencer Counties, Ind., to points and places in Crawford, Jasper, and Douglas Counties, Ill., and Mead County, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in either Evansville, Ind.; Indianapolis, Ind.; or Louisville, Ky.

No. MC 140829 (Sub-No. 62), filed November 7, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa, 51102. Applicant's representative, William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products* and *food ingredients* in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Archer Daniels Midland Co. at or near Decatur, Ill., to points in the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C., restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held in Washington, D.C.

No. MC 141255 (Sub-No. 14), filed November 11, 1977. Applicant: TANDY TRANSPORTATION, INC., 2560 East Long Avenue, P.O. Box 7135, Fort Worth, Tex. 76111. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Such commodities as are dealt in by electronic equipment supply stores, materials and store supplies (except commodities in bulk and those requiring the use of specialized equipment)*, (1) between the facilities of Radio Shack, division of Tandy Corp., at Charleston/North Charleston, S.C., on the one hand, and, on the other, points in Virginia, West Virginia, North Carolina, South Carolina, Alabama, Georgia, Florida, Tennessee, Delaware, Maryland, and the District of Columbia; (2) between the facilities of Radio Shack, division of Tandy Corp., at Randolph, Mass., on the one hand, and, on the other, Maine, New Hampshire, Vermont, New York, Connecticut, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, West Virginia, and the District of Columbia; and (3) between the facilities of Radio Shack, division of Tandy Corp., at Randolph, Mass.; Charleston/North Charleston, S.C.; Groveport, Ohio; Vancouver, Wash.; and Garden Grove, Calif. Restricted in paragraphs (1), (2) and (3) above to a transportation service to be performed under a continuing contract or contracts with Tandy Corp. and its Radio Shack division.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex., or Washington, D.C.

No. MC 141255 (Sub-No. 15) filed November 10, 1977. Applicant: TANDY TRANSPORTATION, INC., 2560 East Long Avenue, P.O. Box 7135, Fort Worth, Tex. 76111. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Such commodities as are dealt in by electronic equipment supply stores, materials and store supplies (except commodities in bulk and those requiring the use of specialized equipment)*, (1) between the facilities of Radio Shack, division of Tandy Corp., at Vancouver, Wash., on the one hand, and, on the other, points in California, Nevada, Oregon, Idaho, Utah, Arizona, Wyoming, and Mon-

tana; (2) between the facilities of Radio Shack, division of Tandy Corp., at Garden Grove, Calif., on the one hand, and, on the other, points in Arizona, Nevada, Utah, Oregon, Idaho, Washington, Wyoming, and Montana; (3) from Los Angeles, Calif., to the facilities of Radio Shack, division of Tandy Corp. at Vancouver, Wash. Restricted in paragraphs (1), (2) and (3) above to a transportation service to be performed under a continuing contract or contracts with Tandy Corp. and its Radio Shack division.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex., or Washington, D.C.

No. MC 141382 (Sub-No. 1), filed November 7, 1977. Applicant: DON'S MOVING & DELIVERY SYSTEM, INC., 101 Madison Street, Janesville, Wis. 53545. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Prefabricated buildings, knocked down or in sections, and materials and supplies used in connection therewith*, from the facilities of Varco Pruden, Division of AMCA International, located at or near Evansville, Wis., to points in Illinois, Iowa, and Minnesota on, north, and east of a line extending from the eastern boundary of Illinois, thence west along U.S. Highway 30 to junction with Interstate Highway 35, thence north along Interstate Highway 35 to Duluth, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Milwaukee, Wis., or Chicago, Ill.

No. MC 141527 (Sub-No. 6), filed November 14, 1977. Applicant: D & D LUMBER COMPANY, INC., 2146 Amity Hill Road, Statesville, N.C. 28677. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Upholstered new furniture*, from the plantsite and shipping facilities of Chadwick Furniture, Ltd., at or near Rhodhiss, N.C., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, under a continuing contract with Chadwick Furniture, Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Charlotte, N.C.

No. MC 141652 (Sub-No. 22), filed November 14, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incandescent, mercury vapor, flourescent, automobile and sealed beam bulbs* (lamps) and materials and supplies utilized in the manufacture thereof, from Jackson, Miss. (General Electric plantsite) to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 138807 and Subs thereto; therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at: Cleveland, Ohio; and New York City, N.Y.

No. MC 142262 (Sub-No. 2), filed November 11, 1977. Applicant: BARNARD PAVELKA TRUCKING, INC., Route 1, Box 122, Glenvil, Nebr. 68941. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk), from Milwaukee and LaCrosse, Wis.; Peoria, Ill.; and St. Paul, Minn., to Hastings and McCook, Nebr., under a continuing contract, or contracts, with Nebraskaland Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Lincoln, Nebr., or Omaha, Nebr.

No. MC 142268 (Sub-No. 31), filed November 3, 1977. Applicant: GORSKI BULK TRANSPORT INC., R.R. No. 4, Harrow, Ontario, Canada, NOR 1G0. Applicant's representative: Kennethy G Snell, 843 Central Avenue, Windsor, Ontario, Canada, N8Y 4S2. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from points of entry on the United States-Mexico International boundary at Laredo, Tex., to Owensboro, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Louisville, Ky., or Washington, D.C.

No. MC 142351 (Sub-No. 4), filed November 9, 1977. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, Commack, N.Y. 11725. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees, decorations or ornaments, and Christmas lights in boxes*, from Hicksville, Long Island, N.Y., to points in Illinois, Indiana, Florida, Pennsylvania, North Carolina, Ohio, Maine, Michigan, New Jersey, Virginia, Georgia, South Carolina, Connecticut, West Virginia, Maryland, and Delaware, under continuing contract or contracts with Liberty Bell Christmas, Inc., of Hicksville, N.Y.

NOTE.—Applicant holds common carrier authority in No. MC 14047 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142831 (Sub-No. 5), filed October 19, 1977. Applicant: HAMRIC TRANSPORTATION, INC., 3318 East Jefferson, Grand Prairie, Tex. 75051. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipeline, including the stringing and picking up thereof, between the plantsites and warehouse facilities of Otis Engineering Corp. located at or near Mobile, Ala.; Anchorage, Kenai, Alaska; Bakersfield, Santa Fe Springs, Ventura, Calif.; Brighton, Denver, Grand Junction, Colo.; Jay, Fla.; St. Elmo, Ill.; Belle Chasse, Houma, Lafayette, Lake Charles, Morgan City, New Iberia, New Orleans, Patterson, Shreveport, Venice, La.; Mount Pleasant, Mich.; Laurel, Miss.; Lovington, N. Mex.; Las Vegas, Nev.; Ardmore, Enid, Lindsay, Oklahoma City, Woodward, Tulsa, Okla.; Amarillo, Bay City, Beaumont, Corpus Christie, Dallas, Falfurrias, Gainesville, Houston, Laredo, Longview, McAllen, Midland, Odessa, Perryton, Snyder, Victoria, Tex.; Roosevelt, Utah; and Casper and Rock Springs, Wyo., restricted to traffic originating at or destined to the facilities of Otis Engineering Corp., located at the above-named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 142941 (Sub-No. 9), filed November 10, 1977. Applicant: SCARBOROUGH TRUCK LINES, a corporation, 1313 North 25th Avenue, Phoenix, Ariz. 85009. Applicant's representative: Phil B. Hammond, 10th floor, 111 West Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic beverages and wine* (except in bulk), from Lawrenceburg, Frankfort, Bardstown, and Louisville, Ky.; Lawrenceburg, Ind.; Dayton and Edison, N.J.; Fairless Hills, Pa.; Peoria,

Ill.; and Relay, Md., to Phoenix, Tucson, Flagstaff, and Yuma, Ariz.; (2) *alcoholic beverages, beer, and wine* (except in bulk), from Rutherford, San Francisco, San Jose, Madera, and Los Angeles, Calif. to Phoenix, Tucson, Flagstaff, and Yuma, Ariz.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Phoenix, Ariz.

No. MC 143032 (Sub-No. 3), filed November 7, 1977. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 607 North 27th Avenue West, Duluth, Minn. 55806. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke, briquets, coke, and coal*, from Duluth, Minn. and Superior, Wis., to points in the United States (except Alaska, Hawaii, North Dakota, South Dakota, Minnesota, Iowa, Illinois, Ohio, Indiana, New York, Montana, Nebraska, and Colorado).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either St. Paul or Minneapolis, Minn.

No. MC 143503 (Sub-No. 6), filed November 9, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93031. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishings, and accessories*, between the facilities of John F. Lawhon Furniture Co. at or near Harahan, La., on the one hand, and on the other, points in Adams, Amite, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lauderdale, Lawrence, Lincoln, Marion, Newton, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, and Wilkinson Counties, Miss.; and Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Caldwell, Cameron, Catahoula, Concordia, East Baton Route, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, La Salle, Livingston, Madison, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, West Feliciana, and Winn Parishes, La.

NOTE.—Applicant holds motor contract carrier authority in No. MC 136211, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either New Orleans, La., or Oklahoma City, Okla.

No. MC 143535 (Sub-No. 1), filed November 8, 1977. Applicant: ROBERT L. JONES, d.b.a. BOB JONES TRUCKING, 555 West Main Street, Olney, Ill. 62450. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal fencing and component parts thereof*, from Olney, Ill., to points in Indiana, Kentucky, Missouri, Ohio, and Tennessee, under a continuing contract or contracts with Master Fence Fittings, Inc., located at Olney, Ill.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 143610 (Sub-No. 5), filed November 11, 1977. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Ariz. 85301. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Yakima, Wash., to points in Arizona, California, Colorado, Texas, and Utah, under a continuing contract or contracts with Snokist Growers.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Yakima, Wash.

No. MC 143628 (Sub-No. 2), filed November 11, 1977. Applicant: GLACIER REFRIGERATION SERVICE, INC., 14 Orchard Road, Woodbridge, Conn. 06525. Applicant's representative: Harold G. Hernley, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, the Marriott Corp. pursuant to its business, between points in the District of Columbia and points in Prince Georges County, Md., on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii, under a continuing contract or contracts with the Marriott Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 143845 (Sub-No. 1), filed November 4, 1977. Applicant: TANK'S ENTERPRISES, INC., a Georgia corporation, 101 White Road, Austell, Ga. 30001. Applicant's representative: William N. Robinson, 231 Washington Avenue NE., Marietta, Ga. 30060. Authority sought to engage in operation, in interstate *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles*, by use of wrecker equipment only, and *replacement vehicles* for wrecked and disabled motor vehicles between points in Georgia, on the one hand, and, on the other, points in Alabama, Florida, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.; Birmingham, Ala.; Jacksonville, Fla.; or Charlotte, N.C.

No. MC 143908 (Sub-No. 1), filed November 4, 1977. Applicant: GEORGE F. GREEN TRANSPORT, INC., 701 Hardeman Avenue, Fort Valley, Ga. 31030. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insecticides, pesticides, herbicides, fungicides*, and *agricultural chemicals* in packages between Peach, Turner, Dougherty, and Worth Counties, Ga., on the one hand, and, on the other, points in Alabama, Florida, South Carolina (except Greenville, S.C. and points in its commercial zone), and Tennessee (except Chattanooga and Copperhill, Tenn. and points in their commercial zone), and (2) *Clay* in bags from Gadsden County, Fla. to points in Peach County, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 143951 (Sub-No. 1), filed November 10, 1977. Applicant: WESTCO TRUCKING, INC., 5206 Dixie Highway, Louisville, Ky. 40216. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Clarksville, Ind. to points in Kentucky and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky. or Indianapolis, Ind.

No. MC 143967 (Sub-No. 1), filed November 7, 1977. Applicant: W. K. SPENCE d.b.a. W. K. TRANSFER CO., P.O. Box 2796, 11503 East Pine Street, Tulsa, Okla. 74116. Applicant's representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City Mo. 64141. Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in and sold or utilized by retail discount department stores in the conduct of their business* between the warehouse of Wal Mart Stores, Inc., located in Tulsa, Okla., on the one hand, and, on the other, the warehouses of Wal Mart Stores, Inc.,

located in Kansas City and St. Louis, Mo.; Memphis, Tenn.; Dallas, Tex.; and Little Rock, Ark.; and from the warehouse of Wal Mart Stores, Inc., located in Tulsa, Okla., to Wal Mart stores in Oklahoma, under a continuing contract with Wal Mart Stores, Inc., P.O. Box 116, Bentonville, Ark. 72712.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Oklahoma City, Okla.

No. MC 143989 (Sub-No. 3), filed November 15, 1977. Applicant: GREEN MOUNTAIN CARRIERS, INC., R.D. 1, Box 150, Westerlo, N.Y. 12193. Applicant's representative: Philip H. Hoff, 192 College Street, Burlington, Vt. 05401. Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Germantown and Red Hook, N.Y. to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, under a continuing contract, or contracts, with Orchard Hill Farms, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Albany, N.Y., Burlington, Vt., or Washington, D.C.

No. MC 143999, filed November 7, 1977. Applicant: ALLIED INTERNATIONAL TRUCKING CO., INC., 25 River Street, West Newton, Mass. 02165. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the manufacture of furniture, cabinets, and toys (except in bulk) from points in California, Connecticut, Florida, Indiana, Louisiana, Maryland, Massachusetts, Maine, New Hampshire, Vermont, and Texas to points in the United States (except Alaska and Hawaii), restricted to a transportation service performed under a continuing contract or contracts with Allied International Inc., of Boston, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Washington, D.C.

No. MC 144000, filed November 7, 1977. Applicant: ROMAS TRUCKING, INC., State Road 59 South, Route 17, Brazil, Ind. 47834. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the facilities of Brazil Coal & Clay Corp., located in Center Point, Ind. to Urbana, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 144001, filed November 1, 1977. Applicant: UNIVERSAL HAULERS, INC., Route 1, Catnip Hill Pike, Nicholasville, Ky. 40356. Applicant's representative: H. P. Mason (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stone, asphalt, and sand* in dump-type vehicles, from the plantsite of Carey-Adams, Inc., at or near Maysville, Ky., to points in Brown and Adams Counties, Ohio, under a continuing contract, or contracts, with Carey-Adams, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lexington or Louisville, Ky., or Cincinnati, Ohio.

No. MC 144002, filed November 2, 1977. Applicant: ONE SEVENTY TWO UNION AVE., INC., d.b.a. HENRY'S CITGO, 172 Union Avenue, Framingham, Mass. 01701. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed and replacement motor vehicles* (except trailers designed to be drawn by passenger automobiles, new automobiles, new trucks and parts for such commodities, in initial movements) in wrecker or truckaway service, between points in Worcester and Middlesex Counties, Mass., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-37070 Filed 12-28-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6730-01]

1

FEDERAL MARITIME COMMISSION.

TIME AND DATE: January 3, 1978, 10 a.m.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Notation items disposed of during November, 1977.
2. Report on Applications for Admission to Practice approved during the month of November, 1977, pursuant to authority delegated to the Secretary.
3. Report on times shortened for submitting comments on section 15 agreements pursuant to authority delegated to the Secretary.
4. Assignment of informal dockets by the Secretary pursuant to delegated authority.
5. Agreement No. 10135-3: Modification of the Far East and Pacific Westbound Conferences' Discussion Agreement to permit special committees to submit proposals to the individual conferences and consideration of extension of the term of approval of the agreement.
6. Agreement No. 9427-5: Modification of Germany-North Atlantic Ports Rate Agreement to add Atlantic ports of France to the scope of the agreement.

Portion closed to the public:

1. Docket No. 77-35: Publication of Inactive Tariffs in U.S. Foreign Commerce—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-2167-77 Filed 12-27-77; 2:42 pm]

[7030-01]

2

INDIAN CLAIMS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 64029, 12/21/77.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:15 a.m., December 29, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

CHANGE IN THE MEETING: The following item has been added:

Portion of the meeting closed to the public: Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006. Telephone: 202-653-6184.

[S-2166-77 Filed 12-27-77; 10:26 am]

[7035-01]

3

DECEMBER 27, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, January 3, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Regular Conference.

MATTERS TO BE CONSIDERED:

1. Ex Parte No. 338, *Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels;* briefing by the staff. See Deputy Director Rosenak's memorandum of December 20, 1977.
2. Ex Parte No. MC-98, *New Procedures in Motor Carrier Restricting Proceedings;* briefing and discussion of released rates only; voting possible. See circulation of November 2, 1977, and subsequent votes.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-2170-77 Filed 12-27-77; 3:51 pm]

[4110-39]

4

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: January 12, 1978, 9:30 a.m. to 9 p.m., January 13, 1978, 8:30 a.m. to 3:30 p.m.

PLACE: Room 823, National Institute of Education, 1200 19th Street, NW., Washington, D.C.

STATUS: Certification has been received from the HEW Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on January 12-13, 1978 under 5 U.S.C. 552b(c)(9)(B) and 45 CFR 1440.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE the proposed Executive Branch budget for Fiscal 1979, in particular, the sections dealing with the proposed budget and funding priorities of NIE." The session of January 12th will be open to the public.

MATTERS TO BE CONSIDERED:

January 12, 1978

1. Approval of Minutes of November 4, 1977 Meeting (9:30a-9:35a).
2. Director's General Report (9:35a-10:00a).
3. Presentation and Discussion of Director's Annual Report to the Council on NIE and Comments on the Status and Needs of Education and Education R&D (10:00a-12 Noon).
4. Consideration of Director's Plan for Implementation of NCER Policy on Fundamental Research (1:00p-2:00p).
5. Report of the Program Committee (2:00p-2:30p).
6. Report of Review and Reports Committee: The Fourth Annual Report (2:30p-3:30p).
7. Executive Committee Report: Issues for Future Council Attention (3:30p-5:00p).

Recess: 5:00p-7:30p.

8. Presentation by Dr. Harold Hodgkinson on the State of Evaluation Methods and Strategies (7:30p-9:00p).

January 13, 1978

1. Discussion of FY 1979 Budget (Closed to the public—8:30a-9:45a).

Recess: 9:45a-12 Noon.

"NCER attends NIE ceremony commemorating Martin Luther King, Jr."

2. Complete Discussion and Action on FY 1979 Budget (closed to the public—1:00p- until adjournment).

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Ella L. Jones, Administrative Coordinator/NCER; telephone 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-2168-77 Filed 12-27-77; 3:51 pm]

[8010-01]

5

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 64216.

CHANGES IN THE MEETING: Additional items to be considered at open meeting scheduled for Thursday, December 29, 1977.

The Commission will consider the following additional items at the open meeting scheduled for Thursday, December 29, 1977, at 10 a.m.:

1. Consideration of a proposed amendment to Rule 19c-1 which expands the scope of off-board agency restrictions which an exchange is prohibited from imposing on its members.

2. Consideration of proposed Rule 11Ac-1 under the Securities Exchange Act of 1934 which would require all national securities exchanges and third market makers to make available to quotation vendors all bids, offers and quotation sizes with respect to reported securities and that such quotations be "firm" in price and size subject to certain exceptions.

Commissioners Loomis, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

DECEMBER 22, 1977.

[S-2164-77 Filed 12-27-77; 9:18 am]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 63516, December 16, 1977.

CHANGES IN THE MEETING SCHEDULE: Additional meeting held.

The Commission held a closed meeting on December 23, 1977, at 10 a.m. to discuss the following matter: Request for access to information.

The General Counsel of the Commission, or his designee, certified that, in his opinion, the item considered at the closed meeting was so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9), and (10).

Commissioners Loomis, Pollack, and Karmel determined that Commission business required the additional matter to be considered and that no earlier notice thereof was possible.

DECEMBER 23, 1977.

[S-2165-77 Filed 12-27-77; 9:18 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 2, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, January 3, 1978, at 10 a.m. An open meeting will be held on Wednesday, January 4, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A), and (10) and 17 CFR 200.402(a), (8), (9)(i) and (10).

Chairman Williams, Commissioners Loomis, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 3, 1978, at 10 a.m., will be:

Referral of investigative files to Federal, State, or Self-Regulatory authorities.
Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings.
Settlement of administrative proceedings.
Subpoena enforcement action.
Other litigation matters.

The subject matter of the open meeting scheduled for Wednesday, January 4, 1978, at 10 a.m., will be:

1. Consideration of a release to propose a rule and amendment relating to the borrowing and lending of a customer securities by broker-dealers.

2. Consideration of soliciting public comment on proposed Rule 206(4)-3 under the Investment Advisers Act of 1940, which would set forth guidelines pursuant to which investment advisers can make cash payments to persons who solicit clients for such investment advisers.

3. Petition for review of the Division of Corporation Finance's denial, pursuant to delegated authority, of a request by Data Access Systems, Inc. for an extension of time to file its annual report for the fiscal year ended August 31, 1977.

4. Consideration of an application filed by Bank of America National Trust and Savings Association, Originator and Servicer, for an order exempting the company from certain reporting requirements under the Securities Exchange Act of 1934.

5. Consideration of a proposed educational brochure on investments in oil and gas.

FOR FURTHER INFORMATION CONTACT:

Julie Allecta at 202-376-7127 or Ted Bloch at 202-376-7158.

DECEMBER 27, 1977.

[S-2169-77 Filed 12-27-77; 3:51 pm]

federal register

THURSDAY, DECEMBER 29, 1977

PART II

DEPARTMENT OF DEFENSE

Department of the Army

■

ENVIRONMENTAL PROTECTION AND ENCHANCEMENT

Peacetime Responsibilities

[3710–08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

SUBCHAPTER K—ENVIRONMENTAL QUALITY

[AR 200–1]

PART 650—ENVIRONMENTAL PROTECTION AND ENHANCEMENT

Peacetime Responsibilities

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is revising its regulation on environmental protection and enhancement due to the numerous editorial changes, modifications in technology, and the addition of a new subpart on Solid Waste Management. This revision is intended to provide current guidance and procedures to elements within the Department of the Army on environmental protection.

EFFECTIVE DATE: March 15, 1978.

ADDRESSES: Office of the Assistant Chief of Engineers, Department of the Army, Attention: DAEN–ZCE, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT:

Col. Charles E. Sell, Chief, Environmental Office, telephone 202–694–4269.

SUPPLEMENTARY INFORMATION: This regulation applies to: all active, semiactive and Army Reserve installations and activities located in the United States; National Guard installations and sites supported with Federal appropriated funds; Army installations and activities overseas in accordance with the general policy provisions set forth below and contractor activities and lessees located on real property in the United States under the jurisdiction of the Department of the Army. The Civil Works activities under the jurisdiction of the Secretary of the Army and implemented by the Chief of Engineers are excluded from the provisions of this regulation. Separate environmental regulations promulgated for Civil Works activities conducted by the Chief of Engineers are found generally in 33 CFR Chapter II.

This regulation implements DoD Directive 5100.50 and provides general Department of the Army policy on environmental protection. The Subpart of Solid Waste Management defines Army policy, assigns responsibilities, and establishes procedures for the management of waste and resource recovery and recycling programs under the provisions of the National Environmental Policy Act of 1969 (NEPA), the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, and DoD Directive 4165.60. The Marine Sanitation Devices portion of the regulation is revised to be in compliance with DoD Directive 6050.4.

This revision is being adopted without proposed rulemaking because it implements pertinent requirements of existing Federal Statutes, regulations and Executive Orders pertaining to environmental protection and enhancement to be followed within the Department of the Army.

Therefore, notice of proposed rulemaking and the procedures applicable thereto are considered unnecessary.

Accordingly, 32 CFR Part 650 is revised as follows:

WILLIAM R. WRAY,
Major General, USA,
Assistant Chief of Engineers.

This regulation supersedes AR 200–1, 7 December 1973, including all changes. It also rescinds RCS DD–I&L(SA) 1088 and adds RCS DD–I&L(SA) 1383.

Subpart A—General

Subpart B—Environmental Considerations in DA Actions

GENERAL

REPORTS

ENVIRONMENTAL IMPACT ASSESSMENTS AND IMPACT STATEMENTS

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT (EIS)

PROCESSING OF ENVIRONMENTAL IMPACT STATEMENT

Subpart C—Water Resource Management

GENERAL

STANDARDS AND PROCEDURES

Subpart D—Air Pollution Abatement

GENERAL

STANDARDS AND PROCEDURES

Subpart E—Solid Waste Management

GENERAL

STANDARDS AND PROCEDURES

Subpart F—Hazardous and Toxic Materials Management

GENERAL

PESTICIDE MANAGEMENT PROGRAM

HAZARDOUS CHEMICAL STOCKS (EXCLUDING CHEMICAL WARFARE AGENTS)

AUTHORITY: 10 U.S.C. 3012.

Subpart A—General

§ 650.1 Purpose.

This regulation prescribes policies, assigns responsibilities, and establishes procedures for the protection and preservation of environmental quality for the Department of the Army in peacetime.

§ 650.2 Applicability.

This regulation applies to: (a) All active, semiactive, and Army Reserve installations and activities located in the United States.

(b) National Guard installations and sites supported with Federally appropriated funds.

(c) Army installations and activities overseas in accordance with the general provisions set forth in § 650.5(c).

(d) Contractor activities and lessees located on real property in the United States under the jurisdiction of the Department of the Army.

(e) The Civil Works activities under the jurisdiction of the Secretary of the Army and implemented by the Chief of Engineers are excluded from the provisions of this regulation. Separate environmental regulations promulgated for Civil Works activities by the Chief of Engineers (COE) are found generally in 33 CFR Chapter II and Enginering Regulations.

§ 650.3 Explanation of terms.

For the purpose of this regulation, the following apply:

(a) *Facility.* (AR 310–25.) Facilities include buildings, installations, structures, public works, equipment, aircraft, vessels, and other vehicles and property under the control of or constructed or manufactured for leasing to the Army.

(b) *Environmental quality standard.* The Federal, State and regional quality standards adopted pursuant to the Clean Air Act; Water Pollution Control Act, Noise Control Act and other Federal statutes established for the protection and enhancement of environmental quality.

(c) *Environmental performance specifications.* Permissible limits of emissions, discharges, or other values applicable to activities which would provide for conformance to environmental quality standards to protect health and welfare.

(d) *Environmental pollution.* The condition resulting from the presence of chemical, physical, radiological, or biological forces which alter the natural environment and thus adversely affect human health or the quality of life, biosystems, structures and equipment, recreational opportunity, aesthetics, and natural beauty.

(e) *Environmental enhancement.* All actions taken to improve the environment, including but not limited to, those to abate environmental pollution and meet environmental quality standards and performance specifications.

(f) *Substantive standards and limitations.* The qualitative and quantitative pollution control provisions contained in approved State implementation plans promulgated under Federal environmental protection statutes.

(g) *United States.* The 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(h) *Installation.* A grouping of facilities, located in the same vicinity, which support particular functions.

(i) *Activity.* A unit, organization or installation performing a function or mission.

§ 650.4 Goal.

It is the Department of the Army's goal to plan, initiate, and carry out all actions and programs to minimize the adverse effects on the quality of the human environment without impairment to the Army's mission. Inherent in this goal is the requirement to achieve the following objectives:

(a) Eliminate the discharge of potentially harmful pollutants produced by Army activities.

(b) Conserve and wisely use natural and material resources provided for use throughout the Army.

(c) Maintain, restore, and enhance the natural and manmade environment in terms of its visual attractiveness and productivity.

(d) Demonstrate initiative and leadership in the formulation and execution of a program that contributes to the national goal of preserving and enhancing the environment.

§ 650.5 Policy.

(a) All Department of Defense agencies are required to—

(1) Comply with the provisions of the National Environmental Policy Act and all other Federal environmental laws, executive orders, and regulations.

(2) Demonstrate leadership in environmental pollution abatement and enhancement of the environment consistent with the security interests of the Nation.

(b) The Department of the Army policy is that—(1) The achievement of environmental objectives is an integral part of the Army mission.

(2) The environmental consequences of any proposed action will be considered during the planning process and will be evaluated along with the technical and economic factors in the decisionmaking process.

(3) A detailed environmental impact statement will be prepared and processed in accordance with the National Environmental Policy Act when an environmental assessment reveals that the proposed action may significantly affect the quality of the human environment, is highly environmentally controversial, or is anticipated to evoke litigation based upon environmental issues. "Environmentally controversial" relates to cases in which substantive disagreement, real or purported, exists as to the extent, nature, or effect of the action on the environment.

(4) Insofar as essential mission constraints permit, all programs and actions will be planned, initiated or carried out in a manner to minimize polluting or degrading the environment.

(5) All activities subject to Federal, State, or local regulation will be conducted in accordance with applicable standards and monitored to insure compliance with such standards.

(6) All material and energy resources will be procured and used in a manner that will minimize the emission of pollutants and the production of wastes in keeping with the national policies for energy conservation. Wastes generated will be reprocessed or reclaimed for other productive uses to the maximum extent practicable.

(7) An understanding of the urgent need to preserve and restore the natural environment and to conserve material resources and an appreciation of the Army's support of the environmental protection effort will be fostered throughout the Army. Initiative, leadership, and cooperation in achieving these environmental objectives are encouraged of all personnel.

(8) Commanders will cooperate, to the extent practicable, in beneficial community environmental action programs.

(9) Historic and cultural sites, structures, and objects under Army jurisdiction will be preserved, restored, and maintained for the benefit and enjoyment of future generations.

(10) An integrated, multiuse, natural resources, land management program will be conducted for forests and woodlands, fish and wildlife, open space, soil, water, vegetation, outdoor recreation, natural beauty, and increased public access and nonconsumptive utilization on lands under Army jurisdiction within the provisions of AR 405–80 and AR 420–74.

(c) At locations outside the United States, Department of the Army activities will comply with the requirements of the National Environmental Policy Act as set forth in Subpart B of this part and conform at all times to the environmental quality standards of the host country, international agreements, and Status of Forces Agreements. The provisions of this regulation will be used, to the extent applicable, in fulfilling environmental protection requirements in overseas locations.

(d) When, in the interest of national defense, it is not considered practicable to comply with the foregoing policies, the matter will be referred with full particulars to HQDA (DAEN–ZCE), WASH, DC 20310.

§ 650.6 Implementation guidance.

Guidance for implementing DA environmental policies are—(a) The environment must be considered as a single, integrated system characterized by the continuous interaction of air, land, and water.

(b) For planning purposes, the environmental system will be regarded as closed; nothing can be thrown away. Wastes must be either recycled and reclaimed or confined and contained so they will not migrate to re-emerge in pollutant form.

(c) Pollutants are potential resources which are out of place.

§ 650.7 Responsibilities.

(a) Army Environmental Council will—

(1) Review and redirect, as necessary, Army environmental policy and programs to insure the Army fulfills its responsibility under the National Environmental Policy Act and other Federal laws and regulations pertaining to pollution control and environmental protection.

(2) Provide policy guidance on those matters which fall within the cognizance of the Council and on such matters as referred for consideration by the Secretariat or the Army Staff.

(b) Army Environmental Committee will assist the Army Environmental Council by—

(1) Proposing new environmental policies and programs as directed by the Council.

(2) Serving as a forum for the exchange of information and ideas related to the formulation of the Army Environmental Program.

(3) Assisting in the resolution of interagency problems on environmental matters.

(4) Assisting in the formulation of Army-wide implementing instructions for the Army Environmental Program.

(5) Maintaining surveillance over the ongoing Army Environmental Program and activities.

(6) Reviewing Army Environmental Impact Statements and requests for exemption from Federal and State pollution control standards prior to formal approval by the Assistant Secretary of the Army (Civil Works).

(7) Providing reports and information as directed by the Army Environmental Council.

(c) Chief of Engineers will—

(1) Exercise primary Army Staff responsibility for directing and coordinating environmental activities within the Army.

(2) Recommend such actions as will enable DA to comply with the intent, purposes, and procedures of the National Environmental Policy Act and other Federal legislation relative to environmental quality.

(3) Apply Army environmental policy and direct programs so that applicable environmental and pollution control laws and regulations are observed in the acquisition, construction, operations, and disposal of real property.

(4) Maintain positive surveillance over and report progress of the design and construction of pollution control facilities for Army installations.

(5) Insure that environmental research and development (R&D) projects fully support the environmental program goals.

(6) Promote participation by engineer troop units in the Army's environmental program.

(7) Provide technical and engineering assistance on the pollution control aspects of construction and the Real Property Maintenance Activities.

(8) Prepare an annual Department of the Army Environmental Quality Status Report (§§ 650.9 and 650.11).

(9) Conduct, with the assistance of the Army Staff agencies concerned, a continuing review of DA statutory authority, administrative regulations, policies, procedures, and programs (including those relating to loans, grants, contracts, leases, licenses, or permits) to eliminate deficiencies or inconsistencies which might prohibit or limit full compliance with the National Environmental Policy Act of 1969, Executive Orders 11514 and 11752, DoD Instruction 4120.14 and DoD Directives 4150.7, 5030.41, 5100.50, 6050.1 and 6050.2.

(d) The Surgeon General will—

(1) Monitor, evaluate, and disseminate data on health and welfare aspects of environmental pollution within the Department of the Army to ensure that the required degree of environmental enhancement is maintained.

(2) Provide health and medical policy guidance in respect to instructions and recommendations received from other Federal agencies assigned responsibility for environmental enhancement at Federal installations.

(3) Provide personnel for conducting field investigations and special studies concerning environmental pollution and recommend enhancement measures required for protection of health.

(4) Provide technical assistance and guidance on the health and environmental aspects of management and disposal of hazardous and toxic materials.

(5) Provide technical consultation to the Office, Chief of Engineers (OCE) and appropriate commanders on health aspects in the development of environmental enhancement policy and programs.

(e) The Chief of Information will—

(1) Ensure that the public is informed of the Army's accomplishments in environmental protection and enhancement.

(2) Develop and execute a command information program designed to stimulate understanding and participation by all Army personnel.

(f) Heads of Army Staff agencies will—

(1) Integrate environmental considerations into regularly assigned staff management functions and activities to insure compliance with applicable pollution control and environmental protection laws and to demonstrate the Army's leadership in the national effort to preserve the environment.

(2) Ensure that the environmental consequences of each proposed project, program regulation, or action for which they are the Army Staff proponent are assessed at an early stage of planning and are made an integral part of the decisionmaking process. Further, ensure that environmental damage is mitigated to the maximum extent feasible.

(g) Major Army commanders will—

(1) Establish an organizational structure to plan, execute, and monitor environmental programs.

(2) Formulate and execute an environmental program which fully supports the achievement of the Army's environmental goals and objectives.

(3) Monitor and control the environmental projects and activities of the subordinate commands and the installations and activities under their jurisdiction.

(4) Review, consolidate, and forward to higher authority, reports from subordinate installations and activities concerning their environmental projects and activities.

(h) Army installation and activity commanders will—

(1) Establish an organizational structure to plan, execute, and monitor environmental programs.

(2) Formulate and execute an environmental program based on the policies set forth in § 650.5 to achieve the Army's environmental goals and objectives.

(3) Cooperate with State and local authorities in formulation and execution of projects and activities required to bring an installation into compliance with applicable Federal, State, and regional pollution control standards.

(4) Integrate environmental protection and preservation activities, to the fullest extent feasible, into the planning and execution of the command's basic mission.

(5) Report, as required, to major commanders on the progress and effectiveness of environmental projects and activities to detect, quantify, and correct pollution sources in accordance with published laws, standards, and guidelines.

§ 650.8 Installation, State and Environmental Protection Agency (EPA) Relationships.

(a) Federal installations are not required to comply with State or local administrative procedures with respect to pollution abatement and control. However, the majority of Federal environmental protection statutes contain provisions that require compliance with Federal, State, interstate and local substantive standards and limitations.

(b) Permits required by Federal statute, notably the National Pollutant Discharge Elimination System (NPDES) permits, will be obtained from the Environmental Protection Agency in accordance with regulations promulgated pursuant to the Federal Water Pollution Control Act and the guidance contained in this regulation.

(c) Compliance schedules required by State Implementation plan for air pollution control, reflecting the major increments of progress for projects designed to meet specified standards, will be negotiated with State regulatory authorities and coordinated with the Regional Office of EPA. When established, such compliance schedules are enforceable and may only be changed by renegotiation.

(d) Performance reports as specified in this regulation on the operation of wastewater treatment facilities, sources of air pollutant emissions, oil spills and such other reports as may be directed by DAEN–ZCE will be submitted to EPA regional authorities, as appropriate, who in turn will transmit appropriate information to State authorities. Requests for substantive reports not provided for by this regulation will be promptly referred to HQDA (DAEN–ZCE) Washington, D.C. 20310 for guidance.

(e) Military authorities are to cooperate fully with EPA, State, regional and local authorities requesting access to Army installations for the purpose of inspecting pollution control facilities and activities.

§ 650.9 Annual Status Report on Environmental Programs and Activities (RCS DD–I&L(A) 1269).

HQDA (DAEN–ZCE) will prepare the DA Annual Status Report on Environmental Programs and Activities (RCS DD–I&L(A) 1269). The DA report will include information on the programs and activities of the major Army commands, the Army Reserve, and the Army National Guard.

(a) Major Army commanders will submit an annual report to DAEN–ZCE not later than February 15, covering actions and activities of the preceding calendar year. The command report should be based on feeder reports from active and semi-active installations. Command and installation reports will include the information outlined in § 650.11 to the extent that it is applicable. Further, the installation report will contain information identified in § 650.11 (c), (d), (e), (f), (g), (h) and (i) for tenant activities and satellited Army Reserve facilities.

(b) The State adjutants will submit an annual report to the Chief, National Guard Bureau not later than February 1. Negative reports are required. The Chief, National Guard Bureau will consolidate and forward reports containing facilities/sites that are not in compliance with Federal/State standards to HQDA (DAEN–ZCE) WASH DC 20310 not later than February 15. The report will contain the following information:

(1) Status of compliance with Federal/State pollution control standards for those facilities/sites which receive support from federally appropriated funds. Those not in compliance will be listed separately with the reasons for noncompliance.

(2) Status of programs and actions by facility/site currently ongoing that will bring the facility/site into compliance with Federal/State pollution control requirements.

(3) Those requirements along with estimated cost needed to bring facilities/sites not addressed in paragraph (b)(2) of this section into compliance with Federal/State pollution control standards.

(4) Significant accomplishments by ARNG units to protect and enhance the environment.

(c) Commander in Chief USAREUR; Commanders, Eighth US Army, and US Army, Japan will submit an annual report covering only those elements of § 650.11 which may be applicable. This should include an analysis of the scope of host nation environmental quality laws and regulations, their impact on US Army installations and activities, status of compliance with specific host nation requirements, and a summary of plans to correct any deficiencies.

§ 650.10 Environmental Quality Award.

(a) *Secretary of Defense award.* The Secretary of Defense presents an annual award to the Department of Defense installation which conducted the best environmental quality program during the preceding calendar year and give recognition to other installations having particularly noteworthy programs. Department of the Army nominees will be selected by the Army Environmental Council from the list of Active Army installations nominated to receive the Secretary of the Army Award.

(b) *Secretary of the Army Award.* The Secretary of the Army will present an Environmental Quality Award to the Army installation that evidences the most noteworthy contribution to protecting and preserving the quality of the environment. The basis of selection will be the annual Status Report on Environmental Programs and Activities prepared by an installation and used as a feeder report by the major command to its overall report (RCS DD–I&L(A) 1269, § 650.9).

(c) *Nominating instructions.* (1) Army commanders may nominate active or semiactive installations or separate and distinct geographically identifiable activities (e.g., USA Materiel Development and Readiness Command (DARCOM) depot activity and subinstallations) as candidate for the Environmental Quality Award, not to exceed the number listed below:

Command:	*Number of nominees*
US Army Training and Doctrine Command	3
US Army Forces Command	3
US Army Materiel Development and Readiness Command	3
US Army Health Services Command	1
US Army Military District of Washington	1
US Army Intelligence and Security Command	1
US Army Communications Command	1
US armies overseas	1

(2) The list of nominations will be accompanied by six copies of each installation annual report and submitted to HQDA (DAEN-ZCE) WASH DC 20310 by March 31. Reports will be typewritten or printed, fastened or bound in folders approximately 9 x 11 inches and narrative in style covering the topics in § 650.11.

§ 650.11 Reporting requirements.

The annual status reports required under the provisions of § 650.9 (RCS DD-I&L(A) 1269) will be prepared, using the following format. Each topic will be addressed in sufficient detail to give the next higher headquaters an understanding of the overall environmental program, specific accomplishments, problem areas, and planned new initiatives.

(a) Envornmental protection organization.

(1) Organizational structure for environmental matters.

(2) Staffing and management procedures.

(b) National Environmental Policy Act implementation.

(1) Summary of environmental assessments made.

(2) Environmental impact statements prepared and their status.

(c) Air pollution control.

(1) Status of compliance with applicable air quality standards.

(2) Status of corrective projects.

(3) Summary of litigation actions, if any.

(d) Water pollution control.

(1) Status of National Pollutant Discharge Elimination System (NPDES) permits requested and issued.

(2) Status of compliance with applicable water quality standards and permit provisions.

(3) Status of corrective projects.

(4) Summary of litigation actions, if any.

(e) Noise pollution control.

(1) Summary of major sources.

(2) Status of corrective measures.

(3) Summary of complaints/litigation, if any.

(f) Radiation pollution control.

(1) Summary of ionizing sources.

(2) Status of protective measures.

(g) Solid waste management.

(1) Summary of waste disposal operations.

(2) Waste recycling (equipment installed and in use, quantities and types of materials recycled, funds derived from sale of waste materials and use made of such funds).

(h) Toxic and hazardous materials management.

(1) Identification of significant toxic materials being controlled.

(2) Summary of types and protective measures for control of oil spills, disposal of toxic chemicals, etc.

(3) Identification of unique problems.

(i) Land management.

(1) Summary of conservation activities (forest, fish and wildlife management, etc.).

(2) Summary of historical and archeological sites and facilities and related preservation activities.

(3) Summary of installation attractiveness program and activities.

(j) Environmental research programs (if applicable).

(1) Summary of ongoing environmental research activities by pollution control media (air, water, etc.).

(2) Summary of technology-application activities.

(3) Identification of new research requirements.

(k) Environmental education, training and information programs.

(1) Status of individual and unit education training activities.

(2) Summary of environmental protection courses given or attended (TRA DOC Report will include courses and student attendance at courses in Army School System).

(3) Summary of public information activities.

(l) Environmental enhancement activities.

(1) Summary of environmental enhancement activities and projects conducted in support of Keep America Beautiful, Defense Community Service Program, etc. (includes activities by active and Reserve units).

§ 650.12 Executive Order 11752.

Figure 1-1 is the Presidential Executive Order dated December 17, 1973[1] which sets forth the policy and standards for the prevention, control, and abatement of environmental pollution at DA installations.

§ 650.13 Endangered species.

All matters concerning the Army's policy and regulatory guidance reflecting the Endangered Species Act of 1973 (Pub. L. 93-205) is covered in AR 420-74.

Subpart B—Environmental Considerations in DA Actions

General

§ 650.21 Purpose.

This chapter states Department of the Army policy, assigns responsibilities and establishes procedures for assessing the environmental impact of Department of the Army actions on the quality of the human environment as required by Pub. L. 91-190, "National Environmental Policy Act of 1969," January 1, 1970; and implements DOD Directive 6050.1, Environmental Considerations in DOD Actions, March 19, 1974.

§ 650.22 Background.

(a) Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190, requires that a detailed environmental impact statement (EIS) be included in "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment".

[1] 38 FR 34793, December 19, 1973; 3A CFR, 1973 Comp., p. 240.

(b) Executive Order 11514, March 7, 1970, Protection and Enhancement of Environmental Quality, directs the Council on Environmental Quality (CEQ) to issue guidelines for Federal agencies on the preparation of the environmental impact statements required by section 102(2)(C) of NEPA.

(c) On August 1, 1973, the CEQ published revised guidelines for the preparation of EIS's. These guidelines contain general guidance for determining when an EIS is required.

§ 650.23 Applicability.

(a) The provisions of this chapter apply to Headquarters Department of the Army and all Army commands and agencies (hereafter referred to as "DA agencies") and are effective immediately. The civil works functions of the Corps of Engineers are excluded from complying with these procedures.

(b) The provisions of this regulation apply to DA actions worldwide except for—

(1) Multinational actions (such as NATO) in which the DA is not the primary decisionmaking authority.

(2) Combat or combat-related activities in a combat zone, and

(3) Other emergency activities.

(c) In countries or areas not under US control or administration, DA actions, with the exception of those noted above, are subject to the environmental laws, regulations and stipulations of the foreign government concerned and whatever agreements may exist between the US and the country involved (Status of Forces Agreements).

§ 650.24 Scope.

(a) General—The legislative history of the National Environmental Policy Act of 1969 and the guidelines of the Council on Environmental Quality define actions which are to be assessed for their environmental impact. They include, but are not limited to, the following:

(1) Recommendations or favorable report relating to legislation, including that for appropriations.

(2) Policies, regulations and procedure-making.

(3) New and continued projects and program activities—

(i) Directly undertaken by Federal agencies.

(ii) Supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance; and

(iii) Involving a Federal lease, permit, license, certificate, or other entitlement for use.

(b) Proposals for legislation, annual authorization requests, and favorable reports on legislation.

(1) Legislative proposals other than authorization and appropriation acts. Prior to preparing a legislative proposal, the proponent agency will assess the environmental consequences of the proposal using the factors in this chapter. If it is determined that the proposal could significantly affect the quality of the human environment, an EIS is re-

quired and shall be submitted with the proposal.

(2) Annual budget requests. Prior to submitting annual budget requests, the environmental consequences of each line item requested for inclusion therein will be assessed by the proponent of the action using as a minimum the factors in this chapter. For those items which are identified as major actions having a significant effect on the quality of the human environment, or which are controversial, a draft environmental impact statement will be prepared which will accompany the budget request through channels. Additional guidance is contained in the Budget Guidance Manual DOD 7110.1-M and DOD Instruction 7040.4 (Military Construction Authorization and Appropriation).

(3) Favorable reports on legislation.

(i) Where the Department of the Army is not the Federal agency that has primary responsibility for a legislative proposal, no EIS is required from the Army. If it is not clear from the legislative item whether the Army is the primary Federal agency responsible for the subject matter involved in the legislative item, advice should be sought from COE, (DA (DAEN-ZCE)).

(ii) Where the Army is the Federal agency that has primary responsibility for the subject matter involved in the legislative item, the proponent agency responsible for preparing the Army report on the item will assess the environmental consequences of the proposal, using the factors in this chapter. If the environmental impact assessment indicates that the proposal could or has the potential to significantly affect the quality of the human environment, an EIS is required and should accompany the report.

(c) Policy, regulations, and procedure-making.

(1) Environmental Impact Assessments (EIA) will be made for publications including but not limited to, directives, instructions, regulations, manuals, or major policy issuances of the Department of the Army and its commands and agencies.

(2) The publication proponent, at the appropriate command level, will assess the environmental consequences for any proposed publication, using the procedure set forth herein. If it is determined that actions required by the publication could significantly affect the environment, an EIS is required unless the publication is an implementation of a publication from OSD or a higher Army command or agency and the environmental consequence will not basically change from those already presented in an EIS prepared for the basic publication. In addition, appropriate environmental requirements will be addressed in these publications.

(3) Any Department of the Army implementation of a Federal law, of a publication of a Federal agency outside of the Department of the Army, or subsequent action taken based on the law or regulation that will significantly affect the quality of the environment, will require an EIS "unless a statement was prepared on the original publication" and the environmental consequences of the Army action will not significantly deviate from those already presented in the basic EIS.

(d)(1) Most activities take place on the typical installation on a routine or programed basis. Activities which are of a continuing nature or are projected to take place in the foreseeable future, are to be analyzed to produce an overall installation EIA. Projections on future activities at an installation can be based on the installation mission, Army Stationing and Installation Plan, ASIP, and the installation master plan. The resulting comprehensive environmental impact assessment would eliminate the need for numerous smaller scope assessments. It would remain valid until there is a major change in the installation mission, training requirements, logistic and administrative support, master plan, ASIP, applicable pollution control standards or new information becomes available on local ecological or environmental conditions that would invalidate an earlier assessment. On the basis of the overall installation environmental impact assessment, an EIS would be prepared when it is determined that the current and/or projected operations at the installation will have significant impact on the environment. DA projects and activities are generally of the following types:

(i) Construction

(ii) Repair, maintenance and operation of real property

(iii) Procurement

(iv) Real estate acquisition, disposal or outleasing

(v) Training

(vi) Industrial operations

(vii) Research, development, test and evaluation

(viii) Administrative support

(ix) Personnel

(x) Resources recycling and conservation

(2) Projects or actions which cannot be appropriately incorporated in the installation EIA because adequate definitive information is not available will require an individual EIA or EIS.

(3) An EIA for each Army installation worldwide will be completed at the earliest practicable date.

(4) Special consideration must also be given and EIS's prepared, if appropriate, by proponents of those major procurement actions that normally are not accomplished at the installation level. Examples would include the procurement of a new combat vehicle, communications system, weapons systems or major fuel supplies. Those aspects of the actions to be included in an EIA, or an EIS if needed, are the environmental impact of any research and development activities, testing operations, manufacture, transportation, maintenance, storage, use during training and disposal of the materiel being procured. In essence, the EIS covers the life cycle of the materiel. The impact of employing such equipment in combat operations is not required in the EIA or the EIS.

§ 650.25 Policies and objectives.

(a) It is the continuing policy of the Department of the Army, as a trustee of the environment, to demonstrate leadership and carry out its mission of national security in a manner consistent with national environmental standards, laws and policies. All practical means and measures will be used to minimize or avoid adverse environmental consequences and in attaining the objectives of—

(1) Providing a safe, healthful, productive, and esthetically and culturally pleasing surrounding.

(2) Attaining the widest range of beneficial uses of the environment without degradation, risk to health or safety or other undesirable and unintended consequences.

(3) Preserving important historic, cultural, and national aspects of our national heritage and maintaining where possible an environment which supports diversity and variety of individual choice.

(4) Achieving a balance between resources use and development within the sustained carrying capacity of the ecosystem involved.

(5) Enhancing the quality of renewable natural resources and approaching the maximum attainable recycling of depletable resources.

(b) Toward this end, DA agencies will—

(1) Assess at the earliest practical stage in the planning process and in all instances prior to the first significant point of decision, the environmental consequences of proposed actions.

(2) Review those continuing actions initiated prior to enactment of NEPA, for which the environmental consequences have not been assessed and ensure that any remaining actions are consistent with the provisions of this chapter.

(3) Utilize a systematic interdisciplinary approach in planning and decision-making.

(4) In Army planning and decision-making, consider environmental values and amenities concurrently with economic and technical considerations.

(5) Prepare and process under the criteria and procedures set forth herein a detailed EIS on every recommendation or report on proposals for legislations and other major defense actions which are expected to be environmentally controversial or could cause a significant effect on the quality of the human environment.

(6) Study, develop, and describe appropriate alternatives to the recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

(7) Recognize the worldwide and long-range character of environmental problems and, where consistent with national security requirements and the foreign policy of the United States, lend appropriate support to initiatives, resolutions and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world human environment.

(8) Refrain from taking any significant implementing steps on administrative actions until 90 days have elapsed after CEQ publishes notice in the FEDERAL REGISTER of the filing of the draft environmental statement and 30 days have elapsed after CEQ publishes notice in the FEDERAL REGISTER of the filing of the final statement, except as provided elsewhere in this chapter. The time relationships for the preparation and processing an EIS are shown in figure 2–1.

(9) On occasion, laws other than the National Environmental Policy Act require the Department of the Army to gain approval of another Federal agency before commencing certain types of actions that may have environmental consequences. Compliance with the requirements of such laws does not relieve the responsible official from preparing and processing an EIS, if the proposed action is a major action that would significantly affect the quality of the human environment. In this connection, compliance with Pub. L. 91–190 is applicable unless existing law applicable to a specific action or activity expressly prohibits or makes compliance impossible. However, insofar as practicable, the draft EIS format should be used in complying with other laws to minimize duplication of efforts.

§ 650.26 Responsibilities.

(a) The Assistant Secretary of the Army (Civil Works) (ASA–CW) will serve as the Secretary of the Army's responsible official for National Environmental Policy Act of 1969 (NEPA) matter.

(b) The Chief of Engineers, DA, exercises primary staff responsibility for coordinating and monitoring NEPA activities within the Army and will—

(1) Provide assistance and advice on the preparation/processing of EIA's and EIS's.

(2) Designate a single agency or lead office having the responsibility for preparing and processing EIS's and EIA's when more than one DA agency is involved.

(3) Review and comment on draft EIS's submitted by other DOD components and other Federal agencies.

(4) Monitor issuances of the DA which have environmental implications to determine if EIS's are required and to ensure that environmental considerations are built into the decisionmaking process.

(5) Maintain liaison with CEQ, the Environmental Protection Agency (EPA), the Office of Management and Budget (OMB), and other Federal agencies and State and local groups, with respect to the environmental policies affecting the Department of the Army.

(6) Maintain a current quarterly DA consolidated list of actions for which EIS's have been prepared or are under preparation, and a list of negative declarations.

(7) Retain a copy of each draft and final EIS prepared within the Department of the Army until the project or activity is completed.

(8) Direct the preparation of EIS's as appropriate.

(9) Coordinate on the technical aspects of EIS's submitted to HQDA for review and comment within those areas of assigned staff cognizance and technical capability and,

(10) For those actions or activities for which he is normally responsible, fulfill the requirements as defined in paragraph (c) of this section for HQDA staff agencies.

(c) Headquarters Department of the Army staff staff agencies will—

(1) Apply the policies set forth in this chapter on the application of NEPA to continuing and proposed programs and projects within their staff cognizance.

(2) Publish internal procedures for the preparation and review of EIA's and EIS's for programs or projects within assigned areas of responsibility and insure that EIS's, as may be required, are prepared and processed.

(3) Ensure that all regulations, directives, instructions, and other major policy publications are reviewed for environmental consequences, and, when such consequences are significant, withhold publication or issuance until the requirements concerning an EIS have been fulfilled.

(4) Coordinate, as appropriate, the preparation of EIS's with other elements of the Department of the Army as well as with the OCE, Environmental Office.

(5) Assess continuing and proposed programs and actions for their environmental consequences and initiate the preparation of EIS's where required.

(6) Designate, maintain and report the identity to DAEN–ZCE of the agencys' single point of contact for environmental matters.

(7) Prepare and maintain a list of administrative actions for which EIS's have been prepared or are being prepared, and compile the report of negative declarations required by § 650.27(a).

(8) As requested, assist in the review of EIA's and EIS's prepared by other Army agencies and EIS's prepared by non-Army agencies.

(9) Coordinate existing and proposed directives, instructions, regulations and major policy publications that have environmental implications with OCE (DAEN-ZCE).

(10) Determine, in accordance with the requirements contained in § 650.32, if a public hearing is necessary for the proposed action and assign the responsibility for the hearing to an appropriate office or agency.

(d) The Judge Advocate General will provide legal advice and assistance, as requested, in the interpretation of applicable laws and regulations related to environmental matters and handle litigation before the various courts and regulatory bodies except for the civil works program of the Chief of Engineers and the other specific responsibilities assigned herein to the Chief of Engineers.

(e) The Comptroller of the Army will establish necessary procedures to ensure compliance with the requirements for environmental exhibits and data in support of annual budget request. Additionally, for those actions or activities for which the COA is normally responsible, the COA will fulfill the requirements defined in paragraph (c) of this section for all HQDA staff agencies.

(f) The Surgeon General is responsible for coordinating the health, welfare, and environmental aspects of proposed environmental impact statements submitted to HQDA, and for preparing assessments or proposed EIS's required for actions and programs for which he is the proponent. Army commands, installations, and agencies are encouraged to draw upon the special expertise, within those areas of assigned staff cognizance and technical capability, which are available within the medical department. The Surgeon General will, upon request, furnish assistance and advice in the preparation of those aspects of EIS's which involve health, welfare, or environmental effects or which have monitoring implications.

(g) The Adjutant General will institute administrative procedures to preclude the publication of any policy letter, regulation or other DA issuance unless the proponent staff agency stated in writing that actions associated with implementing the publication will have no significant impact on the environment or a final EIS has been prepared and published in the FEDERAL REGISTER and the required time frame has passed.

(h) Major field commanders are responsible for monitoring actions and programs proposed for accomplishment within their commands or directed by higher headquarters, and assuring that appropriate EIA's or EIS's are prepared and, if necessary, forwarded to HQDA.

(i) All Army commands and agencies will—

(1) Establish internal procedures for assessing environmental consequences for continuing and proposed programs and actions for which they are the proponent agency, in accordance with the policies contained herein, and for the preparation, coordination within their technical staffs, and processing of EIA's and EIS's required for actions within their agencies.

(2) Establish internal procedures to insure that all regulations, directives, instructions, and other major policy publications for which they are the proponent agency or which implement issuances by higher headquarters, are evaluated for environmental consequences prior to publication.

(3) Establish a continuing program to assure that sufficient personnel within the command or agency are properly trained in the requirements of NEPA and the provisions of this regulation.

REPORTS

§ 650.27 Reports–RCS DD–H&E (QR) 1326, RCS DD–H&E (AR) 1327.

(a) The Department of the Army is required to report to the OSD at least quarterly those actions on which EIS's have been prepared, those under preparation, and in certain situations when it

has been determined that an EIS is not required. In the latter instance, when it has been decided that an EIS is not required for a project or activity of a type described in § 650.29(b), a statement (negative declaration) must be prepared for the public record briefly setting forth this decision and the reasons for the determination. The negative declaration should be prepared and supported by an EIA in the EIS format (fig. 2–4) and kept with the project or activity file subject to forwarding to HQDA upon request. Major commands will submit in quadruplicate to HQDA (ATTN: DAEN–ZCE) a report recovering the actions discussed above and in the format shown at figure 2–2. Report will be submitted within ten (10) days following the end of the quarter. Reports will be submitted on quarterly intervals.

(b) Major commands and HQDA staff elements will maintain cost estimates of the direct costs which are incurred solely for the purpose of preparing and processing EIS's. These estimates must be available upon request and will be identified as follows:

(1) Salaries of military and civilian personnel.

(2) Associated travel costs.

(3) Research costs directly related to the draft EIS's.

(4) Contract and consultant costs directly related.

(5) Administrative costs, and

(6) Costs of public hearings.

(c) Reports discussed in paragraph *a* above will be submitted within ten (10) days following the end of the quarter. This reporting requirement has been assigned Report Control Symbol DD–I&L (Q) 1326.

(d) EIS's prepared in accordance with this regulation have been assigned Reports Control Symbol DD–I&L (AR) 1327.

ENVIRONMENTAL IMPACT ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS

§ 650.28 General.

(a) Both the EIA and the EIS are analyses of ongoing activities or proposed plans and programs and must include systematic analyses of the environmental impact (adverse and beneficial) on land, air, water, man, and other biota. The purpose is to identify—

(1) The environmental impact of the proposed/ongoing action.

(2) Any adverse environmental effects which cannot be avoided.

(3) Alternatives to the proposed action.

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action.

(b) Environmental impact assessments.

(1) The preparation of an EIA is the initial step of an environmental analysis. Its purpose is to identify whether the action (ongoing or proposed) is major and to determine if the action will have significant impact on the quality of the human environment. Further, it is to serve as the basis for determining if an EIS will be required.

(2) For the many routine actions which are largely administrative in nature, require a minimal expenditure of resources and are of generally limited scope, the EIA can be a conscientious mental evaluation with that action reported in the project or activity file. However, where documentation is required in support of a project or action, the documentation will contain a statement that an EIA has been made and that no significant environmental impact will result.

(3) For those actions not clearly identified to fall in the category outlined in paragraph (b)(2) of this section, a written EIA will be prepared. The EIA will follow the format specified for an EIS as outlined in § 650.31, except that alternative courses of action need not be analyzed when it is determined that only minimal environmental impact will result from pursuing the preferred course of action selected primarily for economic, technical or mission effectiveness reasons. (However, this exception does not absolve those responsible for implementing the action from taking every reasonable measure to minimize or mitigate any environmental impact that is inherent in the action.)

(4) In concluding any EIA, the preparer will make a specific statement on each of the following:

(i) The action is or is not major.

(ii) A significant environmental impact will or will not result from the action.

(iii) The implementation of the plan or action will or will not be environmentally controversial.

(5) The written EIA will be made available for consideration and approval by the principal decisionmaker at the level where the EIA is prepared. For those actions requiring approval of a higher level of authority, the EIA will be forwarded with the request for approval of the action so that the approving authority will be knowledgeable of the environmental considerations when approving the action. Each EIA will have a cover sheet as shown in figure 2–3, signed by appropriate decisionmaking officials and the EIA will be retained on file with the agency until the action or project is completed. However, if it is determined that the action is major and will have a significant effect on the environment, an EIS will be prepared and forwarded through command channels to HQDA as specified in §§ 650.33, 650.34 and 650.35.

§ 650.29 Major actions significantly affecting the quality of the human environment (MASAQHE).

(a) General. (1) It is impossible to list categorically all DA projects or activities that are "Major Federal actions significantly affecting the quality of the human environment." In making a judgment in a particular case, it will be necessary for the proponent of the action to assess the expected environmental effects of the action in conjunction with the intent of NEPA as implemented by the CEQ and DOD. It is essential that all the environmental effects of an action be assessed, whether those effects are adverse or beneficial. In determining whether or not the effects of an action are significant, the proponent must evaluate the nature and degree of all effects on the environment. These may be significant even though the net environmental effect of the proposed action may be beneficial.

(2) DA agencies shall insure that the environmental consequences of a proposed action are fully assessed during the decisionmaking process. If the EIA indicates that the decision will either affect the environment on a large geographical scale or have a serious environmental effect in a more restricted geographical area, the proposed action shall be considered a Major Action Significantly Affecting the Quality of the Human Environment (MASAQHE), and the decision shall be deferred until Federal agencies possessing special expertise or persons affected by the environmental effects of the decision have had an opportunity to present their view. It is necessary to consider not only the degree of effect on the environment but also the scope of the action and the potential effect of the action on other persons. The following examples are provided to assist in defining MASAQHE.

(i) An action that will influence subactivities in many subordinate units, and the subactivities will each affect the environment, is probably a MASAQHE even though a single subactivity by itself may not be in that category. For example, a limited maneuver or training exercise by small elements of a command might not be a major action, nor would it normally affect the environment significantly. However, if a major command or HQDA intended to publish a regulation that includes provisions prescribing the environmental considerations that were to be given to the planning of all training exercises or maneuvers of the command for an indefinite period of time, then it might be expected that such a regulation would have a significant effect on the quality of the environment because it would govern numerous activities which individually would have some effect on the environment. Thus the regulation should be construed to be a MASAQHE.

(ii) A major realignment plan of the Army involving numerous installations or activities could be a MASAQHE. In this instance, the impact at one installation may be small but because of the numerous installations involved, the overall plan impact may be significant, especially insofar as the secondary impacts are concerned. Although the secondary socioeconomic impacts are generally insufficient by themselves to require an EIS, these factors should be included in the event that an EIS is required.

(iii) An example of an action that should be classified as a MASAQHE because of a localized effect is an extremely

noisy activity to be conducted near a residential area, where the resulting noise might seriously affect the comfort of residents of the area over an extended period. In keeping with the intent of NEPA, no decision should be made to take any action until those residents have been given an opportunity to present their views and their views have been carefully considered. Ongoing noisy activities should be given the same type study and review as given to planned or proposed activities.

(b) The types of actions listed below require close environmental scrutiny because of the possibility that they may either affect the quality of the environment or create environmental controversy. It is desirable in such cases to have a complete presentation of the environmental aspects of the proposed action available for any interested party. For this reason, consideration should be given to documenting the environmental effects of the following types of actions in writing. (The written EIA need not be elaborate for those actions determined to be minor and for which prudent nonbiased judgment would readily determine that the impact would not be significant. However, negative declarations must be supported by written EIA's which generally meet the EIS format requirements.)

(1) Development or purchase of a new type of aircraft, ship or vehicle.

(2) Development or purchase of a new weapon system.

(3) Real estate acquisition, disposal and outgrants.

(4) Major construction projects.

(5) New installations (bases, posts, etc.) or continued operation of major existing installations or ranges.

(6) Production, storage, transportation, testing or disposal of lethal chemical munitions, and pesticides.

(7) Mission changes and troop deployments which precipitate long-term population increases or decreases in any area with special attention to the secondary impacts which may cause indirect environment impact.

(8) Large quarrying, or earth-moving operations.

(9) Constructing or installing fences of other barriers that might prevent significant migration or free movement of wildlife.

(10) Proposed construction of new sanitary landfills, incinerators and sewage treatment plants.

(11) Existing or changes to master plans.

(12) Proposed construction or acquisition of new family housing.

(13) Dredging, and other similar activities in the water.

(14) Training exercises on or off Federal property, where significant environmental damages might occur regardless of unit sizes.

(15) Opening areas that were previously closed to the public or closing or limiting of areas that previously were open to public use, such as roads or recreational areas.

(16) Proposed construction on flood plains or construction that may cause increased flooding erosion or sedimentation, activities on wetlands or proposals which could alter the wetlands environmental value.

(17) Channelization of streams, diversion or impoundment of water.

(18) Disposal of significant quantities of POL waste products.

(19) Proposed construction of roads, transmission lines or pipelines.

(20) New, revised, or established regulations, directives or policy guidance concerning activities that could have an environmental effect. Regulations, directives, or policy guidance which limit any of the alternative means of performing the actions on this list.

(21) Any action which, because of real, potential or purported adverse environmental consequences, is a subject of controversy among people who will be affected by the action, or which, although not the subject of controversy, is likely to create controversy when the proposed action becomes known by the public.

(22) Sole source aquifer.

(23) Prime and endangered farm land.

(c) Even though a written EIA supports the conclusion that an action is not a MASAQHE, an EIS is to be written on a proposed action which is highly controversial because of environmental aspects. The EIS should be based on the information contained in the EIA.

§ 650.30 Environmental effects.

The proponent of the action should consider all aspects of the action to determine if it will interfere unreasonably with the living conditions of man, wildlife, or marine life, or with any ecosystems on an immediate, short-range or long-range basis. Examples of some factors that may be applicable are—

(a) *Effects on water quality to include—*

(1) Surface resources.

(2) Subsurface resources.

(3) Water supply treatment.

(4) Sewage treatment.

(5) Regulatory standards (water quality, effluent, toxic or hazardous substances, sedimentation, temperature alteration, etc.)

(b) *Effects on air quality to include—*

(1) Fixed pollution sources (heating plants).

(2) Mobile pollution sources (vehicles, aircraft).

(3) Regulatory standards (ambient, point source, emissions of toxic or hazardous substances or significant amounts of other pollutants).

(c) *Effects of noise to include—*

(1) Continuous (background) noise sources.

(2) Impact noises (weapons firing).

(3) Regulatory standards (worker safety, community noise).

(d) *Effects of solid waste to include—*

(1) Types and sources.

(2) Disposal methods.

(3) Regulatory standards (landfill, incinerator).

(e) *Effects of hazardous and toxic substances to include—*

(1) Types and sources (explosives, chemicals, etc.).

(2) Disposal methods.

(3) Regulatory standards.

(f) *Effects on energy resources to include—*

(1) Types used.

(2) Expansion capability.

(g) *Land use.*

(1) Current land usage patterns (on and off installation) including population density, neighborhood character, zoning, aesthetics, recreation and,

(2) Erosion and flooding controls.

(h) *Ecology.*

(1) Aquatic life.

(2) Animal life.

(i) Species.

(ii) Population.

(3) Endangered species.

(4) Wetlands.

(5) Vegetation.

(i) Open space.

(ii) Forrested areas.

(6) Management.

(i) *Cultural quality.*

(1) Archeological sites and remains.

(2) Historical structures and sites.

(3) Natural sites and remains.

(j) *Preservation.*

(1) Resources recycling.

(2) Conservation measures.

Preparation of Environmental Impact Statement

§ 650.31 General.

The following directions for the preparation of EIS's will be followed to assure general uniformity in preparing statements. DA agencies will institute procedures for identifying definite decision points for determining the need to formally submit an environmental statement. In developing and obtaining the necessary information to prepare an Environmental Impact Statement, early consultation within DA and with other Federal, State and local governmental and private organizations is encouraged. The statement is to be based on the EIA and should—

(a) Carefully detail environmental impacts, alternatives, and implications of proposed projects and activities and should provide reviewers insight into the particulars associated with the action. Reviewers will expect the statements to be a valid source of information on the proposed action, as well as a reflection of how the proponent views environmental factors and seeks to accommodate them. Since the statements are to be made available to the public it must be assumed that they will receive careful scrutiny.

(b) Systemically present the environmental impacts and sufficiently describe the physical and environmental aspects to permit independent appraisal and evaluation of the proposal. It should be simple and concise, yet include all pertinent facts. Length will depend upon the particular proposal and the nature of its impacts.

(c) Not be limited to ultimate conclusions, but contain a thorough evalua-

tion of all factors affecting the potential environmental impact of the proposal that will reasonably justify the conclusions presented.

(d) Be a complete and objective appraisal of the beneficial and adverse environmental effects of available alternatives, rather than a justification for the proposal. In no case should adverse effects, either real or potential, be ignored or slighted in an attempt to justify an action previously recommended. Similarly, care must be taken to avoid overstating favorable effects.

(e) Indicate at appropriate points in the text supporting and related underlying studies, reports and other information obtained and considered in preparing the EIS including applicable cost benefit analyses. Requirements by other statutes such as the Fish and Wildlife Conservation Act, and the National Historic Preservation Act should be combined with the EIS. Care should be taken to insure that the EIS remains an essentially self-contained document, capable of being understood by the reader without the need for undue cross-reference. If the case references are not easily accessible, the statement should indicate how the information may be obtained.

§ 650.32 Content of the EIS.

The EIS statement must fulfill and satisfy, to the fullest extent possible at the time the draft is prepared, the requirements established for a final EIS. The body of the EIS will contain the following separable sections (see fig. 2-4) with the length of each being adequate to identify and develop the required information.

(a) *Introduction*—(1) *Project description.* A description of a proposed action, a statement of its purposes, and a description of the environment affected, including information summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be avoided in the body of the draft impact statement. Such materials should be attached as appendixes with adequate bibliographic references.

(2) *Existing environment of proposed site.* The EIS should succinctly describe the environment of the area affected as it exists prior to a proposed action, including that of other Federal activities in the area affected by the proposed action which are related to the proposed action. Because the interrelationships and cumulative environmental impacts of the proposed action are to be identified later in the EIS, the amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decisionmaking (planning, feasibility, design, etc.). In order to ensure accurate descriptions and EIS, site visits should be made where feasible. The proponent agency or command should also take care to identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives. In discussing these population aspects, consideration should be given to using the rates of growth in the region of the project contained in the projection compiled for the Water Resources Council by the Bureau of Economic Analyses of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the "OBERS" projection). In any event, it is essential that the sources of data used to identify, quantify or evaluate any and all environmental consequences be expressly noted.

(b) *Relationship of proposed action to land use plans, policies and controls for the affected area.* This requires a discussion of how the proposed action may conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies, and controls, if any, for the area affected including those developed in response to the Clean Air Act or The Federal Water Pollution Control Act Amendments of 1972. Where a conflict or inconsistency exists, the EIS should describe the extent to which the DA agency has reconciled its proposed action with the plan, policy or control, and the reasons why they decided to proceed not withstanding the absence of full reconciliation.

(c) *The probable impact of the proposed action on the environment.* (1) This analysis is to include the positive and negative effects of the proposed action as it affects the concerned local and/or State environment, but where applicable, may affect the national and international (Mexico, Canada and other countries) environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to consider should be the potential effect of the action on such aspects of the environment as those listed in § 650.30. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(2) Secondary or indirect, as well as primary or direct, consequences for the environment should be included in the analysis. Many major Army actions, in particular those that involve the construction of new installations or the expansion of existing installations stimulate or induce secondary effects, in the form of associated investments and changed patterns of social and economic activities outside an installation. Such secondary effects, through their impacts on existing community facilities and activities through inducing new facilities and activities, or through changes in natural conditions, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth impacts should be estimated if expected to be significant and an evaluation made of the effect of any possible change in population patterns or growth upon the resource base, including land use, water, and public services, of the area in question.

(d) *Alternatives.* Alternatives to the proposed action, including, where relevant, those not within the existing authority of the Department of the Army. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs and risks should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. Examples of such alternatives include: The alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts; alternatives related to different designs or details of the proposed action which would present different environmental impacts (e.g., cooling ponds vs. cooling towers for a power plant or alternatives that will significantly conserve energy); alternative measures to provide for compensation of fish and wildlife losses, including the acquisition of land, waters, and interests therein. In a proposed draft EIS, the proponent may decide to favor an alternative or reserve judgment until comments are received from relevant commenting entities. In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative. Where an existing EIS already contains such an analysis, its treatment of alternatives may be incorporated in the new EIS provided that such treatment is current and relevant to the precise purpose of the newly proposed action.

(e) *Any probable adverse environmental effects which cannot be avoided should the proposal be implemented.* This should be a brief section summarizing in one place those effects that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how other avoidable adverse effects will be mitigated.

(f) *The relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity.* This section should contain a brief discussion of the extent to which the proposed action involved tradeoffs between short-term environmental gains and the expense of

long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options. In this context, short-term and long-term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(g) *Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.* Identify the extent to which the action irreversibly curtails the range of potential uses of the environment. Avoid construing the term "resources" to mean only the labor and materials devoted to an action. "Resources" also means the natural and cultural resources committed to loss or destruction by the action.

(h) *Considerations that offset the adverse environmental effects.* Indicate the extent to which these stated countervailing benefits could be realized by following responsible alternatives to the proposed action. In this connection, cost benefit analyses of proposed actions should be attached, or summaries thereof, to the environmental impact statement, and should clearly indicate the extent to which environmental costs have not been reflected in such analyses.

(i) *Summary sheet.* The EIS will be accompanied by an executive summary sheet which must provide the following information:

(1) Indicate whether the EIS is draft or final.

(2) Give the names of the action, provide a brief description of it and indicate what geographical region (States and counties) is particularly affected.

(3) Indicate whether it is an administrative or legislative action.

(4) Summarize the environmental impact and adverse environmental effects.

(5) List alternatives considered.

(6) (i) (For draft EIS's) List all Federal, State and local agencies from which comments are being requested.

(ii) (For final EIS's) List all Federal, State, and local agencies and other sources from which written comments have been received.

(7) Provide the dates the draft statement and final statements were made availale to the CEQ and the public.

Processing Environmental Impact Statements

§ 650.33 General.

(a) EIS's will be processed as displayed in figure 2–5. Both draft and final EIS's will be approved by HQDA by the OSA for filing with the CEQ, release to the Congress and Federal, State and local authorities and to others outside DA for comment or use. Approval will be obtained using normal staffing procedures by the functional staff agency which is proponent for the basic action in coordination with OCE (DAEN–ZCE) (see fig. 2–6). OCE may request that the Army Environmental Committee review the EIS for actions which have controversial, unusual, or Army-wide environmental impacts.

(b) Draft EIS's will be reproduced and forwarded to HQDA in sufficient copies for official distribution to Federal, State and local agencies; internal DA staffing; and release to private organizations and individuals that may request same. Final EIS's will be distributed as indicated in §§ 650.36 and 650.37. Also, sufficient extra copies (estimate of 30) will be produced for distribution to individuals, universities, private organizations, etc., that may request copies subsequent to approval of the action.

(c) EIS's are subject to the requirements of DOD Directive 5200.1–R, Information Security Program Regulation, pertaining to the identification, safeguarding, and dissemination of classified information and to DOD Directive 5230.9, Clearance of DOD Public Information, pertaining to security review for public review for public release approval. EIS's, both draft and final, which contain classified information, shall be prepared, safeguarded, and disseminated in accordance with the usual requirements applicable to classified information (DOD Directive 5200.1–R). However, when feasible, the EIS's shall be organized in such a manner that classified portions can be included as annexes, so that the unclassified portions can be made available to the public.

(d) EIS's that have significant public affairs, implications will be coordinated with Secretary of the Army, Public Affairs (SAPA), HQDA.

(e) Until a draft EIS is approved for filing with CEQ and circulating for comment, a protective cover sheet (see fig. 2–7) will be used.

§ 650.34 Draft environmental impact statements.

(a) *Statements on administrative actions.* The processing of draft EIS's for filing with CEQ and circulating for comment will be accomplished by the HQDA functional staff proponent agency. The following distribution will be made for draft EIS's:

(1) One (1) copy, OCE (DAEN–ZCE)

(2) One (1) copy, OASA(CW),

(3) Three (3) copies, OASD (M, RA&L), DASD (E, E&S)

(4) Five (5) copies, CEQ

(5) One (1) copy, EPA, Washington DC

(6) Six (6) copies, EPA Regional Office that has administration over the area in which the action will take place.

(7) Two (2) copies minimum, appropriate Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved. Figure 2–8 lists the Federal agencies according to their areas primary cognizance.

(8) Two (2) copies, State and local agencies authorized to develop and enforce environmental standards when the proposed action affects matters within their jurisdiction. These copies will be sent to the appropriate State and regional or metropolitan clearinghouses in accordance with the procedures prescribed in OMB Circular No. A–95 unless the Governor of the State involved has designated some other point of contact for obtaining the State and local agency reviews. The clearinghouses are listed in the Directory of State, Metropolitan, the Regional Clearinghouses under OMB Circular No. A–95 (Revised) of April 19, 1971 (OCE (DAEN–ZCE) should be contacted, when appropriate, to obtain current information).

(9) Two (2)copies to cognizant Committees of the House and Senate in support of legislative proposals not pertaining to budget submissions (also see paragraph (b) of this section).

(10) EIS's are to be made available to relevant public commenting entities free of charge or at a fee which is not more than the actual cost of reproducing copies required to be sent to Government agencies.

(11) At such time as the draft EIS is forwarded to the CEQ, other Federal, State, and local agencies, it will be made available to the public (to any organization or individual upon request) free of charge or, upon request, at a fee which is not more than the actual cost of reproducing copies required to be sent to Government agencies.

(b) *Statements on legislative actions.* Three (3) copies of each draft EIS concerned with the annual budget request must accompany the budget submission through the Comptroller review process to OSD. In those instances where it has been determined that a project or activity will not have a significant impact on the environment, such determination must be stated on the project/activity request. Additional guidance is provided in the Budget Guidance Manual DOD 7110.1–M and DOD Instruction 7040.4. It is the responsibility of the HQDA Budget Director to provide required draft EIS's to the appropriate Congressional Committees at the time the legislative request is forwarded to the Congress. Distribution of the draft EIS to other agencies and to the public for comment shall be withheld until the legislative request has been forwarded to the Congress. However, if the draft EIS does not divulge the fiscal year or the monetary amount involved, it can be distributed for comment when approved by the Assistant Secretary of the Army (Civil Works) (ASA(CW)).

§ 650.35 Circulation for comment.

(a) Circulation of a draft EIS for comment serves as a guard against objective errors or excessive bias. Further, it makes available expert knowledge from other agencies and the public which can assist the Army in its efforts to protect the environment.

(b) The HQDA staff agency requesting review and comments may establish a time limit of not less than 45 days for reply after CEQ publishes notice of the proposed action in the Federal Register. If the agency consulted does not reply within the established time limit, it may be presumed that the agency has no comment to make, unless a specific request for an extension of time has been made.

Requests for extensions of time up to 15 days may be granted by DA unless the urgency of the action precludes such a delay. In determining the length of the review period, consideration will be given to magnitude and complexity of the statement and the possible extent of citizen interest.

(c) Public hearings. (1) Informal public hearings will be conducted by the proponent HQDA staff agency or its delegate to obtain representative views from the various segments of the public when it is determined that the proposed action covered by the draft EIS is highly controversial. Such hearing will be publicly announced through local news media. Copies of the draft EIS will be made available to the public at least 15 days prior to the hearing.

(2) No public hearings need be held in connection with proposed legislation in view of the opportunity for public hearings in connection with Congressional consideration of the bill.

(3) Informal public hearings may be appropriate in the following situations:

(i) Where the proposed action by the agency will have a direct or peculiar impact on the people residing in a particular geographical area in terms of magnitude of economic costs of commitment of resources.

(ii) Where public organizations or members of the public possess expertise concerning the impact of the action that may not otherwise be available.

(iii) Where no overriding consideration of national security or time makes it illegal or impracticable to involve such organizations or members of the public in the consideration of a proposed action in which a high degree of interest by the public or other Federal, State or local authority is evidenced by a written request that a hearing be held.

§ 650.36 Final EIS.

(a) Final EIS's are prepared after receipt of review comments provided by other agencies and the public. In many cases, the final EIS's can be prepared by making minor revisions to the draft EIS and attaching the review comments received from other sources. In other cases, it may be necessary to provide a discussion of problems and objections raised by other Federal, State, and local agencies and by private organizations and individuals and the disposition of the issues involved. Along with the comments received, this discussion will be appended to the final text of the EIS.

(b) Distribution of the final EIS will be as follows:

(1) Five (5) copies, OCE (DAEN-ZCE).

(2) One (1) copy, OASA(CW).

(3) One (1) copy, OASD(M, RA&L), DASD(E, E&S).

(4) Five (5) copies, CEQ.

(5) Five (5) copies, appropriate Congressional Committees of the Senate and House of Representatives on final statements relating to section 412 Pub. L. 86-149, as amended, or the annual Military Construction Authorization Bill.

(6) One (1) copy to those who filed substantive comments on the corresponding draft statement.

(c) Supplementing or amending a draft or final EIS. A proponent agency may at any time supplement or amend a draft or final EIS. This should be accomplished when substantial changes are made in the proposed action or significant new information becomes available concerning its environmental aspects. The proponent agency should consult with OCE (DAEN-ZCE) with respect to the possible need for or desirability of recirculating the EIS.

§ 650.37 Time restrictions.

(a) Draft EIS will be prepared, furnished to the CEQ, and circulated for comment early enough before an action needs to be taken to permit meaningful consideration of the environmental issues involved. To the maximum extent practicable, no administrative action (i.e., any proposed action to be taken, other than proposals for legislation or reports on legislation) will be taken sooner than 90 days after notice has been published in the FEDERAL REGISTER that CEQ has received the draft EIS and that it has been circulated for comment, and, except where advance public disclosure will result in significantly increased costs of procurement, made available to the public. Nor will such administrative action be taken sooner than 30 days after notice of the final text of the EIS (together with comments) has been published in the FEDERAL REGISTER and the final EIS has been made available to commenting agencies and the public. The minimum 30-day and 90-day periods may run concurrently to the extent that they overlap. See figure 2-1.

(b) When it is not practical for a proponent agency to comply with the time requirements above, the proponent DA agency may request HQDA (DAEN-ZCE) to request a waiver of a portion of the time requirement for that specific action. Such a request will contain an explanation of the facts and circumstances to justify the waiver and staffing through OSD to CEQ.

§650.38 Review of EIS prepared by another Federal agency.

(a) EIS's will be referred to the Department of the Army by other Federal agencies for review when a proposed action may affect matters over which DA has jurisdiction by law, or where a proposed action may have environmental effects in an area where DA has been identified to possess special expertise.

(b) Comments by the Army on an EIS prepared by another Federal agency will, as a minimum, address the aspect of the action for which the statement was referred. The comments should be organized in a manner consistent with the structure of the draft statement stating the recommended changes and reasons for change. Modification to the proposed action and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impact are appropriately included. In addition, the comments should indicate whether any Army projects are planned that are not identified in the draft EIS and are sufficiently advanced in planning and related environmentally to the proposed action so that a discussion of the environmental interrelationships should be included in the final EIS. Comments should indicate the value of any monitoring of the environmental effects of the proposed project that appear particularly appropriate.

(c) DA review and comment on an EIS prepared by another Federal agency will be coordinated by OCE (DAEN-ZCE). When a request for review and comment is received directly by a DA agency other than OCE, that agency shall reply through OCE (DAEN-ZCE).

§ 650.39 Related publications.

At table 2-1 is a list of related publications. Some of these publications will be of assistance to the agency preparing a proposed draft EIS while others such as Office of Management and Budget Circular A-95 and the Directory of State, Metropolitan and Regional Clearinghouses, under A-95 will be of assistance to only a few HQDA agencies.

TABLE 2-1

Public Law 91-190, "National Environmental Policy Act of 1969," January 1, 1970. (83 Stat. 852)

Pub. L. 91-604, "Clean Air Amendments of 1970," December 31, 1970.

Section 409 of Pub. L. 91-121, "Armed Forces Appropriation Authorization, 1970," November 19, 1969, as amended by section 506 of Pub. L. 91-441, "Armed Forces Appropriation Authorization, 1970," October 7, 1970.

Executive Order 11514, "Protection Enhancement of Environmental Quality," March 7, 1970 (35 FR 46, 4247 (1970)).

Executive Order 11752, "Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities," December 17, 1973.

Executive Office of the President, Council on Environmental Quality, "Preparation of Environmental Impact Statements," August 1, 1973.

Executive Office of the President, Office of Management and Budget, "Proposed Federal Action Affecting the Environment," Bulletin No. 71-3, August 31, 1970.

DOD Directive 5100.50, "Protection and Enhancement of Environmental Quality," May 24, 1973.

DOD Directive 5500.5, "Natural Resources—Conservation and Management," May 24, 1965 (32 CFR Part 263).

Executive Office of the President, Office of Management and Budget, Circular No. A-95 (Revised), February 9, 1971 (Parts I and II).

"Directory of State, Metropolitan and Regional Clearinghouses," under OMB Circular No. A-95 (Revised, April 19, 1971).

Pub. L. 86-149, "To Authorize Certain Construction at Military Installations and for Other Purposes," August 10, 1959.

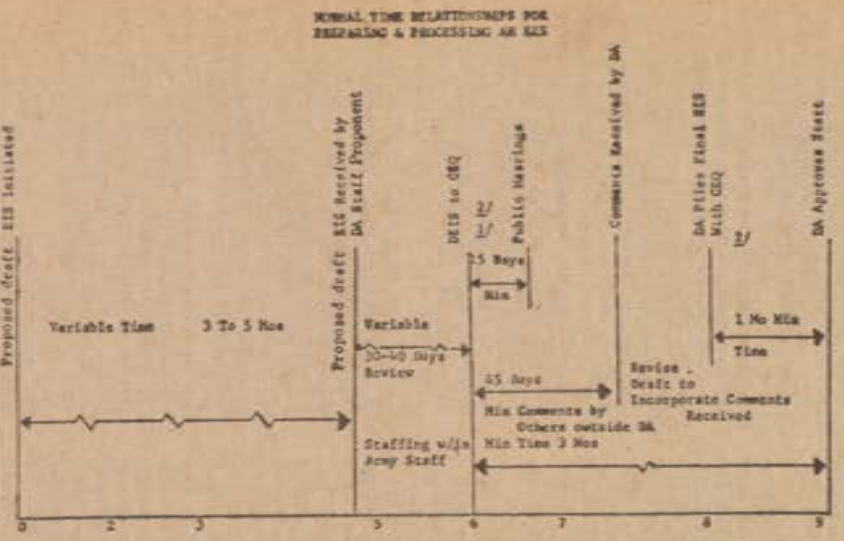
DOD 5200.1-R, "Information Security Program Regulation," 15 November 1973, authorized by DOD Directive 5200.1, June 1, 1972.

DOD Directive 5230.9, "Clearance of DOD Public Information," December 24, 1966.

DOD Directive 5400.7, "Availability to the Public of DOD Information," 14 February 1975.

DOD Directive 7040.4, "Military Construction Authorization and Appropriations," July 16, 1971.

DOD Directive 6050.1, Environmental Considerations in DOD Actions, March 19, 1974.



1/ DEIS Draft EIS (Proposed draft EIS becomes DEIS when approved by responsible DA officials)

2/ Effective control date is the date that notice of the receipt by CEQ of the draft or final EIS is published in the Federal Register (usually within one week of receipt by CEQ).

Figure 2-1

QUARTERLY CEQ REPORT DEPARTMENT OF THE ARMY (INCLUSIVE DATES)

(a) Final Statements
Subject: Date filed:

(b) Draft Statements
Subject: Date filed:

(c) Statements Under Preparation
Subject: Projected date:

(d) Lists of Actions for which a statement is not required:

(i) Actions which normally require a statement:

a Subject, date of determination.

b Brief reason for determination.

(ii) Actions similar to those for which a significant number of statements have been filed:

a Subject, date of determination.

b Brief reason for determination.

(iii) Actions previously announced as requiring a statement:

a Subject, date of determination.

b Brief reason for determination.

(iv) Actions for which the CEQ requested a statement:

a Subject, date of determination.

b Brief reason for determination.

(e) List of actions for which statements are not yet timely.[1]

Subject Date of evaluation

Figure 2-2

[1] Actions or activities which have been evaluated by the propoment agency and that agency has concluded that preparation of an EIS is not yet timely.

EXAMPLE

DEPARTMENT OF THE ARMY

ARMY COMMAND OR AGENCY

ENVIRONMENTAL IMPACT ASSESSMENT OR DRAFT ENVIRONMENTAL IMPACT STATEMENT

OR

FINAL ENVIRONMENTAL IMPACT STATEMENT

TITLE

INSTALLATION OR AGENCY

Date Prepared

Prepared by: Approved by:

NAME AND POSITION TITLE

COMMANDER (COMMAND) INSTALLATION OR HIS DESIGNEE AND OFFICE

Approved by:

COMMANDER (COMMAND) OR HIS DESIGNEE AND OFFICE

Approved by:

OSA

Figure 2-3

OUTLINE FOR EIS CONTENT

A. INTRODUCTION

1. Project description
a. Purpose of action
b. Description of action
(1) Location and setting of the activity
(2) Summary of activities
2. Environmental setting
a. Environment prior to proposed action
b. Other related Federal activities

B. LAND-USE RELATIONSHIPS

1. Conformity or conflict with other land-use plans, policies and controls
a. Federal, State, and local
b. Clean Air Act and Federal Water Pollution Control Act Amendments of 1972
2. Conflicts and/or inconsistent land-use plans
a. Extent of reconciliation
b. Reasons for proceeding with action

C. PROBABLE IMPACT OF THE PROPOSED ACTION ON THE ENVIRONMENT

1. Positive and negative effects
a. Regional environmental and national/international environment where applicable
b. Environmental factors to be considered
c. Impact of proposed action
2. Direct and indirect consequences
a. Primary effects
b. Secondary effects

D. ALTERNATIVES TO THE PROPOSED ACTIONS

1. Reasonable alternative actions
a. Those that might enhance environmental quality
b. Those that might avoid some or all adverse effects
2. Analysis of alternatives
a. Benefits
b. Risks

E. PROBABLY ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

1. Adverse and unavoidable impacts
2. How avoidable adverse impacts will be mitigated

F. RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF MAN'S ENVIRONMENT AND MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

1. Trade-off between short-term environmental gains at expense of long-term losses
2. Trade-off between long-term environmental gains at expense of short-term losses
3. Extent to which proposed action forecloses future options

G. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

1. Unavoidable impacts irreversibly curtailing the range of potential uses of the environment
a. Materials
b. Natural
c. Cultural

H. NATIONAL DEFENSE CONSIDERATIONS THAT MUST BE BALANCED AGAINST THE ADVERSE ENVIRONMENTAL EFFECTS OF THE PROPOSED ACTION

1. Benefits of proposed action
2. Benefits of alternatives

Figure 2-4

EXAMPLE

FINAL DIAGRAM ENVIRONMENTAL IMPACT STATEMENTS

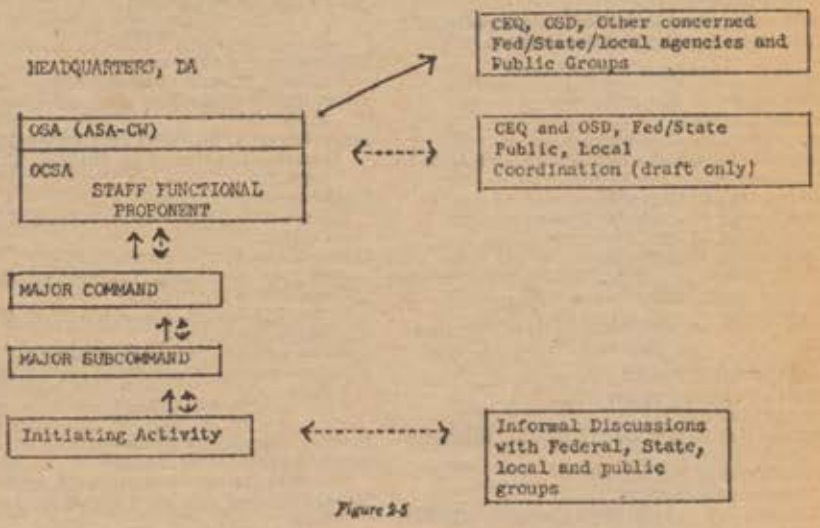
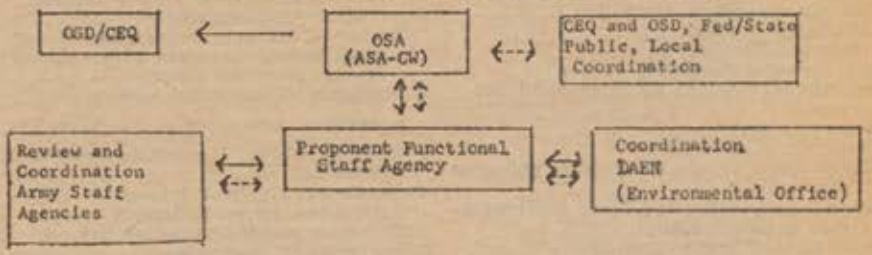


Figure 2-5

FLOW DIAGRAM ENVIRONMENTAL IMPACT STATEMENTS WITHIN HQ, DA



Key

— — — Draft EIS

_____ Final EIS

Figure 2-6

PROTECTIVE COVER SHEET

The material contained in the attached Environmental Impact Statement is for internal coordinating use only and may not be released to non-Department of Defense agencies or individuals until coordination has been completed and the material has been cleared for public release by appropriate authority.

EXAMPLE

NOTE: This cover sheet will be removed when the DEIS is approved by HQDA.

Figure 2-7

AREAS OF ENVIRONMENTAL IMPACT AND FEDERAL AGENCIES AND FEDERAL STATE AGENCIES WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT THEREON

AIR—AIR QUALITY

Department of Agriculture—
Forest Service (effects on vegetation)
Nuclear Regulatory Commission (radioactive substances)
Department of Health, Education, and Welfare
Environmental Protection Agency
Department of the Interior—
Bureau of Mines (fossil and gaseous fuel combustion)
Bureau of Sport Fisheries and Wildlife (effect on wildlife)
Bureau of Outdoor Recreation (effects on recreation)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
National Aeronautics and Space Administration (remove sensing, aircraft emissions)

Department of Transportation—
Assistant Secretary for Systems Developing and Technology (auto emissions)
Coast Guard (vessel emissions)
Federal Aviation Administration (aircraft emissions)
FEA (energy and mobile sources emissions)
Federal Air Quality Control Regions

WEATHER MODIFICATION

Department of Agriculture—
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Department of the Air Force
Department of the Interior—
Bureau of Reclamation
Economic Regulatory Administration (Energy and Mobile Sources Emissions)

WATER RESOURCES COUNCIL—WATER—WATER QUALITY

Department of Agriculture—
Soil Conservation Service
Forest Service
Nuclear Regulatory Commission (radioactive substances)
Department of the Interior—
Bureau of Reclamation
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Office of Saline Water
Environmental Protection Agency
Department of Health, Education, and Welfare
Department of Defense—
Army Corps of Engineers
Department of the Navy (ship pollution control)
National Aeronautics and Space Administration (remote sensing)
Department of Transportation—
Coast Guard (oil spills, ship sanitation)
Department of Commerce—
National Oceanic and Atmospheric Administration
Water Resources Council
River Basin Commissions (as geographically appropriate)[1]
Regional Planning Agency for Area-Wide Waste Water Treatment

Figure 2-8

FISH AND WILDLIFE

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Oceanic and Atmospheric Administration (marine species)
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Bureau of Outdoor Recreation
Environmental Protection Agency
Economic Regulatory Administration

SOLID WASTE

Nuclear Regulatory Commission (radioactive waste)
Department of Defense—
Army Corps of Engineers
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Geological Survey (geologic and hydrologic effects)
Office of Saline Water (demineralization)
Department of Transportation—
Coast Guard (ship sanitation)
Environmental Protection Agency
River Basin Commissions (as geographically appropriate)[1]
Water Resources Council

NOISE

Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of Housing and Urban Developments (land use and building materials aspects)
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation—
Assistant Secretary for Systems Development and Technology
Federal Aviation Administration, Office of Noise Abatement
Environmental Protection Agency
National Aeronautics and Space Administration

RADIATION

Nuclear Regulatory Commission
Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of Labor-Occupational Safety and Health Administration
National Aeronautics and Space Council
Department of the Interior—
Bureau of Mines (uranium mines)
Mining Enforcement and Safety Administration (uranium mines)
Environmental Protection Agency

HAZARDOUS SUBSTANCES—TOXIC MATERIALS

Nuclear Regulatory Commission (radioactive substances)
Department of Agriculture—
Agricultural Research Service
Consumer and Marketing Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense
Department of Health, Education, and Welfare
Environmental Protection Agency

MARINE POLLUTION, COMMERCIAL FISHERY CONSERVATION, AND SHELLFISH SANITATION

Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers
Office of the Oceanographer of the Navy
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Bureau of Land Management (outer continental shelf)
Geological Survey (outer continental shelf)
Department of Transportation—
Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)
Regional Planning Agency for Area-Wide Waste Water Treatment

WATERWAYS REGULATION AND STREAMS MODIFICATION

Department of Agriculture—
Soil Conservation Service
Department of Defense—
Army Corps of Engineers
Department of the Interior—
Bureau of Reclamation
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Department of Transportation—
Coast Guard
Environmental Protection Agency
Regional Planning Agency for Area-Wide Waste Water Treatment

FOOD ADDITIVES AND CONTAMINATION OF FOODSTUFFS

Department of Agriculture—
Consumer and Marketing Service (meat and poultry products)
Department of Health, Education, and Welfare
Environmental Protection Agency

PESTICIDES

Department of Agriculture—
Agricultural Research Service (biological controls, food and fiber production)
Consumer and Marketing Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife (fish and wildlife effects)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Reclamation (irrigated lands)
Environmental Protection Agency

TRANSPORTATION AND HANDLING OF HAZARDOUS MATERIALS

Nuclear Regulatory Commission (radioactive substances)
Department of Commerce—
Maritime Administration
National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone)
Department of Defense—
Armed Services Explosive Safety Board
Army Corps of Engineers (navigable waterways)
Department of Transportation—
Federal Highway Administration, Bureau of Motor Carrier Safety
Coast Guard
Federal Railroad Administration
Federal Aviation Administration
Assistant Secretary for Systems Development and Technology
Office of Hazardous Materials
Office of Pipeline Safety
Environmental Protection Agency

ENERGY SUPPLY AND NATURAL RESOURCES DEVELOPMENT—ELECTRIC ENERGY DEVELOPMENT, GENERATION, AND TRANSMISSION, AND USE

Economic Regulatory Administration
Nuclear Regulatory Commission (nuclear)
Department of Agriculture—
Rural Electrification Administration (rural areas)
Department of Defense—
Army Corps of Engineers (hydro)
Department of Health, Education, and Welfare (radiation effects)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Land Management (public lands)
Bureau of Reclamation
Power Marketing Administrations

[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

Geological Survey
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Energy Research and Development Administration
Environmental Protection Agency
Federal Power Commission (hydro, transmission, and supply)
Federal Energy Administration (FEA)
River Basin Commissions (as geographically appropriate)[1]
Tennessee Valley Authority
Water Resources Council

PETROLEUM DEVELOPMENT, EXTRACTION, REFINING, TRANSPORT, AND USE

Economic Regulatory Administration
Department of the Interior—
Office of Oil and Gas
Bureau of Mines
Geological Survey
Bureau of Land Management (public lands and outer continental shelf)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife)
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (Transport and Pipeline Safety)
Environmental Protection Agency
Interstate Commerce Commission
Federal Energy Administration

NATURAL GAS DEVELOPMENT, PRODUCTION, TRANSMISSION, AND USE

Economic Regulatory Administration
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Oil and Gas
Geological Survey
Bureau of Mines
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (transport and safety)
Environmental Protection Agency
Federal Power Commission (production, transmission, and supply)
Interstate Commerce Commission
Federal Energy Administration

COAL AND MINERALS DEVELOPMENT, MINING CONVERSION, PROCESSING, TRANSPORT, AND USE

Economic Regulatory Administration
Appalachian Regional Commission
Department of Agriculture—
Forest Service
Department of Commerce
Department of the Interior—
Office of Coal Research
Mining Enforcement and Safety Administration
Bureau of Mines
Geological Survey
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service

[1] River Basin Commission (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

Department of Labor—
Occupational Safety and Health Administration
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission
Tennessee Valley Authority
Federal Energy Administration

RENEWABLE RESOURCE DEVELOPMENT, PRODUCTION, MANAGEMENT, HARVEST, TRANSPORT, AND USE

Economic Regulatory Administration
Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce
Department of Housing and Urban Development (building materials)
Department of the Interior—
Geological Survey
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation
Environmental Protection Agency
Federal Energy Administration
Interstate Commerce Commission (freight rates)

ENERGY AND NATURAL RESOURCES CONSERVATION

Economic Regulatory Administration
Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Bureau of Standards (energy efficiency)
Department of Housing and Urban Development—
Federal Housing Administration (housing standards)
Department of the Interior—
Office of Energy Conservation
Bureau of Mines
Bureau of Reclamation
Geological Survey
Power Marketing Administration
Department of Transportation
Environmental Protection Agency
Federal Power Commission
General Services Administration (design and operation of buidlings)
Tennessee Valley Authority
Federal Energy Administration

LAND USE AND MANAGEMENT—LAND USE CHANGES, PLANNING AND REGULATION OF LAND DEVELOPMENT

Economic Regulatory Administration
Department of Agriculture—
Forest Service (forest lands)
Agricultural Research Service (agricultural lands)
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Department of Transportation
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)[1]

PUBLIC LAND MANAGEMENT

Economic Regulatory Administration
Department of Agriculture—
Forest Service (forests)
Department of Defense
Department of the Interior—
Bureau of Land Management
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Federal Power Commission (project lands)
General Services Administration
National Aeronautics and Space Administration (remote sensing)
Tennessee Valley Authority (project lands)

PROTECTION OF ENVIRONMENTALLY CRITICAL AREAS—FLOODPLAINS, WETLANDS

BEACHES AND DUNES, UNSTABLE SOILS, STEEP SLOPES, AQUIFER RECHARGE AREAS, ETC.

Department of Agriculture—
Agricultural Stabilization and Conservation Service
Soil Conservation Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration (coastal areas)
Department of Defense—
Army Corps of Engineers
Department of Housing and Urban Development (urban and floodplain areas)
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Bureau of Reclamation
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Geological Survey
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)[1]
Water Resources Council

LAND USE IN COASTAL AREAS

Department of Agriculture—
Forest Service
Soil Conservation Service (soil stability, hydrology)
Department of Commerce—
National Oceanic and Atmospheric Administration (impact on marine life and coastal zone management)
Department of Defense—
Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Sport Fisheries and Wildlife
National Park Service
Geological Survey
Bureau of Outdoor Recreation
Bureau of Land Management (public lands)
Department of Transportation—
Coast Guard (bridges, navigation)
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)

REDEVELOPMENT AND CONSTRUCTION IN BUILT-UP AREAS

Economic Regulatory Administration
Department of Commerce—
Economic Development Administration (designated areas)

Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Department of Transportation
Environmental Protection Agency
General Services Administration
Office of Economic Opportunity

DENSITY AND CONGESTION MITIGATION

Department of Health, Education, and Welfare
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Department of Transportation
Environmental Protection Agency

NEIGHBORHOOD CHARACTER AND CONTINUITY

Department of Health, Education, and Welfare
Department of Housing and Urban Development
National Endowment for the Arts
Office of Economic Opportunity

IMPACTS ON LOW-INCOME POPULATIONS

Department of Commerce—
Economic Development Administration (designated areas)
Department of Health, Education, and Welfare
Department of Housing and Urban Development
Office of Economic Opportunity

HISTORIC, ARCHITECTURAL AND ARCHEOLOGICAL PRESERVATION

Advisory Council on Historic Preservation
Department of Housing and Urban Development
Department of the Interior—
National Park Service
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
General Services Administration
National Endowment for the Arts

SOIL AND PLANT CONSERVATION AND HYDROLOGY

Department of Agriculture—
Soil Conservation Service
Agricultural Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers (dredging, aquatic plants)
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Land Management
Bureau of Sport Fisheries and Wildlife
Geological Survey
Bureau of Reclamation
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)[1]
Water Resources Council

OUTDOOR RECREATION

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Defense—
Army Corps of Engineers
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Land Management
National Park Service
Bureau of Outdoor Recreation
Bureau of Sport Fisheries and Wildlife
Bureau of Indian Affairs
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)[1]
Water Resources Council

Subpart C—Water Resources Management

GENERAL

§ 650.51 Purpose.

This chapter sets forth guidance and procedure for the DA implementation of the Federal Water Pollution Control Act of 1972 (FWPCA) (Pub. L. 92-500) and the water pollution control regulations promulgated by the U.S. Environmental Protection Agency, U.S. Coast Guard, U.S. Army Corps of Engineers, and State and regional water pollution control authorities. Additional guidance regarding discharge of hazardous and toxic materials appears in Subpart F of this part.

§ 650.52 Goals and objectives.

The Department of Army goal is to conserve water resources and protect them from contamination by controlling all sources of pollutants in accordance with applicable Federal, State, or regional standards and vigorously contribute to the attainment of the national goal of eliminating the discharge of pollutants by 1985. Inherent in this goal are the following objectives:

(a) Identify, treat, monitor, control, and dispose of all waterborne wastes produced by Army fixed and mobile facilities in accordance with published Federal, State, and regional standards.

(b) Conserve water resources used in the conduct of basic activities on all Army installations by instituting economy measures and by reuse when practicable.

(c) Minimize soil erosion and attendant pollution caused by rapid and uncontrolled runoff into streams and rivers.

(d) Provide drinking water that satisfies the potability standards published by the US Environmental Protection Agency (EPA) as interpreted by The Surgeon General of the Army (see § 650.57).

(e) Comply with the provisions of the Federal Water Pollution Control Act (Pub. L. 92-500) by obtaining and complying with permits issued by EPA under the National Pollutant Discharge Elimination System (NPDES) and the Corps of Engineers for the discharge of dredged or fill material.

(f) Comply with the provisions of the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. 92-532) by obtaining and complying with permits issued by EPA for the discharge of any material other than dredged material into ocean waters and by the Corps of Engineers for the discharge of dredged material into ocean waters.

§ 650.53 Explanation of terms.

(a) National Pollutant Discharge Elimination System (NPDES). The system for issuing and conditioning permits under a schedule of compliance and denying permits for the discharge of pollutants from point sources into the navigable waters, which is administered by the Administrator of the Environmental Protection Agency pursuant to sections 402 and 405 of Pub. L. 92-500. The following additional terms have the following meanings with respect to the NPDES program and the FWPCA:

(1) *Pollutant.* Solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water. It does not mean "sewage from vessels."

(2) *Point source.* Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(3) *Discharge of a pollutant.* Any addition of any pollutant to navigable waters from any point source.

(4) *Permit.* Any permit or equivalent document or requirement issued by the Environmental Protection Agency to regulate the disposal of pollutants.

(5) *Schedule of compliance.* A schedule of remedial measures including sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(6) *Navigable waters.* All navigable waters of the United States (33 CFR Part 329); tributaries of navigable waters of the United States; interstate waters; intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes; intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce; and intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce.

(b) *Treatment works.* Any facility, method or system for the storage, treatment, recycling, or reclamation of municipal sewage or industrial wastes of a liquid nature, including waste in combined storm water and sanitary sewer systems.

(c) *Material into ocean waters.* Matter of any kind or description, but not limited to solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wrecked or discarded equipment, rock, sand, excavation debris, and

[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

industrial, municipal, agricultural, and other waste. It does not mean oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge material and does not mean sewage from vessels including human body wastes and wastes from toilets and other receptacles intended to receive or retain body wastes.

(d) *Ocean waters.* Those waters of the open seas lying seaward of the baseline from which the territorial sea is measured as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(e) *Dredged material.* Any material excavated or dredged from navigable waters.

(f) *Fill material.* Any material deposited or discharged into navigable waters which may result in creating fastlands or other planned elevations of lands beneath navigable waters of the United States.

(g) *Marine sanitation devices.* The following definitions apply to Marine Sanitation Devices:

(1) *Marine sanitation device (MSD).* Any equipment for installation in a vessel which is designated to receive, retain, treat or discharge sewage, and any process to treat sewage. Four types of marine sanitation devices are defined:

(i) *Type I.* A "flow-through" MSD certified by a DOD Component or the US Coast Guard as being capable of producing an effluent with a fecal coliform bacterial count of not more than 1,000 per 100 milliliters and no visible floating solids.

(ii) *Type II.* A "flow-through" MSD certifies by a DOD Component or the US Coast Guard as being capable of producing an effluent with a fecal coliform bacterial count of not more than 200 per 100 milliliters and total suspended solids of not more than 150 milligrams per liter.

(iii) *Type III–A.* A "nonflow-through" MSD which is designed to treat and hold the treated sewage. This type would include reduced-flush devices which ultimately evaporate or incinerate the sewage to a sterile sludge or ash.

(iv) *Type III–B.* A collection, holding, and transfer (CHT) system, consisting of: Drain piping, holding tanks, pumps, valves, connectors, and other equipment used to collect and hold shipboard sewage waste for subsequent transfer to a shore sewage system, sewage barge, or for overboard discharge in unrestricted waters. Also known as Type III–B MSD.

(2) *Flow-through device.* Any marine sanitation device (Type I or Type II) which discharges treated sewage waste overboard.

(3) *Nonflow-through device.* Any marine sanitation device (Type III) which collects, holds and/or treats sewage or holds the untreated or treated sewage on board for disposal in legal areas or for transfer to proper shore facilites. This type includes those devices which collect, evaporate or incinerate the sewage to a sterile sludge or ash, as well as collection and holding systems.

(4) *Vessel.* Every ship or watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States.

(5) *Vessels owned and/or operated by the US Army.* Those vessels owned by or bareboat chartered to the US Army.

(6) *New vessel.* Any vessel on which first construction was initiated on or after April 1, 1976.

(7) *Existing vessel.* Any vessel on which first construction was initiated prior to April 1, 1976.

(8) *Sewage.* Human body wastes and wastes from toilets or other receptacles intended to receive human body wastes.

(9) *Discharge.* Includes, but is not limited to, any spillings, leaking, pumping, pouring, emitting, emptying, or dumping.

(10) *Fresh water lakes, reservoirs, and impoundments.* Fresh water bodies whose inlets or outlets prevent the ingress or egress of vessels subject to this regulation; rivers not capable of interstate navigation by vessels subject to this regulation.

§650.54 Policy.

It is the policy of the Army to:

(a) Conserve all water resources.

(b) Control or eliminate all sources of pollutants to navigable waters or groundwaters by on-post treatment of wastes by joining regional or municipal sewage treatment systems or by employing recycling processes.

(c) Comply with applicable Federal, State, and regional pollutant effluent limitation standards.

(d) Demonstrate leadership in attaining the national goal of zero pollutant discharge.

(e) Provide drinking water that satisfies the potability standards published by the Public Health Service/EPA as interpreted by The Surgeon General of the Army (TSG) (§ 650.57).

(f) Cooperate with Federal, State, and regional authorities in the formulation and execution of water pollution control plans.

(g) Comply with the requirements for permits for the discharge of pollutants into navigable waters (section 402 of the FWPCA and implementing regulations in 40 CFR Part 125); the transportaiton of material (other than dredged material) for the purpose of dumping it in ocean waters (section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 and implementing regulations in 40 CFR Part 220); and for activities in or affecting navigable waters of the United States; and the discharge of dredged or fill material in navigable waters; and the ocean disposal of dredged material (sections 9 and 10 of the River and Harbor Act of 1899, section 404 of the FWPCA, and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 and implementing regulations in 33 CFR 324).

§ 650.55 Responsibilities.

(a) The Chief of Engineers will exercise Army staff responsibility for directing and coordinating the Army water pollution abatement program for both fixed and mobile facilities. Specifically the Chief of Engineers will:

(1) Promulgate policy and regulations on water resources management which reflect Department of Defense guidance and pertinent provisions of water pollution control laws.

(2) Develop long range policies on wastewater treatment to achieve the 1983 water quality objectives and 1985 goals of Pub. L. 92–500.

(3) Manage the identification, reporting, engineering, design and construction of projects required to control and monitor discharges in accordance with applicable Federal, State, and regional water quality standards.

(4) Monitor water conservation practices for the purpose of identifying new potential uses for wastewater and methods for reducing water consumption.

(5) Publish policies on the control and disposal of sewage, galley, bilge and marine engine wastes.

(6) Provide guidance and direction to Army facilities in the preparation of applications for operating permits required by the FWPCA, Marine Protection, Research and Sanctuaries Act of 1972, and River and Harbor Act of 1899.

(7) Monitor the status of all FWPCA and ocean dumping permits and reports submitted in accordance with permit provisions.

(8) Coordinate the promulgation of new or revised water criteria and standards with TSC.

(9) Monitor master plans, construction plans and activities, and natural resource conservation activities to control surface water runoff and minimize erosion.

(10) Review and comment on NPDES and ocean dumping permits issued by EPA to Army installations.

(b) The Surgeon General will:

(1) Monitor health and welfare aspects of water and wastewater control criteria and standards promulgated by Federal and State agencies.

(2) Establish and conduct water supply surveillance programs to insure the maintenance of adequate potable water for Army installations.

(3) Accumulate, evaluate, and disseminate information on water pollution conditions that may adversely affect the health of man and animals.

(4) Conduct field investigations and special studies to determine the effectiveness of wastewater treatment and recommend corrective measures when appropriate.

(5) Provide technical consultation on the health, welfare, and environmental aspects of water and wastewater treatment programs and activities.

(6) Coordinate the development of water and wastewater treatment standards, procedures, surveys and studies with the Chief of Engineers.

(7) Review and comment on NPDES and ocean dumping permits issued by EPA to Army installations.

(8) Assist the Chief of Engineers in the formulation of plans and design criteria for water monitoring systems.

(9) Maintain a record of all FWPCA and ocean dumping permits issued to Army installations perform a technical evaluation of FWPCA and ocean discharge monitoring reports received, and notify submitting installations of noted deficiencies.

(10) Report semiannually on the status of NPDES permits and NPDES discharge monitoring reports to the HQDA (DAEN-ZCE) Washington, D.C. 20310, (RCS-ENG 237).

(c) Major Army commands (MA COM's) have the responsibility to ensure that they and their subordinate elements develop programs which will:

(1) Identify, quantify, and report all sources of water pollution and take appropriate action to eliminate or reduce them to acceptable levels. This applies to all Army facilities to include all buildings, installation structures, land, utilities, equipment, aircraft, vessels, and other vehicles and property controlled by or constructed or manufactured for the purpose of leasing to the Army.

(2) Program and budget funds for remedial water pollution control projects to ensure compliance with applicable standards by statutory imposed dates.

(3) Establish routine wastewater control monitoring programs to ensure compliance with discharge limitations established by regulatory agencies and adherence to proper waste treatment operational procedure as specified in TM 5-665, TM 5-814-3, and TM 5-814-6.

(4) Obtain permits from the appropriate EPA Regional Administrator for all discharges of pollutants from installations and activities into navigable waters as required by NPDES and for the transportation of materials for the purpose of dumping them into ocean waters and comply fully with the provisions of such permits.

(5) Obtain permits from the appropriate District Engineer for all other actions in or affecting navigable waters of the United States, including the discharge of dredged or fill material in such waters, and for the transportation of dredged material for the purpose of dumping it in ocean waters.

(6) Control the discharge of sewage and bilge waste from vessels in accordance with US Coast Guard, EPA, DOD, or State regulations.

(7) Control the runoff of surface waters to minimize soil erosion, downstream flooding and pollution of waterways by sediments and contaminants.

(8) Conserve water resources by instituting regulatory measures where needed and by the judicious use of wastewater for consumptive purposes.

(9) Provide all personnel with drinking water that meets the quality standards specified by The Surgeon General.

(10) Commander, U.S. Army Materiel Development and Readiness Command will develop appropirate pollution control devices and retrofit vessels in the inventory required to meet specified standards.

§ 650.56 Related publications.

(a) Pub. L. 92-500; Federal Water Pollution Control Act Amendments of 1972 (84 Stat. 100, 33 U.S.C. 1163).

(b) Pub. L. 92-532; Marine Protection, Research, and Sanctuaries Act of 1972.

(c) Rivers and Harbors Act of 1899 (33 U.S.C. 401-413).

(d) Executive Order 11752, "Prevention, Control and Abatement of Environmental Pollution at Federal Facilities," December 17, 1973.

(e) TB 55-1900-206-14, Control and Abatement of Pollution by Army Watercraft.

(f) AR 56-9, Watercraft.

Standards and Procedures

§ 650.57 Water supply standards.

Potable water supply standards must meet, as a minimum, the standards set by the U.S. Public Health Service (42 CFR 72.201-207)/EPA as interpreted by The Surgeon General of the Army (TB MED 229).

§ 650.58 Water quality standards.

(a) Under the provisions of Pub. L. 92-500 it is the responsibility of the States to establish water quality standards and formulate an overall plan for achieving and enforcing these water quality standards. These criteria are based on the quality of water necessary to achieve and maintain use classifications of water such as recreation, fish and wildlife propagation, public water supply, and industrial and agricultural uses. States are also required to establish effluent discharge limitations necessary to achieve and maintain the desired use classification. For Army installations, implementation and enforcement of the applicable federally or State developed effluent limitations, and water quality standards are accomplished by the regional headquarters of the Environmental Protection Agency through the National Pollutant Discharge Elimination System.

(b) The following effluent limitations are minimum standards which have been established pursuant to Pub. L. 92-500. More stringent effluent limitations may be established by the Administrator, EPA, to attain or maintain the water quality standards established by the State. Permissible effluent limitations, whether based on Federal or State water quality standards or on water quality criteria will be specified by the EPA Regional Administrator in the NPDES permit issued for each point of discharge.

§ 650.59 Effluent limitations.

(a) Domestic waste water effluents:

(1) As an interim limitation, all effluents from predominantly domestic sources will be receiving the equivalent of secondary treatment as a minimum by July 1, 1977.

(2) By July 1, 1983, domestic wastewater limitations will be based on the best practicable waste treatment technology. Planning for 1983 discharge requirements will be clarified pending case by case evaluation of EPA criteria for 1983 which should be contained in NPDES permits to be issued in the 1977-1980 time frame. It may be assumed that the 1983 standards would require some form of advanced wastewater treatment, (i.e., phosphate, nitrate or carbonate removal; very low values of biochemical/chemical oxygen demand, suspended solids and fecal coliform bacteria; and minimal fluctuations in pH and temperature).

(b) Industrial wastewater effluents:

(1) As an interim limitation all effluents from existing industrial sources will be treated by processes employing the "best practicable control technology currently available" by July 1977. Guidelines and standards defining effluent limitations for best practicable control technology currently available are published under 40 CFR Parts 401 through 447. At present only two industrial categories apply to Army activities; these are 40 CFR Part 413, Electroplating, and 40 CFR Part 415, Inorganic Chemicals. EPA will publish regulations in the form of effluent limitations guidelines and standards of performance and pretreatment for ammunition production facilities at a later date. DAEN-ZCE will issue guidance as appropriate.

(2) By July 1, 1983, treatment of existing industrial wastewater effluents will employ the "best available technology economically achievable." Effluent limitations based on the best available technology economically achievable have been defined and are published in previously mentioned 40 CFR Parts 401 through 447.

(3) Effluent limitations for new sources are in most cases based on best available technology economically achievable and, therefore must necessarily meet the "1983 standards." These effluent limitations are also published with the guidelines and standards in 40 CFR Parts 401 through 447.

(c) *Oil.* The discharge of oil or effluents containing oil is limited by the quality determined to be harmful to the public health or welfare; or by applicable water quality standards; or by the amount which will cause a film or sheen upon a discoloration of the surface of the water or adjoining shorelines; or cause a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines (40 CFR Part 110 and Subpart F of this Part).

(d) *Pretreatment Standards (40 CFR Part 128).* Nondomestic wastewater effluents from Army installations which are discharged to regional or municipal sewage treatment works must comply with the following limitations:

(1) Effluents will be treated sufficiently to remove wastes which: would create a fire or explosion hazard; have pH lower than 5.0; would obstruct flow in sewers or interfere with proper operation of the works; or are introduced at an excessive flow or pollutant discharge rate likely to interfere with proper treatment.

(2) If the characteristics of the effluent qualify the Army installation as a "major contributing industry" and the effluent contains "incompatible pollutants" then the effluent will be pretreated prior to discharge, employing technology de-

scribed in § 650.59(b) (1), (2) or (3), depending on whether the effluent is from an existing or new source. Such pretreatment is necessary to prevent the discharge of any pollutant into regional or municipal treatment works which may interfere with, pass through or otherwise be incompatible with such works.

(e) *Toxic and hazardous pollutants.* The EPA determines and publishes a list of toxic and hazardous pollutants and issues effluent or dumping limitations for these substances. Limitations often include absolute prohibition against discharge. Both The Surgeon General and the Chief of Engineers will maintain a list of such pollutants for which effluent guidelines are issued or are pending and will monitor suspected toxic pollutants until a decision on the actual effects is made. The discharge of these toxic pollutants from all Army facilities will comply with the limitations set by the EPA. In all cases, the discharge of a suspected toxic pollutant will be strictly controlled or prohibited until a determination is made as to the potential dangers involved and effluent limitations are established by the EPA and The Surgeon General of the Army.

(1) *Prohibited substances.* The toxic pollutants which have been prohibited from effluent discharges are listed in 40 CFR Part 129, EPA Regulations on Listing Toxic Pollutants. Other prohibited substances which may not be ocean dumped are listed in 40 CFR 227.21.

(2) *Hazardous substances.* The EPA listing of hazardous substances which are subject to strict effluent limitations will be addressed in 40 CFR Part 116.

(f) *Thermal pollution.* Thermal discharges are subject to the best practicable and best available control technology requirements, as are other nondomestic pollutants. Thermal pollutant standards vary depending on temperature of the receiving water, the temperature and relative volume of the effluent, and effects such discharges will have regarding the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the receiving water. Therefore, cases which involve thermal pollution are highly individual and are generally limited to large sources of thermal pollution such as steam electric power plants (40 CFR Part 423).

(g) *Watercraft.* Effluent limitations from watercraft are established by the US Coast Guard (33 CFR Part 159), Department of Defense (DOD Dir 6050.4), EPA (40 CFR Part 140) and the States. Department of the Army will comply with standards and procedures set by the Office, Secretary of Defense (DOD Dir 6050.4) and by TB 55-1900-206-14, Control and Abatement of Pollution by Army Watercraft.

(1) *Nondomestic waste discharge limitations.* Nondomestic waste (i.e., bilge, fuels, lubricants and other non-human wastes) discharges to navigable waters are prohibited (40 CFR Part 110). Exempt from this prohibition are discharges of oil from properly functioning vessel engines, provided such normal discharges are not deemed harmful.

(2) *Domestic waste discharge limitations.* (i) EPA (40 CFR Part 140), establishes Federal effluent limitation standards for the discharge of sewage from vessels. All vessels (ships, boats, and other watercraft) owned and operated by the US Army within the navigable waters of the United States, except those not equipped with installed toilet facilities, must be equipped to meet marine sanitation device (MSD) standards. Only those vessels scheduled to be decommissioned, inactivated, sold or otherwise disposed of by the end of FY 1981 are excluded from these provisions. In order to meet EPA standards, DARCOM will develop MSD certification testing, acceptance, operation and maintenance procedures for the Army based on guidance provided in paragraph VII, DOD Directive 6050.4. The following standards will apply:

(A) Marine sanitation devices will be designed and operated to prevent the overboard discharge of untreated or inadequately treated sewage or any waste derived from sewage, into the navigable waters of the United States, except as hereinafter provided.

(B) Any existing vessel equipped with a Type I MSD which was installed on or before April 1, 1976, or within 3 years thereafter, is in compliance so long as the device remains satisfactorily operable. Any existing vessel not equipped with any MSD on or before this date must install either a Type II or Type III MSD on or before April 1, 1981, except those vessels not equipped with installed toilet facilities.

(C) Any existing vessel equipped at any time with a Type II or Type III MSD and certified by either DARCOM or the US Coast Guard, is in compliance so long as the device remains satisfactorily operable.

(D) All new vessels will be quipped only with a Type II or a Type III MSD certified by DARCOM or the US Coast Guard, on or before April 1, 1978, except those vessels not equipped with installed toilet facilities.

(E) Any vessel operating on a freshwater lake or impoundment will comply with the applicable EPA "no discharge" standard and regulations of the US Coast Guard, to include compliance schedules. If the vessel is equipped with any MSD, the device will be modified as necessary to preclude accidental discharge into such waters.

(F) Prior to the compliance dates stated above, more rigid or compelling standards which are imposed by State, regional or local jurisdictions may prevail. After compliance, a more rigid standard will not take effect sooner than April 1, 1981.

(G) Any "no discharge" standard will not apply until the Administrator, EPA, determines that adequate facilities for safe and sanitary removal and treatment of sewage from all vessels are reasonably availble for such waters to which the prohibition applies, or that the water quality requires a more stringent standard than that provided by 40 CFR Part 140.

(H) Operators will not be exposed to hazardous chemicals or conditions during normal operation and maintenance of MSD's.

(ii) Because of the above standard, MSD's under development or procurement for new vessels or to replace existing equipment should be selected with "no discharge" as a possible parameter and that full consideration be given to systems based on holding tanks rather than actual treatment systems. DARCOM will ensure that appropriate Environmental Protection Control Reports (RCS DD-I&L(SA) 1383) on MSD retrofit costs are forwarded through channels to HQDA (DAEN-FEU) WASH, DC 20314 in accordance with chapter 10, this regulation.

(iii) MSD's will be so designed to preclude contamination of potable water supplies.

§ 650.60 Ocean dumping standards.

The Marine Protection Research and Sanctuaries Act of 1972 (Pub. L. 92-532) and EPA prohibit the dumping of certain materials into ocean waters and controls the dumping of all other materials. Army controlled activities will comply with the regulations and standards set by this act and notify HQDA (DAEN-ZCE) WASH DC 20310 of all permit requests. (40 CFR Parts 220-227 and 33 CFR Parts 323-324).

§ 650.61 Activities in navigable waters.

The construction of any structure in or over any navigable water of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition or capacity of such waters must have prior approval of the Chief of Engineers or his authorized representative. Authority for such work is provided by issuance of a permit. Policy, practice and procedures are contained in 33 CFR Part 322.

§ 650.62 Storage of hazardous materials.

Storage facilities for materials which are hazardous to health, and for oils, gases, fuels, or other materials capable of causing water pollution, to either surface or ground waters, if accidentally discharged, will be so located as to minimize or prevent such spillage. Measures necessary to entrap spillage, such as catchment areas, relief vessels, or entrapment dikes, will be installed so as to prevent and/or contain accidental pollution of water (Subparts F and I of this part).

§ 650.63 Water supply treatment procedures.

Water supplies will be monitored and, where necessary, treated in accordance with AR 420-406, Water and Sewerage, TB MED 229; AR 115-21, Hydrologic Services for Military Purposes and AR 115-20, Field Water Supply.

§ 650.64 Water conservation.

(a) *Reduce consumption.* All uses of water will be periodically surveyed and action taken to reduce water consumption wherever possible. The design and construction of new facilities and processes will consider minimized consumption of water, in particular potable water, as a major parameter. Vegetation and landscaping will be selected for the particular climate and geographical location so as to minimize or eliminate the need for irrigation.

(b) *Reuse-recycle.* In addition to reducing initial water consumption, water conservation measures will include the reuse or recycling of wastewater whenever practicable. The design methodology for new or for modification of old facilities and processes will identify potential reuse or recycling of wastewater alternatives and such alternatives will be selected whenever it is determined economically competitive with "once through" processes. Examples include closed cycle cooling systems for power plants and the use of land based sewage treatment systems.

(c) *Erosion control.* Operations will be scheduled and designed to reduce or eliminate the destruction of vegetation and other ground cover which prevents erosion and stream siltation. Siting of new facilities will consider topography and soil conditions to reduce construction in areas sensitive to erosion. Construction techniques and methods that minimize erosion will be identified in all construction contracts and design/construction specifications. Large parking lots, roof areas, aircraft facilities, and roads which result in rapid runoff will be minimized wherever practicable. Periodic surveys will be made to identify areas where erosion has occurred and action will be initiated to control further erosion such as planting vegetation; controlling and, where necessary, impounding stormwater from areas of rapid runoff.

§ 650.65 Minor industrial and municipal operations.

Wastewater discharge from minor industrial and municipal facilities such as wash racks, engine steam cleaning operations, water treatment plant backwash, swimming pool filter backwash, and other similar activities will be connected to the sanitary sewer wherever feasible. It should be noted that effluent from these activities not connected to sanitary sewers requires an NPDES discharge permit. To eliminate costly and difficult treatment and monitoring programs all possible efforts should be directed to connecting with the sanitary lines. At remote locations, a holding tank may be used which is sized to hold all drainage between pumpouts. After pumpout, the wastewater will be transported to another location for treatment and disposal. Other alternatives include onsite treatment which would require a discharge permit, or a closed cycle system which would treat and re-use the wastewater. In the latter case, if there were no discharges, a permit would not be required.

§ 650.66 NPDES permits.

The NPDES permit program (40 CFR Part 125) requires that all discharges of pollutants from point sources into navigable waters, (§ 650.53(a)(6)), will be regulated by a discharge permit. This applies to domestic and industrial wastewater. The permit requirement does not extend to discharges from separate storm sewers except where the storm sewers receive industrial, municipal, and agricultural wastes or runoff or where the storm runoff discharge has been identified by the Regional Administrator, the State water pollution control agency, or an interstate agency as a significant contributor of pollution. Also exempted are Army controlled properties (except when needed for public use) which are leased to contractors or others under authority of 10 U.S.C. 2657. It is the administrator of the lease who will monitor and institute corrective actions as necessary to insure that the leasee obtains and adheres to the NPDES permit.

(a) *Permit application.* When it is determined that an NPDES permit is required, permit applications will be requested from the applicable EPA Regional Office.

(b) *Draft permits.* A draft permit will be issued based on the permit application. The draft permit will contain effluent limitations necessary to meet water quality standards; compliance schedules identifying dates on when the effluent limitations will be met, monitoring programs identifying type of pollutant to be monitored, method of sampling and analysis, frequency of sampling; and method and frequency of reporting monitoring program results.

(c) *Draft permit review.* EPA is required to provide copies of the draft permit to the installation commander, the state, and the general public for review and comment. In general there will be not less than thirty (30) days in which to provide comment before the final permit is issued. MACOM's will provide copies of all NPDES permits (both draft and final) received from EPA to the U.S. Army Environmental Hygiene Agency, ATTN: HSE-EW, Aberdeen Proving Ground, MD 21010. USAEHA will accomplish: a technical review of each NPDES permit received; provide advice or assistance to the installation commander; through appropriate command channels establish liaison with the EPA, as necessary, to clarify and discuss permit conditions; and provide written comment back to the permittee for subsequent passage of written comments to the appropriate EPA Regional Office. Installation commanders will report potential problems arising from the terms of the permits which could impact on the operational capability of the installation to the HQDA (DAEN-FEU) Washington, D.C. 20314 through appropriate command channels. In addition, the permits will contain instructions pertaining to reporting changes in quality or quantity of wastewater.

(d) *Monitoring reports.* The terms of the permit will, in general, require the monitoring of all wastewater discharges and a periodic report to the EPA Regional Administrator, National Pollutant Discharge Elimination System Discharge Monitoring Report (RCS EPA-1002). In order to determine the effectiveness of the treatment and monitoring programs, copies of all monitoring reports will be forwarded to the USAEHA, ATTN: HSE-EW Aberdeen Proving Ground, MD 21010. Reports are made in accordance with frequency prescribed by each NPDES permit on form EPA 3320-1 (10-72). Forms are available from appropriate EPA Regional Office. (See figure 9-1 and table 9-3 for location and addresses).

(e) *Compliance schedules.* (1) NPDES permits will contain a schedule of compliance with regard to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, and other applicable requirements. This schedule will be rigidly enforced. The terms of the permit will, in general, require that the permittee provide the EPA Regional Administrator with written notice of the permittee's compliance not later than 14 days following each interim date of compliance. Copies of this notice will be provided to the operating command and to USAEHA.

(2) In the event of noncompliance with the interim or final requirements, the permittee will immediately provide written notification to the EPA Regional Administrator with information copies to the appropriate operating command, USAEHA and DAEN-ZCE and where necessary, will request a revision to the compliance schedule following the procedure established under 40 CFR 125.23.

(f) *Installations discharging to regional or municipal treatment works.* Permits are not normally required for discharge of domestic wastewater to regional or municipal sewage treatment facilities. However, those installations which find that pretreatment prior to discharge is required may be required to file for a permit.

(g) *Inspections.* The EPA Regional Administrator may, under authority of 40 CFR 125.13 and 125.22, make site visits and inspections for the purpose of evaluating facilities prior to issuance of an NPDES permit and for the purpose of monitoring compliance with the terms of an issued permit.

(h) *Cooperation with State and regional authorities.* The EPA Regional Administrator, or his designated representative has full and legal authority to make site inspections of Army facilities. However, installation commanders will, on the basis of reasonable, specific requests extend the same privileges to authorized state and regional pollution control authorities.

(i) *Security restrictions.* When representatives from Federal, State, or regional environmental pollution control agencies inspect facilities, examine operating records, and make tests to determine adherence to environmental performance specifications, security requirement must be met and the inspectors will be accompanied by either engineer or medical technical representatives designated by the appropriate major Army commander.

(j) *Information requests.* The EPA regional office is the responsible Federal agency regarding enforcement of all water pollution control requirements at Federal facilities in that region. Water pollution control information emanating from Federal facilities should go through the applicable EPA regional office. Therefore, requests for permit related information by state or regional authorities or by responsible members of the general public, should be directed to the applicable EPA regional office (Subpart A of this part).

§ 650.67 Ocean dumping permits.

Permits for the dumping or discharge of materials into ocean waters, other than transportation of dredged material for purpose of dumping in ocean waters, are issued by the EPA. There are two types of permits, one which governs a general category of dumping and one which governs the dumping of special materials. The Administrator of EPA can issue general permits. The authority for issuing most special permits has been delegated to the EPA Regional Offices. Controls governing ocean dumping can be found in 40 CFR Parts 220 through 227, "Regulations and Criteria, Transportation for Dumping, and Dumping of Material into Ocean Waters." Most permits require information on the type of pollutant or effluent being discharged or dumped, its quantity and frequency and location of discharge. Permits require monitoring and documentation.

§ 650.68 Corps of Engineers permits.

The construction of any structure in or over a navigable water of the United States, the excavating from or depositing of dredged or fill material in such waters, the accomplishment of any other work affecting the course, condition, location, or capacity of such waters, the discharge of dredged or fill material in navigable waters, and the transportation of dredged material for the purpose of dumping it in ocean waters requires a permit from the Corps of Engineers and will be processed in accordance with 33 CFR 209.120. Application for this permit is made to the local District Engineer. Applications are available from Corps of Engineers District Offices and will be completed for all projects or activities not under the design and supervision of the Chief of Engineers.

§ 650.69 State permits.

(a) Cooperating with and providing information to State and regional authorities does not include making application for State permits of any kind nor obtaining a water quality certification from the State for any activity involving the discharge of a pollutant into navigable waters. Where information or data is to be provided a State authority on a prescribed registration form and authenticated, Army installation commanders will comply with all reasonable requests and forward same with a disclaimer that:

While Federal law does not require military installations to apply for State permits or obtain State water quality certifications, this installation is desirous of complying with the objectives of State and Federal pollution control programs. However, completion of this form is not to be construed as an application for permit. To the best of my knowledge the information presented herein is correct.

Under unusual circumstances, when the installation commander considers it prudent to respond contrary to the above guidance, request for waiver will be submitted through appropriate command channels to HQDA (DAEN–ZCE) WASH DC 20310.

(b) In all cases, waiver request will include a legal opinion by the staff judge advocate of the installation concerned or of the next higher command having a staff judge advocate to insure legal sufficiency. Special attention should be given to questions involving registration of sources and compliance schedules to insure that the legal implications of such instruments are understood.

§ 650.70 Operation training and certification.

(a) Operators of water treatment works and sewage treatment works shall meet levels of proficiency consistent with operator certification requirements applicable to the State or region in which the facility is located. (AR 420–15, Certification of Utility Plant Operators and Personnel Performing Inspection and Testing of Vertical Lift Devices).

(b) Necessary training of water treatment works and sewage treatment works operators will be accomplished through programs sponsored by the State in which the facility is located. In the absence of such State or regional programs, training will be accomplished at qualified institutions designated by the MACOM.

§ 650.71 Waivers.

(a) No action which is contrary to the provisions contained in this subpart will be taken without first obtaining a waiver of the requirement from HQDA (DAEN–ZCE) WASH DC 20310.

(b) Waivers may be granted only if the President or the Administrator of EPA finds that the technology to implement such standards is not available or operation of the facilities in question is required for reasons of national security. Requests for such waivers will not be considered by HQDA unless it can be clearly and conclusively demonstrated that operation of the facilities in question and the proposed construction or modification meets the above criteria. Requests for waivers will be forwarded through command channels to HQDA (DAEN–ZCE) WASH DC 20310.

§ 650.72 Investigation of complaints.

Each operating commander will establish procedures to investigate water pollution complaints and allegations from individuals and water pollution control authorities. In the case of a legal action of potential legal action, the matter will be reported immediately through judge advocate general channels to HQDA (DAJA–RL) WASH DC 20310.

§ 650.73 Water Pollution Control Report—(RCS DD–I&L (SA) 1383).

(a) The water pollution control report portion of the Environmental Protection Control Report is designed to provide HQDA with data on a phased and coordinated plan for control and abatement of water pollution for submission to OSD and OMB; and for development of the five-year Army Environmental Program. Detailed instructions for preparing and submitting this report are provided in Subpart J of this part.

(b) The report will cover all portions of the water pollution control program where expenditure of funds for corrective actions is required. This includes all fixed facilities, monitoring equipment, watercraft and other mobile facilities.

Subpart D—Air Pollution Abatement

§ 650.81 Purpose.

The provisions contained in this chapter implement the Clean Air Act of 1970 (Pub. L. 91–604 as amended) and the applicable Federal and State Regulations issued pursuant to this Act; Executive Order 11752, Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities; and DOD Instruction 4120.14, Air and Water Pollution Control.

§ 650.82 Goal and objectives.

It is the Department of the Army's goal to reduce the emission of pollutants into the air from both stationary and mobile sources to the lowest practicable limits, and at the earliest practicable date. Objectives for obtaining this goal are to—

(a) Identify air pollution emission sources, determine the kinds and amounts of pollutant emissions, and reduce pollutant levels to those specified by Federal, State, interstate, or local substantive standards.

(b) Procure commercial equipment and vehicles with internal combustion engines that meet emission standards, except for combat vehicles specifically excluded by Environmental Protection Agency (EPA) regulations.

(c) Insure that each piece of military equipment is designed, operated, and maintained so that it meets air emission standards unless specifically exempted.

§ 650.83 Explanation of terms.

(a) *Ambient air quality standards.* Those standards established pursuant to the Clean Air Act, for protecting public health and welfare.

(b) *Emission standards.* Permissible limits of emissions established by Federal, State, interstate and local authorities to achieve ambient air quality standards.

(c) *Implementation plans.* Plans developed and administered by a State to designate the methods used to implement, maintain, and enforce ambient air quality standards in air quality control regions. The plans present an inventory of emissions and their source; a comparison of current emissions with current ambient air quality conditions; amount of emission reduction necessary to attain

the ambient air quality standards for each category of emission sources; and plans, including transportation control plans, for achieving emission reductions.

(d) *Mobile sources.* Vehicles, aircraft, watercraft, construction equipment, and other equipment using internal combustion engines as the means of propulsion.

(e) *Monitoring.* The assessment of emissions and ambient air quality conditions, using techniques such as emission estimates, visible emission reading, diffusion or dispersion estimates, sampling, or measurement with analytical instruments.

(f) *Motor vehicle.* Any self-propelled vehicle designed for transporting persons or property on a street or highway (sec. 213, Clean Air Act). Further defined in 40 CFR Part 85.

(g) *National Emission Standards for Hazardous Air Pollutants.* EPA emission standards established for specified hazardous air pollutants emitted by both new and existing stationary sources. (Sec. 112, Clean Air Act.)

(h) *Parking facility.* Any off-street area or space, lot, garage, building or structure, or combination or portion thereof, in or on which motor vehicles are parked.

(i) *Standards of performance for new stationary sources.* Emission standards established for specified pollutant sources, such as industrial facilities (Sec. 111, Clean Air Act).

§ 650.84 Policies.

(a) Control and monitor fixed air pollutant sources to ensure compliance with Federal, State, interstate and local substantive air emission standards.

(b) Monitor ambient air quality in the vicinity of Army industrial-type activities, or cooperate with others in such monitoring to determine whether current ambient air standards are being met.

(c) Control emissions from mobile sources in accordance with Federal regulations or by State regulations when authorized by law.

(d) Cooperate with Regional EPA and State authorities in achieving the objectives of State Implementation Plans.

§ 650.85 Responsibilities.

(a) The Chief of Engineers will—(1) Publish the basic policies and procedures for the identification, reporting, and programming of projects to control and monitor air pollutants emitted by Army fixed facilities and mobile sources, including aircraft and watercraft (DAEN-ZCE).

(2) Report requirements for projects to control sources of air pollution and the installation of air quality monitoring systems in accordance with this regulation and DOD Instruction 4120.14.

(3) Process requests for exemption from compliance in accordance with the provisions of the Clean Air Act and Executive Order 11752.

(4) Include in the Army R&D Program such research as may be needed or required for the development of technology to control Army-unique air pollutants.

(5) Perform technical review and evaluation of remedial projects for the control of existing sources of air pollution at fixed facilities and insure that provisions are made for air pollution control in the design of new structures and facilities.

(6) Coordinate the requirement of the adoption of new air emission standards for the Army fixed facilities with The Surgeon General.

(7) Provide technical advice and assistance for the control of air pollution in the operation and maintenance of fixed facilities.

(8) Ensure all new construction or major modifications are reviewed by the applicable US EPA Regional Office to ensure compliance with the State Implementation Plan.

(b) The Deputy Chief of Staff for Logistics will issue implementing policies, procedures and instructions for the control of air pollution which pertain to the maintenance, repair and modification of mobile sources including vehicles, aircraft and watercraft.

(c) The Deputy Chief of Staff for Research, Development and Acquisition will—(1) Conduct research and development programs designed to provide low-pollution, high efficiency engines for Army vehicles, mobile power sources, aircraft, and watercraft; and for the development of clean burning fuels.

(2) Incorporate air pollution controls, where required, in the development of new equipment and weapons systems to the maximum extent possible without degrading the operational capabilities to an unacceptable level.

(3) Insure that mobile equipment and engines developed for the Army comply with applicable current and projected Federal emission standards to the extent that priority defense and national security requirements permit.

(d) The Surgeon General, will—(1) Monitor the health and welfare aspects of the air pollution control program within the Department of the Army.

(2) Issue health and medical policy guidance on air pollution control and abatement.

(3) Consult with COE and appropriate commanders in the establishment of air pollution control standards which are unique to the Army.

(4) Provide staff assistance and guidance on the health and environmental aspects of management of hazardous and toxic air pollutants.

(5) Provide support to the basic Army R&D Program in terms of identification/designation of R&D needs.

(6) Review proposed Federal, State, interstate and local emission/ambient air quality standards and coordinate DA input to the standard-setting process.

(e) Major Army commanders will—(1) Develop a program, consistent with this regulation and DOD guidelines to control and monitor air pollutant emissions from fixed and mobile facilities to comply with applicable Federal, State, interstate and local emission standards and ambient air quality standards.

(2) Ensure that personnel having responsibilities for controlling air pollution emissions (e.g. equipment operators and mechanics, heating plant operators, etc.) are properly trained to perform such duties. Further, provide training in the inspection, test and maintenance of pollution control devices and emissions measurement equipment.

(f) Commanding General, US Army Materiel Development and Readiness Command. In addition to responsibilities assigned in paragraph (e) of this section, the Commanding General, US Army Materiel Development and Readiness Command will—(1) Require that Army materiel equipped with internal combustion engines meet air emission standards in effect at the time of manufacture as required by Federal or State regulations.

(2) Ensure that the manufacture, shipment, operation, maintenance and final disposition of the material can be accomplished with a minimum emission of air pollutants.

(3) Provide in technical publications appropriate information and instructions on air pollution controls for engine driven equipment and on maintenance and monitoring procedures for minimizing pollutant emissions.

(g) Commanding General, US Health Services Command will—(1) Assist The Surgeon General in fulfilling his responsibilities for the health and welfare aspects of the air pollution control programs.

(2) Provide personnel for conducting field investigations and special studies on sources of air pollution and for recommending measures required to protect health and welfare, and to comply with stationary or mobile emission standards or ambient air quality standards (§ 650.92).

(h) Installation and activity commanders will—(1) Monitor air emission sources within their installations or under their control and identify air emission sources requiring remedial action to ensure compliance with emission standards and ambient air quality standards.

(2) Program remedial projects and funds to control and monitor air emission sources and ambient air quality to insure compliance with emission standards and ambient air quality standards.

(3) Cooperate with representatives of Federal, State and regional agencies in the formulation and execution of the Installation Master Plan, projects, and operations to ensure conformance with the State Implementation Plan. This includes conformance with new source emission standards; new source review procedures for Federal facilities; air pollutant control strategies such as transportation control plans, vapor recovery systems, and air pollution emergency episode plans; and the requirement to obtain a consent agreement for sources not in compliance with applicable air pollutant emission standards.

(4) Monitor the operation of motor vehicles to permit compliance with appli-

cable Federal or State emission standards; or in the absence of applicable standards, to minimize smoke emissions.

(5) Continue mechanic and operator training programs in the prevention, control and abatement of pollution from mobile equipment.

§ 650.86 Reports.

Sources of air pollution will be identified and those requiring remedial action will be reported as specified in Subpart J of this part. An example of an exhibit prepared on a facility found not to be in compliance with specified standards is shown in figure 10–3.

§ 650.87 References.

See table 4–1 for related publications to be used in conjunction with this subpart.

STANDARDS AND PROCEDURES

§ 650.88 Standards.

(a) *General.* (1) The Clean Air Act establishes the legal basis for improving air quality and maintaining air quality for the protection of public health and welfare. Included in its provisions are the establishment of Air Quality Control Regions, which are approximately 250 in number; the establishment of National Ambient Air Quality Standards to identify the acceptable health and welfare levels which will be permitted for a given pollutant; allowable signficant air quality deterioration zones which set the allowable amount of air quality deterioration; and the preparation of Implementation Plans by each State to provide for the attainment of primary standards by July 1, 1975 and secondary standards within a reasonable time. The Act also requires EPA to set Standards of Performance for new or modified sources of pollution; establishing source emission standards for hazardous air pollutants such as asbestos, beryllium and mercury; and controlling motor vehicle emissions.

(2) National Ambient Air Quality Standards prescribe maximum pollutant levels for particulate matter, sulfur oxides, carbon monoxide, photo chemical oxidents, hydrocarbons and nitrogen oxides (40 CFR Part 50). In all instances the States in their Implementation Plans have specified strict ambient air quality standards and established maximum levels for each pollutant based on the type of source. It is the applicable State standard that is to be achieved by each Army facility.

(b) *Fixed facilities*—(1) *Existing sources.* Individual pollutants are to be controlled in accordance with national primary and secondary air quality emission standards, normally those promulgated by a State. The basic reference is 40 CFR Part 50.

(2) *New sources.* Specific Federal emission standards are applicable to certain types of new facilities such as large fossil fuel-fired steam generators, incinerators, sulfuric and nitric acid plants, etc. Detailed information is contained in 40 CFR Part 60.

(3) *Air quality control regions.* Air quality control regions, criteria, and control techniques are given in 40 CFR Part 81.

(4) *Hazardous air pollutants.* Certain hazardous air pollutants as such asbestos, beryllium, mercury, and vinyl chloride, which must be closely controlled are identified in Federal regulations promulgated by EPA. Refer to 40 CFR Part 61 and § 650.132 for guidance on control of asbestos during demolition and prohibition on use of sprayed asbestos materials for any purpose.

(c) *Mobile sources*—(1) *Commercial or commercially-adapted vehicles.* The manufacturer is required to certify these vehicles as meeting established emission standards of the year of manufacture. Basic reference is 40 CFR Part 85.

(2) *Military vehicles.* Certain military vehicles are excluded from the provisions of the Clean Air Act. Those not excluded will be certified by the manufacturer as meeting standards of the year of manufacture. Basic reference is 40 CFR Part 85.

(3) *Replacement engines.* (40 CFR Part 85.)

(i) Light duty will meet the standards imposed at the year of vehicle manufacture.

(ii) Heavy duty will meet the standards imposed at the year of engine manufacture.

(4) *Aircraft.* Commercial or commercially adapted aircraft will comply with standards applicable to commercial aircraft in year of manufacture. Basic reference is 40 CFR Part 87.

§ 650.89 Assessment of air quality.

The impact of emissions produced by the operation of fixed and mobile sources on air quality will be included in an Environmental Impact Assessment (EIA) or Environmental Impact Statement (EIS) of any Army proposed action. Specific information as to existing regional air quality will be provided along with the changes or impact produced by the planned action. See also § 650.91 (b) on significant air quality deterioration zones for additional guidance. Particular attention will be given to vehicle emissions from both military and privately owned vehicles which, along with the vehicles in a nearby community, may constitute a significant source of air quality degradation and health hazard.

§ 650.90 Air pollution sources.

Common sources of air pollution which must be controlled include—:

(a) Heating plants over one million BTU per hour input.

(b) Incinerators.

(c) Large electrical power generating plants.

(d) Manufacturing processes/acid production facilities.

(e) Metal cleaning and treatment operations.

(f) Spray painting operations.

(g) POL storage and dispensing facilities.

§ 650.91 Air pollution abatement and control.

(a) Existing fixed sources of air emission are subject to Federal and State standards promulgated under the Clean Air Act. Those facilities found not in compliance with such standards are to be promptly identified and reported in accordance with the procedures outlined in Subpart J of this part. The programming and budgeting for remedial projects will conform with established procedures as in AR 37–40, AR 415–15, AR 415–25 and AR 420–10.

(b) New fixed sources or major modification to existing facilities which are a source of air emissions will be designed in accordance with applicable standards. Consultation with or review by State authorities on such projects will be through the Regional Administrator of EPA at the earliest practicable time in the planning process. Further, the State air pollution control agencies will establish significant air quality deterioration zones to control the introduction of pollutants into a specified area. Deterioration zones apply only to specific category of pollutant such as particulates or nitric oxides. Zones will be established by the state and are as follows:

Zone I—Very little to zero deterioration.

Zone II—Moderate deterioration.

Zone III—May deteriorate up to the national maximum.

Implementation of these standards for Federal facilities is through the EPA review of preconstruction plans. This regulation significantly increases the power of States to control land use patterns. Therefore, all Army plans for development and expansion of facilities must consider the deterioration zone within which the affected installation is located. (40 CFR Part 52).

(c) Emissions from new mobile sources such as vehicles and aircraft engines will be regulated at the time of manufacture and certified in accordance with Federal regulations issued by EPA. The alteration or removal of such emission controls installed on Army equipment is prohibited.

(d) The retrofit of military vehicles not equipped with emission control devices at the time of manufacture may be required by State regulation. Commanders of installations where such controls are required will take appropriate action to have such vehicles retrofitted and to insure that vehicles without emission controls are not operated unless a waiver or exemption as specified in § 650.95 is approved.

§ 650.92 Air emission monitoring and reporting.

(a) *Fixed sources.* Air emissions will be monitored in accordance with EPA approved State, regional or local regulations. The more common pollutants that are monitored include particulates, sulfur dioxide, carbon monoxide, oxides of nitrogen, hydrocarbons, and photochemical oxidants. Mandatory monitoring is imposed where more toxic emissions, such as nitric and sulfuric acid mists and asbestos, are released to the atmosphere. Such records on emissions as may be specified by EPA will be maintained and submitted as required.

(b) *Mobile sources.* The periodic monitoring of vehicle emissions serves to verify the effectiveness of emission controls and engine combustion efficiency. Installations having large vehicle fleets are encouraged to institute such monitoring procedures. No reports are required for these emission monitoring operations.

(c) *Technical assistance.* Technical assistance relating to health and welfare considerations of air pollution problems can be obtained from Commander, US Army Health Services Command (HSC–PA), Fort Sam Houston, TX 78234. Specific services available include—

(1) Collection of pollutant emission data, operating criteria and performance standards for air pollution abatement equipment.

(2) Consultation on current Federal and State air quality regulations, standards and monitoring instrumentation.

(3) Source and ambient air evaluations to demonstrate compliance of existing sources with air quality regulations or standards.

(4) Provide assistance in collection and interpretation of air quality data for development of EIA or EIS.

§ 650.93 EPA Air Pollution Project review.

(a) The following type projects require review by the EPA Regional administrator for compliance with air pollution control standards prior to the initiation of construction:

(1) Large industrial or manufacturing facilities.

(2) Certain new parking facilities to be constructed in areas covered by Standard Metropolitan Statistical Areas and Transportation Control Plans (38 major urban areas) are subject to preconstruction review by the EPA Regional Administrator (40 CFR Part 52). A review is required for parking facilities having a capacity of 250 or more vehicles, or where special restrictions are imposed on any additional parking. In such instances, an EPA permit must be obtained for new or modification of existing parking facilities which results in a net increase of 250 or more spaces when construction commences after January 1, 1975 or when a construction contract is signed after January 1, 1975. The basic references for State implementation plans and Transportation Control Plans are 40 CFR Part 51 and 40 CFR Part 52 respectively.

(b) At the request of the installation commander, such reviews may be coordinated with the Regional EPA office by the supporting Corps of Engineers District Office.

§ 650.94 Consent agreements.

(a) A consent agreement is required for each existing fixed source of air pollution which exceeds applicable standards. The consent agreement must contain a compliance schedule which contains a chronological list of dates (milestones) for each major action to be completed within the overall plan to bring a polluting source into compliance.

(b) Consent agreements are negotiated by installation representatives with EPA Regional Offices and State air pollution control authorities. Once approved by EPA, the specified date when the facility will comply with air emission standards becomes legally binding on the installation commander. Further, the installation is required to inform the appropriate EPA Regional Office and State authority in writing of any foreseen delays in meeting the intermediate dates contained in the compliance schedule and the reasons therefore prior to the scheduled completion date. When it becomes apparent that the ultimate compliance date can not be met for reasons beyond the control of the installation commander, a revised consent agreement should be renegotiated. In such cases the EPA Regional Administrator will be notified as soon as possible. If renegotiation of a compliance schedule is rejected by EPA, the installation commander may forward a request for an exemption (§ 650.95) from compliance from standards when continued operation of the facility is essential to the conduct of the DA mission.

§ 650.95 Exemptions.

(a) An exemption from compliance with air pollutant emissions may only be requested for existing facilities. New facilities are to be designed to meet established standards.

(b) Requests for exemption from the Clean Air Act and regulations promulgated pursuant to the Act will be based on the continued operation of a particular facility being in the interests of national security and upon the requirements of Executive Order 11752. Such requests will be forwarded through channels to HQDA (DAEN–ZCE), WASH DC 20310 for necessary action.

§ 650.96 Transportation control plans.

(a) In addition to regulating the emissions from fixed sources, it may be necessary for a State to impose controls over transportation in order to achieve national ambient air standards. Large metropolitan areas, such as Los Angeles, California and Baltimore, Maryland are having to resort to such measures because the major portion of air pollution in those areas is caused by motor vehicles.

(b) Military installations and activities located within the area defined in EPA approved Transportation Control Plans are required to cooperate with local authorities in reducing vehicular traffic consistent with military requirements. Although the overall requirement is to reduce both military and civilian traffic, primary emphasis should be on reducing the use of privately owned vehicles. Consequently, Installation Transportation Control Plans which may be required for a particular region by Federal Regulations should be prepared and implemented as deemed necesary. Various control measures that will be considered include:

(1) instituting a command carpooling with carpool locator program,

(2) encouraging the use or expansion of public transportation service,

(3) restricting available parking areas to promote carpooling,

(4) issuing preferred parking spaces to carpool cars, and

(5) encourage the use of bicycles/walking for short on-post trips.

(c) Information regarding the existence of approved metropolitan Transportation Control Plans may be obtained from local air pollution control authorities or the Regional EPA Administrator.

§ 650.97 Air pollution emergency episode plans.

(a) Army installations or activities located in areas susceptible to air pollution episodes (smog conditions) will cooperate with local authorities in reducing air emissions during such emergency periods. Specific contingency plans are to be developed and coordinated with the local air pollution emergency episode plans to provide for: (1) The curtailment of all but essential services; (2) to provide for required mission activities; (3) announcement of notification procedures; and (4) instructions on those control measures to be invoked during the various phases of such episodes. The following control measures are to be considered in such contingency plans:

(i) Restrict use of private automobiles by requiring car pools or use of mass transit facilities.

(ii) Conduct an educational program on the hazards of air pollution episodes.

(iii) Publicize episode warnings and notification procedures.

(iv) Postpone all except mission-essential activities which produce air emissions; (e.g., vehicle use, operation of incinerators, etc.).

(v) Grant personnel administrative leave, but only as a last resort. This action will be coordinated with other DOD and Federal installations in the affected area.

(b) The shut down or reduction of activities should be well coordinated with all installation personnel. The plan will be implemented on a test basis upon completion and should be reviewed and tested on a biannual basis thereafter.

(c) Government assets provided a contractor managing a Government-owned facility, are subject to the same use restrictions during an air pollution emergency episode as those imposed on a contractor by a State on the use of his private assets.

TABLE 4–1. RELATED PUBLICATIONS

Clean Air Act (42 U.S.C. 1857 et seq., as amended by the Air Quality Act of 1967, Pub. L. 90–148, by the Clean Air Amendments of 1970, Pub. L. 91–604, and by Technical Amendments to the Clean Air Act, Pub. L. 92–157).

AR 11–28	Economic Analysis and Program Evaluation of Resources Management.
AR 37–40	Army Production Base Support Program Report (RCS CSGLD–1123(R1) (MIN))
AR 40–4	Army Medical Department Facilities/Activities.
AR 70–15	Product Improvement of Materiel.

AR 210–50	Family Housing Management.
AR 405–45	Inventory of Army Military Real Property.
AR 415–15	MCA Program Development.
AR 415–25	Real Property Facilities for Research, Development, Test and Evaluation (RHTE).
AR 415–35	Minor Construction.
AR 420–10	General Provisions, Organization, Functions, and Personnel.
AR 750–20	Prevention, Control, and Abatement of Pollution from Mobile Equipment.

Subpart E—Solid Waste Management

General

§ 650.105 Purpose.

This chapter defines Department of the Army policy, assigns responsibilities, and establishes procedures for the management of waste and resource recovery and recycling programs under the provisions of the National Environmental Policy Act of 1969 (NEPA), the Solid Waste Disposal Act, as amended, (Resource Conservation and Recovery Act of 1976) and DOD Directive 4165.60.

§ 650.106 Goal.

Procure and use Army material resources in a manner that will minimize waste production and conserve natural resources. Reuse or recycling and reprocessing will be accomplished to the maximum extent practicable.

§ 650.107 Objective.

Specific objectives of the Army Solid Waste Management Program include:

(a) Design and procure materiel of such configuration that the end item or its components can be economically restored, reconstituted, or converted to other uses, when the end item and its packaging are no longer suitable for their original purposes.

(b) Dispose of unserviceable or excess materiel through property disposal channels or by some other means that would enable these resources to be recovered and reintroduced into the manufacturing process or reclaimed for other purposes, including use as an energy source.

(c) Dispose of wastes not capable of being economically recycled or otherwise reclaimed, in a manner that will avoid or minimize pollution of the environment.

§ 650.108 Policy.

(a) Solid and other waste materials will be recovered and recycled to the maximum extent practicable.

(b) The quantities of solid and other waste materials will be reduced at the source wherever possible; (e.g., through the use of minimum packaging, the increased use of returnable or reuseable containers, source separation for recycling, and other such reducing measures).

(c) The use of joint or regional resource recovery facilities, is encouraged when it will be advantageous to the Army.

(d) Optional recycling programs are those which are managed and operated by the Managing Activity (para 1–3f, AR 420–47) but are not required by AR 420–47. These programs are encouraged, and may either complement an installation operated program or be the sole recycling activity, provided that: (1) Such actions will not conflict with the mandatory aspects of Source Separation and Recovery Programs required by AR 420–47, (2) The end result is to further the recycling of trash and waste materials, and (3) The annual cost to the Government is not greater than that of the normal solid waste disposal system.

(e) Contracts for solid and other waste materials disposal services shall include provisions for recycling, whenever practicable.

(f) Design, procurement, and use of materials will be accomplished in such a manner that it minimizes the generation of waste to the greatest extent feasible.

(g) All appropriate DA installations and activities will cooperate to the extent practicable in beneficial civilian community-conducted recycling programs.

(h) Ultimate disposal of solid waste by landfill or incineration will be done in accordance with chapter 3, AR 420–47.

(i) All actions which implement the requirements of this regulation and which could be controversial will be assessed to determine if an Environmental Impact Statement is required, in accordance with Subpart B of this part.

§ 650.109 Responsibilities.

(a) The Chief of Engineers will exercise primary Army staff responsibility for directing the Army Solid Waste Management Program and will:

(1) Promulgate policies and regulations on waste reduction, waste management, resource recovery, and recycling programs and waste disposal.

(2) Formulate, justify, and monitor Army programs and budgets pertaining to recycling programs.

(3) Monitor the solid waste management program and initiate reports as may be required.

(4) Maintain liaison with Office of the Assistant Secretary of Defense (Installations and Logistics), the Environmental Protection Agency and other Federal and private agencies who influence the waste management program.

(5) Coordinate with The Surgeon General on health aspects of solid waste management.

(b) The Deputy Chief of Staff for Operations and Plans will: (1) Ensure that the appropriate requirements documents include provisions for materiel reclamation, resource recovery, recycling and waste management throughout the life cycle of equipment, and (2) Authorize specialized waste handling personnel on the table of distribution and allowances (TDA) of installations.

(c) The Deputy Chief of Staff for Research, Development and Acquisition will ensure the Research, Development, Test and Evaluation (RDT&E) program and the Army Procurement Accounting and Reporting System (APARS) major item program gives proper emphasis to waste reduction, equipment maintainability, and resource recovery/recycling.

(d) The Deputy Chief of Staff for Logistics will ensure that the Army logistical system places special emphasis on the reduction of waste, on maintainability, and on recycling, and that appropriate TDA allowances for specialized equipment are made.

(e) The Surgeon General will:

(1) Monitor the health and welfare aspects of the waste management program, and accumulate, evaluate and disseminate data on program practices that may adversely affect the health and welfare of personnel and animals.

(2) Provide technical guidance to other headquarters, DA staff offices and appropriate commanders on health aspects involved in Solid Waste Management.

(3) Perform solid waste surveys at DA installations.

(f) Command and Installation responsibilities are as outlined in AR 420–47.

Standards and Procedures

§ 650.110 Standards.

Installations and activities, in their waste disposal operations as well as in their resource recovery and recycling programs, will meet environmental pollution standards promulgated by duly authorized Federal, State, interstate, and local agencies. In addition, they will conform to the following waste management standards:

(a) Sufficient resources will be provided for the effective management of all wastes generated. Those wastes that cannot be recovered or recycled shall be disposed of in the most cost effective manner consistent with Army waste disposal requirements (AR 420–47).

(b) The installation commander may permit open burning when such burning does not conflict with local or State regulatory requirements, is accomplished during daylight hours, and is controlled to keep pollution of the air to a minimum.

(c) Wastes generated by any Army installation or activity will not be disposed of by open dumping. If suitable sites for sanitary landfill operations are not available on an installation, or municipal or private facilities for disposal are not available or are not cost effective, solid waste processing may be accomplished using incinerators especially designed for that purpose. Incinerators will be designed and operated to meet all applicable air pollution control requirements (chap. 3, AR 420–47).

(d) When contracting for off-post disposal of solid wastes from Army facilities by municipal or private facilities, the contractor must comply with Federal, State, and local guidelines.

§ 650.111 Procedures.

(a) Operation of solid Waste Collection and Disposal Systems (including Source Separation and Resource Recovery) will be in accordance with AR 420–47.

(b) "Army installations will comply with all Federal, State, interstate, and

local requirements, both substantive and procedural, including permits and reporting (Pub. L. 94-580)." Resource Recovery facilities established in accordance with AR 420-47 will be compatible with State and local plans.

(c) Management of Army solid waste programs at the installation level will generally be accomplished by the element which is already functionally responsible for refuse collection and disposal. Recyclable/marketable materials will be referred to the Defense Property Disposal Service (DPDS) for sale.

(d) Duplication of effort will be avoided in the collecting, sorting and transporting of recoverable waste by combining new and existing efforts. Military Exchanges and Commissary Stores, which purchase or lease processing equipment, may salvage and dispose of their recoverable resources.

§ 650.112 Reports.

(a) Sources of solid waste will be identified, and those requiring remedial action will be reported as specified in Subpart J. An example of an exhibit prepared on a typical solid waste facility found not to be in compliance with specified standards is at figure 10-5. (RCS DD-I&L(SA)1383).

(b) The Managing Activity of a recycling program will complete an Annual Report of Solid Waste Source Separation and Resource Recovery/Recycling Operations in accordance with AR 420-47. (RCS DD-I&L(A)1436).

§ 650.113 References.

Table 5-1 is a list of publications related to solid waste management.

TABLE 5-1—RELATED PUBLICATIONS

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 432 et seq.

Solid Waste Disposal Act, as amended, 42 U.S.C. 3251 et seq. (Resource Conservation and Recovery Act of 1976, Pub. L. 94-580).

Pub. L. 93-552, Military Construction Authorization Act, FY 1975.

Executive Order 11752, Prevention, Control and Abatement of Environmental Pollution at Federal Facilities, 38 FR 34793, December 19, 1973.

Department of Defense Directive 5126.15, Delegation of Authority with Respect to Facilities and Equipment for Metal Scrap Baling or Shearing, or for Melting or Sweating Aluminum Scrap.

Department of Defense Directive 4165.60, Solid Waste Management—Collection, Disposal, Resource Recovery, and Recycling Program.

DoD Manual 4160.21M, Defense Disposal Manual, June 1973, authorized by DoD Directive 4160.21, Department of Defense Personal Property Disposal Program.

AR 11-28, Economic Analysis and Program Evaluation for Resource Management.

AR 37-108, General Accounting and Reporting for Finance and Accounting Offices.

AR 37-120, Procurement of Equipment and Missiles, Army Management of the PEMA Appropriation, Policies and Procedures.

AR 40-5, Medical Service, Health and Environment.

AR 235-5, Management of Resource, Commercial and Industrial Type Functions.

AR 415-15, MCA Program Development.

AR 420-47, Facilities Engineering, Solid Waste Management.

AR 750-36, Maintenance of Supplies and Equipment, Rebuild and Retread of Pneumatic Tires.

TM 5-634, Refuse Collection and Disposal; Repairs and Utilities.

TM 5-814-5, Sanitary Engineering—Sanitary Landfills.

Environmental Protection Agency Guidelines for the Thermal Processing of Solid Wastes and for the Land Disposal of Solid Wastes (40 CFR Parts 240 and 241).

Environmental Protection Agency Guidelines for Solid Waste Storage and Collection (40 CFR Part 243).

Environmental Protection Agency Guidelines for Resource Recovery Facilities (40 CFR Part 245).

Environmental Protection Agency Guidelines for Source Separation for Materials Recovery (40 CFR Part 246).

Subpart F—Hazardous and Toxic Materials Management

GENERAL

§ 650.121 Purpose.

The provisions contained in this chapter implement the requirements of the Atomic Energy Act, as amended; the Energy Reorganization Act of 1974 and the Clean Air Act, as amended; the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended by the Federal Environmental Pesticide Control Act (FEPCA) of 1972; the Federal Water Pollution Control Act (FWPCA), as amended; the Marine Protection, Research and Sanctuaries Act of 1973 (MPRSA)—Ocean Dumping; the Solid Waste Disposal Act (SWDA), as amended; and the Toxic Substances Control Act of 1976. Detailed guidance on oil and hazardous liquid substances spill prevention and contingency plans appears in Subpart I of this part.

§ 650.122 Goal and objectives.

The Department of the Army's (DA) goal is to control hazardous and toxic materials to minimize hazards to health and damage to the environment. The following objectives are necessary to achieve this goal:

(a) All material developed and procured by the Army is to be designed to minimize health and environmental hazards during research, development, testing, production, use, storage, and disposal.

(b) Limit, to the extent practicable, the use of toxic and/or hazardous materials, and employ procedures which provide maximum safety during storage, use, and disposal when less toxic or hazardous substitutes are not available.

(c) Develop safe and environmentally acceptable methods for the storage and disposal of materials which are inherently hazardous or potentially dangerous due to the quantities involved.

(d) Provide properly trained personnel for the management, use, storage, and disposal of hazardous and toxic materials.

§ 650.123 Explanation of terms.

(a) *Certification.* The recognition by a certifying agency that a person is competent and thus authorized to use and supervise the use of restricted use pesticides.

(b) *Certified applicator.* Any individual who is certified to use or supervise the use of any restricted use pesticide covered by his certification.

(c) *Class 1 disposal site.* The location (e.g., sanitary landfill) where any final deposition of hazardous or toxic waste, after proper processing, may occur. Such a facility complies with EPA guidelines for the disposal of solid wastes as prescribed in 40 CFR Part 241.

(d) *Disposal.* To abandon, deposit, inter or otherwise discard waste as a final action after its use has been achieved, a use is no longer intended, or its use has been declared excess, suspended or cancelled.

(e) *Effluent standard.* A State or Federal effluent standard or limitation to which a discharge is subject under the FWPCA amendments of 1972, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards. This includes a prohibition of any discharge established, for any toxic pollutant described in 307(a) of the FWPCA as amended.

(f) *General use pesticide.* Pesticide for general public use not on EPA Restricted Use Pesticide listing.

(g) *Hazardous and toxic material management.* For environmental purposes, the systematic and purposeful control over the production, procurement, storage, handling, use, and disposal of materials or substances which are either hazardous to life because of their inherent toxicity or a potential danger because of the quantities involved.

(h) *Hazardous substance.* An element or compound or mixture (other than oil as covered in Subpart I of this part) which, when discharged in any quantity into or upon the navigable or coastal waters, presents an imminent and substantial danger to the public health or welfare, including fish, shellfish, wildlife, shoreline, and beaches, (e.g., hazardous substances include some strong acids, strong bases, organic solvents, certain metals and their compounds, other strong oxidizers, or other bulk-stored chemicals used in manufacturing processes and maintenance or repair operations). (Designation of and determination of removability of hazardous substances will be addressed in 40 CFR Part 116).

(i) *Hazardous waste.* Any waste or combination of wastes which, if not effectively controlled, poses a potential hazard to human health or living organisms because they are nondegradable, persistent in nature, lethal, or may otherwise cause or tend to cause detrimental cumulative effects. Such materials include wastes which are corrosive, flammable, toxic, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means.

(j) *Ocean dumping.* The disposal of hazardous or toxic materials (including pesticides, pesticide containers, pesticide-related wastes, other hazardous chemical stocks, pharmaceutical stocks of drugs, radioactive materials, explosive

ordnance or chemical warfare agents) in or on the oceans and seas as defined in the MPRSA (Pub. L. 92-532).

(k) *Open burning.* The disposal by burning of hazardous or toxic materials or their wastes in any fashion other than by incineration in an approved hazardous waste incinerator.

(l) *Open dumping.* The placing of hazardous or toxic materials or their wastes in a land site in a manner which does not protect the environment and is exposed to the elements, vectors, and scavengers.

(m) *Pests.* Includes, but is not limited to any insect, rodent, nematode, fungas, weed, or any form of plant or animal life or virus, bacterial organism or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other animals) which is normally considered to be a pest or which the Army may declare to be a pest in accordance with public law or national policy.

(n) *Pest management.* Pest control in which one or more control methods are selected for use in an integrated program that incorporates a series of alternative control strategies including parasites, predators, pathogens, cultural practices and chemicals, to achieve economic pest control with least disruption of the environment.

(o) *Pesticide.* Any substance or mixture of substances intended for preventing, destroying, repelling attracting, or mitigating any pest and any substances or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(p) *Pesticide-related wastes.* All pesticide-containing wastes or pesticide-containing by-products which are to be discarded, but which, pursuant to acceptable pesticide manufacturing or processing operations, are not ordinarily a part of or contained within an industrial waste stream discharged into a sewer or the waters of a State.

(q) *Processing.* To neutralize detoxify, incinerate, biodegrade, or otherwise treat a hazardous or toxic waste to remove its harmful properties or characteristics for disposal.

(r) *Restricted use pesticide.* A pesticide that is classified for restricted use under the provisions of section 3(d)(1)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 et seq.) and other legislation supplementary thereto and amendatory itself.

(s) *Soil injection.* The emplacement of hazardous or toxic materials or their wastes by ordinary tillage practices within the plow layer of a soil.

(t) *Toxicity.* The property of a substance or mixture of substances to cause any adverse physiological effects on any of the biological mechanisms of an organism.

(u) *Toxic pollutant.* Pollutants or combinations of substances (including disease-causing agents) which, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism—either directly from the environment or indirectly by ingestion through food chains—will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring. (A list of toxic pollutants will be given in 40 CFR Part 129).

(v) *Waste.* Any material for which no use or re-use is intended and which is to be discarded.

(w) *Water dumping.* The disposal of hazardous or toxic materials or their wastes in or on lakes, ponds, rivers, sewers, or other water systems as defined in the FWPCA (33 U.S.C. 1251 et seq.).

§ 650.124 Policies.

The Department of the Army will—

(a) Exercise positive management over the research, development, procurement, production, use, handling, storage and disposal of hazardous and toxic material. Priority will be given to instituting measures required to protect health or control pollution.

(b) Comply with environmental quality policies and procedures specified in this regulation and those standards established by the applicable Federal, State, interstate, or local authority for the control of hazardous and toxic materials and substances.

(c) Use nonhazardous or nontoxic materials to the extent practicable.

(d) Conserve resources and, to the extent practicable, dispose of hazardous and toxic materials and waste by reprocessing, recycling, and/or re-using.

(e) Program and budget sufficient resources for the effective management and environmental control of pesticides, hazardous chemical stocks, pharmaceuticals, radioactive materials, explosives, and chemical agents in accordance with DA regulations and in consonance with any other applicable Federal, State, or local objectives.

(f) Conform with Federal regulations and guidelines respecting pesticides, promulgated pursuant to the provisions of FIFRA as amended, (§§ 650.126—650.129).

(g) Acquire and use only those pesticides registered with the Environmental Protection Agency (EPA) (§ 650.126(a)).

(h) Monitor for the residual effects of pesticides on military installations in furtherance of the National Pesticide Monitoring Program.

(i) Conform with applicable Federal regulations, standards, and guidelines promulgated and adopted in accordance with the Atomic Energy Act, as amended (42 U.S.C. 2011), Energy Reorganization Act of 1974, or by EPA on discharges of radioactivity. This restriction does not apply to emergency operations conducted by Explosive Ordnance Disposal or Technical Escort personnel (§§ 650.139, 650.140 and 650.141).

(j) Prohibit the disposal (by open dumping, water dumping, well injection, or open burning) of pesticides, hazardous chemical stocks, pharmaceutical stocks and drugs, radioactive materials, explosive ordnance, or chemical warfare agents directly into the air, water, or land environment in a manner hazardous to man or animals or if it will cause unreasonable adverse effects on the environment (§ 650.127(f)).

(k) Conform with Federal regulations and guidelines respecting dumping of material into ocean waters in accordance with the MPRSA and the FWPCA as amended.

(l) In the absence of published national standards, guidance on acceptable methods and maximum concentrations pertaining to the use, storage discharge or disposal of hazardous and toxic substances are to be referred through Major command headquarters to the USA Health Services Command.

(m) Comply fully with the DoD Pest Management program.

§ 650.125 Responsibilities.

(a) Department of the Army Staff.

(1) The Inspector General and Auditor General will—(i) Exercise primary Army Staff responsibility for overall supervision of Army safety program activities as established by AR-385-10.

(ii) Provide assistance and guidance on the safety aspects of the storage, use, handling, and disposal of hazardous and toxic substances.

(2) The Deputy Chief of Staff for Operations and Plans will—(i) Ensure that Required Operational Capability (ROC) documentation for new material involving potentially hazardous materials requires that safe and environmentally acceptable methods for storage and disposal of these materials be developed or included as part of procurement specifications.

(ii) Provide single DA contact point for all chemical warfare activities including demilitarization and disposal.

(3) The Deputy Chief of Staff for Research, Development and Acquisition will ensure that all materiel developed by the Army is designed to minimize health and environmental hazards during research and development, production, testing, storage, use and disposal.

(4) The Chief of Engineers will—(i) Exercise primary Army Staff responsibility for coordinating guidance and promulgating environmental protection regulations concerning hazardous and toxic material management within the Army.

(ii) Provide technical instructions and guidance on the implementation of pest management programs.

(iii) Coordinate with The Surgeon General to establish Army criteria, instructions, and corrective measures involving pollution from hazardous and toxic materials.

(iv) Promote the reclamation, recycling, or safe disposal of excess and outdated chemicals, particularly the stocks of cancelled or excess pesticides and superseded chemicals.

(5) The Surgeon General will—(i) Establish health criteria and standards and monitor health and welfare aspects of the hazardous and toxic material management program.

(ii) Develop environmental toxicology data and recommend standards for safe storage, use, discharge and disposal of hazardous and toxic materials.

(iii) Provide technical instructions and guidance for the DA pest management programs in disease vector control, pesticide monitoring, health, safety, and the training of pesticide applicators.

(iv) Coordinate with the Chief of Engineers in establishing criteria, instructions, and corrective measures involving pollution from hazardous and toxic materials.

(6) The Judge Advocate General will provide guidance, as required, on interpretation of FIFRA, FEPCA, FWPCA, MPRSA, SWMA and other Federal, State, and local laws and regulations.

(b) Commanding General, US Army Materiel Development and Readiness Command (DARCOM) will—

(1) Establish training programs for logistical personnel involved in the production, testing, and storage of explosives and chemical munitions and for those handling radioactive materials, hazardous and toxic chemicals, and products.

(2) Conduct research and technological investigations in support of the hazardous and toxic materials pollution abatement efforts related to industrial facilities operated by DARCOM. This includes development of alternative less polluting industrial processes, development of industrial waste recycling systems, evolvement of treatment processes and design criteria, and development of safe and profitable disposal methods.

(3) Ensure compliance with DA and other Federal regulations on the disposal of chemical agents and munitions (§§ 650.130–650.134 and §§ 650.139–650.141).

(4) Procure materials for Army use which will minimize health and environmental hazards during production, use, storage, and disposal.

(c) Commanding General, US Army Health Services Command will—

(1) Conduct training activities to ensure proficiency in the application, handling, storage, use, and disposal of pesticides to qualify pest control personnel for certification in accordance with the FIFRA 1972, as amended, and EPA guidelines.

(2) Provide personnel for conducting field investigations and special studies concerning hazardous and toxic materials and for recommending measures required to protect health and welfare and to comply with standards.

(3) Conduct the DA pesticide monitoring program in accordance with AR 40–5 to complement the National Pesticide Monitoring Program.

(d) Major Army commanders will—

(1) Establish a program for the control of hazardous and toxic materials management for the protection of the health and welfare of personnel and the natural environments.

(2) Program and budget for necessary resources required for hazardous and toxic materials management and pest management programs.

(3) Certify and recertify as necessary, personnel employed in pest control activities after determination that personnel have received adequate training from an authorized and qualified source and have demonstrated proficiency in the application, handling, storage, use and disposal of pesticides in accordance with FIFRA, as amended. Such certification should identify the specific areas in which personnel are fully qualified.

(e) Installation and activity commanders will—

(1) Supervise the procurement, use, storage, and disposal of hazardous and toxic materials and chemicals and initiate appropriate procedures to protect the health and welfare of personnel who are exposed to their use.

(2) Comply with the procedures on the handling, use, and storage of hazardous and toxic materials which are under development and will be published by the Department of the Army. In the absence of DA regulations, Army activities will cooperate with Federal, State, or local agencies in meeting their standards.

(3) Use nonhazardous and nontoxic materials in installation and activity operations and procedures, when practicable.

(4) Ensure that at least two personnel at each installation involved in the pest management programs and on application of pesticides are certified in accordance with EPA and DOD Directives, and AR 420–74 and AR 420–76 procedures.

(5) Maintain liaison and cooperate with representatives of Federal, State, and local authorities engaged in regional pest control operations and pollution control and abatement.

(6) Dispose of hazardous and toxic materials in accordance with EPA-approved and DA-approved procedures (§§ 650.126–650.138). Chemical warfare agents will be disposed of in accordance with the detailed plans approved by DOD (§§ 650.138–650.141).

(7) Ensure that waste effluent discharges from radioactive isotope activities are in accordance with applicable rules, regulations, and requirements of the Nuclear Regulatory Commission (10 CFR Part 20.) and the policies and guidance of the Environmental Protection Agency as published in Title 10 CFR.

(8) Program and budget for resources necessary to conduct an effective hazardous and toxic materials management program at each Army installation.

(9) Conduct an annual review and inspection of pest control shop to insure that a sound pest management program is established and followed, and that prescribed procedures in the handling, use and disposal of pesticides and pesticide containers are being followed.

(10) Promote a positive integrated pest management program to minimize the excessive use of unneeded chemical pesticides.

PESTICIDE MANAGEMENT PROGRAM

§ 650.126 Implementing guidelines.

(a) DA will procure and use only those pesticides approved by and registered pursuant to FIFRA. Use of a pesticide other than those registered and approved for specific application in accordance with their labeling is illegal under FIFRA.

(b) Some pesticides are on the EPA list of toxic pollutants for which water effluent standards are being developed. The list includes, but is not limited to substances such as aldrin, dieldrin, cadmium and all cadmium compounds, cyanide and all cyanide compounds, DDD (TDE), DDE, DDT, endrin, mercury and all mercury compounds, toxaphene (chlorinated camphene), mirex, chlordane, heptachlor and kepone. If the registration of any pesticides has been suspended or finally cancelled by EPA, DA organizations will only use such pesticides in accordance with the EPA suspension or cancellation order. MACOM professional pest management personnel, DAEN–FEB and DAEN–ZCE will be contacted for suspended or cancelled pesticide information.

(c) The concentration of pesticide residue contained in waste water discharges should not exceed the levels specified by the National Pollutant Discharge Elimination System (NPDES) permit issued to an installation.

(d) The storage, use, handling, and disposal of pesticides will conform to safety and health standards established by HQDA based on regulations published in the FEDERAL REGISTER and Code of Federal Regulations by EPA, HEW, DOT and other appropriate Federal agencies. Army publications that apply to the conduct of pest control activities are given in table 6–1. Disposal and repackaging guidelines are given in tables 6–3 and 6–4 of this Subpart.

§ 650.127 Procedures.

(a) The following requirements are applicable to pesticides in the two EPA rating system classes, highly toxic and moderately toxic (Toxicity categories I and II respectively) 39 FR 15237. Pesticides and used pesticide containers will be stored in a secure, dry, ventilated, single purpose, fire resistive room, building, or covered area. Pesticide formulations will be stored separately, inventoried semiannually and identified with warning signs in accordance with the EPA toxicity rating and Department of Transportation warning systems for pesticide labeling, and checked bimonthly for corrosion and leaks (39 FR 15235–15241). Large quantities of excess pesticides and used pesticide containers awaiting disposal will be stored in a secure and separate area and will be checked bimonthly for corrosion and leaks. Where applicable, the outside of each storage area will be labeled with appropriate "DANGER," "POISON," "PESTICIDE STORAGE" signs and local fire department hazard signal signs.

(1) Emergency detoxification and decontamination equipment, sink and showers, eye lavage, protective clothing, and rubber gloves will be provided pesticide handlers in accordance with AR 420–74, AR 420–76, and AR 385–32.

(2) A viable accident prevention and environmental protection program will

be maintained within the installation pest control service areas. Signs will be posted within the pesticide storage area indicating the type and common name of the pesticides being stored.

(3) A complete inventory of pesticides on hand will be maintained by the pesticide control services personnel indicating the number and identity of containers stored.

(b) Pesticide application and other insect and rodent control will be accomplished by or under the direct and continuing supervision of a trained and certified applicator (AR 420–74 and AR 420–76). SOP's will be prepared by installation pesticide users on the application of pesticides. These SOP's will be reviewed by the appropriate MACOM engineer and/or medical entomologist, or agronomist (for herbicide application). MACOM's may delegate authority to installation level when adequate professional capability exists at this installation.

(c) DA directives will give a categorization for pesticide use. Categorization listings will identify those pesticides which may be used by a trained and certified applicator as well as by other than a trained and certified applicator.

(d) EPA pesticides registered under FIFRA will be used by the certified pesticide control services personnel, and usage will be in accordance with DA directives and label requirements. In the event it is desired to use special use or State registered pesticides, approval will be obtained from the MACOM entomologist/agronomist, DAEN–FEB and DAEN–ZCE.

(e) Pesticides in excess of installation requirements will be reported through channels to the Commander, U.S. Army Materiel and Petroleum Activity Center, New Cumberland Army Depot, New Cumberland, Pa. 17070, in accordance with paragraph 77, chapter VI, Defense Disposal Manual 4160.21M. Disposition instructions will be requested. However, every effort should be made to use the pesticide for the purposes originally intended, at the prescribed dosage rates, provided they are currently legal under all Federal, State, and local laws and regulations.

(f) Only approved methods will be used in the disposal of small quantities of certain excess or unusable pesticides (39 FR 15239). Accepted methods of rinse and disposal of pesticide containers have been developed in accordance with EPA recommended procedures. Guidance thereon will be issued by DAEN–ZCE. Technical assistance concerning containers not covered in directives may be obtained from: Commander, U.S. Army Environmental Hygiene Agency (USAEHA), Aberdeen Proving Ground, Md. 21010. Small quantities of used, suspended or cancelled pesticides may be disposed of in a Class 1 disposal site or its equivalent. These "small" quantities vary with different pesticides and will be determined by Commander, USAEHA.

(g) The judicious application of herbicides will be observed in natural resources management operations. Alternative methods of plant control such as mowing, controlled burning, etc. should be employed if economically feasible rather than the use of herbicides if at all possible.

(h) Prohibited procedures.

(1) No pesticide, pesticide-related waste, pesticide container, or residues from a pesticide container will be disposed of in such a manner as to cause or allow: open dumping; water dumping; well injection; direct exposure which may result in contamination of food or feed supplies, or a manner inconsistent with its label or labeling. Rare exceptions to these prohibited procedures may be granted by the regional administrator of EPA in accordance with the MPRSA and FWPCA amendments of 1972.

(2) Normally, no pesticide, pesticide-related waste, pesticide container, or residue from a pesticide container shall be disposed of in such a manner inconsistent with its label or labeling or in such a manner as to cause or allow open burning. Small quantities of combustible containers, not to exceed 50 pounds or the quantity emptied in a single work day, whichever is less (except those formerly containing organic beryllium, selenium, mercury, lead, cadmium, or arsenic compounds) may be burned by the applicator in open fields where—

(i) Due regard is given to wind direction in relation to receptors such as population centers, field workers, domestic animals, and surface water supplies;

(ii) Such open burning is consistent with Federal, State, or local ordinances; and

(iii) Provisions are made to avoid contamination of surface and groundwater to levels in excess of standards promulgated by the Public Health Service, U.S. Department of Health, Education, and Welfare for potable water.

(i) Immediate emergency assistance on a pesticide spill that threatens life or gross contamination of the environment may be obtained by calling (800) 424–9300 or in Wash., DC (202) 483–7616 (Chap. 6, AR 420–76).

(j) Application of pesticides, including aerial dispersal, may require the filing of an Environmental Impact Statement (EIS). The continuation of ongoing pest control operations which have been assessed and found to have no significant adverse environmental effect may not require the preparation of an EIS. However, a change of pesticide, rate of application, application technique or the initiation of a special or new operation, will require preparation of a new Environmental Impact Assessment (EIA) or the updating of a previous assessment. Where new pesticide programs are proposed, the command entomologist or agronomist will be consulted. Copies of each EIA prepared will be retained on file at the installation. (See Subpart B of this Part for EIA/EIS procedures.)

§ 650.123 Monitoring.

(a) The DA pesticide monitoring program is the responsibility of the US Army Health Services Command (AR 40–5). It complements the National Pesticide Monitoring Program to insure that the use of pesticides does not constitute a threat to human health or hazard to the environment. The program determines pesticide residue levels in substances such as surface water, soil, sediments, fish, and birds.

(b) Army installation commanders having pest control management activities will support the DA pesticide monitoring program. Technical assistance in this area may be obtained from Commander, US Army Environmental Hygiene Agency, Aberdeen Proving Ground, Md. 21010.

§ 650.129 Reports (RCS DD–I&L (AR) 1080) and (RCS DD–I&L (SA) 1383).

(a) *Pest Control Summary Report, (RCS, DD–I&L (AR) 1080).* Continuing reports will be made on the use of pesticides as required by AR 420–76.

(b) *The Environmental Protection Control Report—Pesticide Pollution Category 6. (RCS DD–I&L (SA) 1383).* The Pesticide Pollution Control Report is designed to provide information on a phased and coordinated plan for prevention or control of pesticide pollution for submission to Office of the Secretary of Defense and Office of Management and Budget. Examples to be included in such a report are disposal facilities, storage facilities or shop remodeling relating to prevention, control or abatement of pollution from pesticides. The report is the Army's fiscal plan for abatement of pesticide pollution resulting from Army activities. See Subpart J of this part for reporting procedures and guidance.

TABLE 6–1.—*Pest control publications*

Publication	Title	Pest control application
Ch. 5, AR 40–5	Health and Environment	Health aspects of medical entomology and pesticides.
AR 40–574	Aerial Dispersal of Pesticides and Utilities: Operation and Maintenance.	Policies and procedures for aerial dispersal of pesticides.
AR 385–32	Protective Clothing and Equipment	Responsibilities, policy and procedures for providing protective clothing & equipment.
AR 420–74	Natural Resources—Land, Forest, and Wildlife Management.	Special training for herbicide handlers.
AR 420–76	Pest Control Services	Prevention of environmental pollution by pesticides; policy on use of persistent pesticides; guidance on pesticide disposal; procedure and format for submission of the pest control summary report.
TM 5–629	Herbicide Manual for Noncropland Weeds	Herbicides for noncropland weeds.
TM 5–630	Ground Maintenance and Land Management	Safety precautions in using herbicides.
TM 5–632	Military Entomology Operational Handbook	Guidance and techniques on dispersal and use of pesticide.

HAZARDOUS CHEMICAL STOCKS (EXCLUDING CHEMICAL WARFARE AGENTS)

§ 650.130 Implementing guidelines.

(a) Existing or promulgated hazardous chemical management standards in this regulation apply to all Army facilities. Storage, use, handling, and disposal of hazardous chemical stocks will conform to published DA policies, standards, and procedures (tables 6–1 and 6–2).

(b) With the exception of oils and other liquid petroleum products (Subpart I of this part), it is difficult to identify materials which should be classified as hazardous or toxic. Hazards to be considered include flammability, radioactivity, reactivity, toxicity, bioconcentration, irritation, allergenic, or genetic activity. Certain chemicals, such as asbestos, cadmium, lead, mercury, beryllium, cyanide, toxaphene, polyvinyl chloride, polychlorinated biphenyls (PCB's), fluorine compounds, selenium, arsenic, and certain pesticides are recognized as hazardous and special storage and handling are necessary even for small quantities. Other materials, however, are more difficult to categorize since excessive amounts of almost anything can be harmful when released. EPA is currently defining criteria and establishing effluent standards for hazardous substances and toxic pollutants (including some pesticides) under the Federal Water Pollution Control Act amendments of 1972 (39 FR 30466). Effluent standards will be published by EPA for these hazardous substances which can reasonably be anticipated to be discharged into navigable waters and which will pose an imminent and substantial danger to public health and welfare. Upon issuance in the FEDERAL REGISTER, DA installation commanders will follow required restrictions and guidelines on their discharge or disposal.

(c) Subpart C of this part lists requirements under the National Pollutant Discharge Elimination System and other applicable Federal, State and local standards.

(d) Ocean dumping, as a rule, will not be considered an acceptable means of disposing of hazardous and toxic substances, pesticides, radioactive wastes or chemical warfare agents. Only under special circumstances, and after coordination with EPA, will ocean dumping and transportation for such dumping be allowed.

§ 650.131 Procedures.

The hazardous chemical management procedures in this regulation are presented as preferred methods by which the requirements of the environmental standards and the objectives of DA policies can be achieved. If techniques other than the following are used, commanders will demonstrate in advance that the techniques to be employed will satisfy the environmental quality standard in this regulation or those established by the appropriate Federal, State, or local authority.

(a) All measures to prevent accidental pollution of the environment by uncontrolled release of hazardous chemicals to the air, water, or land environment will be taken by all Army activities.

(1) Installations storing, handling, or transferring hazardous chemicals will include within their Spill Prevention Control and Countermeasure (SPCC) Plan, procedures to prevent, control and report accidental releases of these substances to the environment. (See Subpart I of this part, on requirements for SPCC plans.)

(2) Effluent standards for toxic pollutants are found in 40 CFR Part 129, and the designation of hazardous substances will be found in 40 CFR Part 116.

(b) Storage facilities for chemicals (excluding pesticides) hazardous to health and welfare and detrimental to the environment, will be located according to the nature of the chemicals, storage site, protective enclosures, and operating procedures. Adequate measures will be taken for inventorying chemicals semiannually, for controlling hazards, and for monitoring the environment.

(c) Appropriate safety materials and protective clothing and equipment will be kept on hand for emergency treatment, decontamination, cleanup, and for area warning signs and labels.

(d) No hazardous chemical, or its container, which will cause adverse effects on the environment, will be used or disposed of in a manner inconsistent with instructions on its label or inconsistent with use or disposal procedures established by Federal, State, or local laws or regulations.

(e) Ultimate disposal of unserviceable and excess hazardous chemical stocks.

(1) Hazardous chemical stocks that are unserviceable and/or have been declared excess to DA requirements will be reported to the local Defense Property Disposal Office (DPDO) for merchandising. The stocks will remain the property of the generating agency until ultimate disposal.

(2) Disposal of hazardous chemical stocks on which DPDO disposition cannot be obtained may be made by contract with commercial firms, provided it is in accordance with appropriate Federal, State, or local laws and regulations and the commercial firm is licensed or otherwise approved to dispose of the chemical stocks by the appropriate authorities.

(3) Disposal guidance can be obtained from the Commander, US Army Edgewood Arsenal who, in conjunction with Commander, US Army Environmental Hygiene Agency, Aberdeen Proving Ground, MD 21010, will provide data. Requests for disposal guidance should include Federal Stock Number (FSN), full nomenclature, appropriate military specification or standard indicated on label, quantity of issue, total quantity of issue, total quantity requiring disposal (pounds, gallons, liters, etc.), and condition of containers.

(4) Commanders of installations and activities who are responsible for disposing of hazardous chemicals will maintain records indicating quantities of hazardous chemicals disposed of, disposal method used, and disposal site location (e.g., removal of polychlorinated biphenyls (PCB) from transformers).

(f) The transport of dangerous or hazardous chemicals is subject to the provision of Pub. L. 91–121 (50 U.S.C. 1511–1516) and AR 55–56. Chapter 216, AR 55–355 requires DA compliance with CFR Title 14 (air transportation), Title 49 (highway and rail transportation), and Title 46 (water transportation). Further, AR 55–228 governs water transport of hazardous materials and TM 38–250 prescribes the provisions for the transportation of dangerous materials by military aircraft.

(g) Immediate short-term (30 minutes or less) emergency assistance on a chemical spill transportation problem may be obtained by calling Chem Trec (800) 424–9300 or in the Washington, D.C. area, (202) 483–7616. This service is available only for short-term transportation problems and provides information on spills, leaks, fire and explosion.

§ 650.132 Special authorizations.

(a) A notification must be made to EPA for the operation, construction or modification of a source of hazardous air pollutants (asbestos, beryllium, or mercury); FEDERAL REGISTER April 6, 1973 (38 FR 8820) and May 3, 1974 (39 FR 15396) and October 25, 1974 (39 FR 38064) and October 14, 1975 (40 FR 48292) (Exempt Report paragraph 7–2o AR 335–15). Sprayed asbestos materials will not be used in construction for any purpose and controls are placed on asbestos handling during demolition operations. When Federal, State, or local regulations establish other permit systems, DA directives will provide guidance and compliance schedules, as appropriate.

(b) Transportation of hazardous items is covered in AR 55–56, Title 49 CFR Parts 170–189 and Department of Transportation hazardous materials regulations.

(c) Installation commanders will comply with permits required under the provisions of the National Pollutant Discharge Elimination System (NPDES).

§ 650.133 Monitoring.

Environmental monitoring will be in accordance with requirements established in Subparts C and D of this part and the NPDES.

§ 650.134 Reports.

Installation commanders will report, as required, on the inventory, use, and disposal of hazardous chemical stocks, on recurring reports under the NPDES, and as required on accident/incident reports required by AR 385–40 and AR 50–6.

PHARMACEUTICAL STOCKS, BIOLOGICAL WASTES, AND DRUGS

§ 650.135 Procedures.

The pharmaceutical disposal procedures in this regulation are preferred methods and apply to both existing and new Army facilities.

(a) No pharmaceutical stock or its container will be disposed of in a manner inconsistent with instructions on its label; or instructions provided in DA #SB 8–75 series supply bulletins; or inconsistent with disposal procedures established by appropriate Federal, State, or local laws and regulations.

(b) Pharmaceutical stocks in excess to medical facility requirements will be reported through medical supply channels in accordance with AR 40–61 and disposition instructions will be requested.

(c) Destruction of banned, outdated, and unserviceable pharmaceutical stocks will be in accordance with instructions provided in DA #SB 8–75 series bulletins. Assistance in determining applicability of disposal procedures may be obtained by request to Commander, US Army Environmental Hygiene Agency, Aberdeen Proving Ground, MD 21010.

(d) Army installation commanders disposing of pharmaceutical stocks by land burial will maintain records on quantities disposed, disposal method used, and disposal site location.

(e) Biological, surgical and hospital-type hazardous or toxic waste materials will be used, handled, stored and disposed of in accordance with AR 40–5 and AR 40–61. Technical assistance on special problems in handling unusual, hazardous or toxic chemical and biological materials can be obtained by requests addressed to:

(1) CONUS—Commander, US Army Health Services Command, ATTN: HSC–PA–H, Fort Sam Houston, TX 78234.

(2) OVERSEAS (including Hawaii)—HQDA (DASG–HCH), WASH DC 20310.

§ 650.136 Special authorizations.

Policies and procedures for obtaining written approval applicable to investigative drugs in humans are outlined in AR 40–7.

§ 650.137 Monitoring.

Environmental monitoring will be in accordance with requirements established in Subparts C and D of this part under the NPDES.

§ 650.138 Reports.

Installation commanders will provide reports on disposition of pharmaceutical drugs as required.

Radioactive Materials, Explosives, and Chemical Warfare Agents

§ 650.139 Radioactive materials and nuclear accidents and incidents.

(a) Policies and procedures applicable to nuclear accidents and incidents are given in ARs 40–13, AR50–5, AR 360–5, AR 385–40, and AR 755–15. The handling, use, and disposal of radioactive materials will be in accordance with applicable Army regulations and will be in such a manner so as not to contribute to pollution of the environment; within imminent safety and health considerations. Procedures may be found in Army guidance dealing with medical services, nuclear weapons and material, transportation and travel, explosives, safety, logistics, and disposal of supplies and equipment directives.

(b) The handling and control of radioactive material and other sources of ionizing radiation will be in accordance with AR 40–37 and AR 700–52. The temporary storage of radioactive materials, prior to shipment for transfer or disposal, will be in accordance with AR 40–5, AR 40–37, AR 700–52, AR 755–15, TM 3–261 and 10 CFR Part 20.

(c) The shipment and disposal of radioactive materials will be in accordance with AR 55–55, AR 755–15, and DOT and Nuclear Regulatory Commission regulations.

(d) For existing activities, the local disposal of radioactive materials by release to the sanitary sewerage systems and other radioactive effluents to the environment will be as low as readily achievable and in accordance with AR 755–15 and rules, regulations and the requirements of the Nuclear Regulatory Commission and the Environmental Protection Agency.

(e) Special problems on radioactive waste disposal will be referred through command channels to Commander, US Army Materiel Development and Readiness Command (ATTN: AM CSF–P), 5001, Eisenhower Avenue, Alexandria, Va. 22333.

(f) All nuclear reactor facilities will be monitored for discharges of gaseous, liquid or particulate effluents to prevent contamination of the environment in accordance with chapter 4, AR 385–80.

(g) Installation commanders will provide reports on handling, use, inventory or disposal of radioactive materials and monitoring as requested by DA, EPA, Nuclear Regulatory Commission or other Federal agencies, and on nuclear accidents/incidents as required by AR 385–40.

(h) The Environmental Protection Control Report—Radiation Pollution, Category 4, (RCS DD–I&L(SA) 1383). The Radiation section of the semiannual Environmental Pollution Control report is designed to provide information to HQDA on phased or coordinated plans for prevention or control of radiation pollution for submission to Office of the Secretary of Defense and Office of Management and Budget. See Subpart J of this part for reporting procedures and guidance.

(i) All new activities and modification of existing facilities which involve the continuous release of radioactive materials in effluents to air, water or sanitary sewerage systems will not exceed 1 percent of the activity concentration as specified in National Council on Radiation Protection and Measurement Report No. 22 (National Bureau of Standards Handbook No. 69) and 10 CFR Part 20 when averaged over 1 month. Batch releases will be averaged over the actual time of release and will not exceed the levels/concentrations as stated above.

§ 650.140 Explosive ordnance.

(a) Policies and procedures applicable to explosive ordnance materials are contained in AR 75–1, AR 75–14, AR 75–15, AR 385–60, AR 385–64, and AR 755 series regulations dealing with disposal of supplies and equipment. The disposal of deteriorated ammunitions and explosives will be in accordance with Army regulations in the 75, 385 and 755 series. Every effort will be made to dispose of these wastes so as not to contribute to the pollution of the environment within personnel safety considerations for Explosive Ordnance Disposal and Technical Escort Emergency Operations.

(b) Deteriorated or unused explosives, munitions and rocket propellants may only be open-burned in nonurban areas and under conditions acceptable to Regional EPA and appropriate State Air Pollution Control authorities. Where there is an official prohibition against burning of such wastes, notification of restrictions and/or requests for assistance will be submitted through command channels to DAEN–ZCE.

(c) Installation commanders will provide reports to DA, as requested, on the handling, use, inventory or disposal of explosive materials and on explosive accidents/incidents as required in AR 385–40.

§ 650.141 Chemical warfare agents.

(a) The handling, use, and disposal of chemical warfare agents, ammunition, and explosive materials will be in accordance with Army regulations and will be in such a manner so as not to contribute to the pollution of the environment. Procedures may be found in Army directives dealing with transportation and travel, explosives, safety, and disposal of supplies and equipment. The safety program for chemical agents and associated weapon systems is prescribed in AR 385–61. Further, disposal of chemical warfare agents will be planned in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190 (42 U.S.C. 4321 et seq.), Military Appropriation Acts Pub. L. 91–121, section 409 and Pub. L. 91–441, section 506.

(b) Installation Commanders will provide reports through command channels to DA as requested on handling, use, inventory, or disposal of chemical warfare agents and as required on chemical accidents/incidents as outlined in AR 385–40. Disposal guidance can be obtained from the Commander, US Army Edgewood Arsenal who, in conjunction with the Commander, US Army Environmental Hygiene Agency, Aberdeen Proving Ground Md. 21010, will provide data.

Table 6–2. Related Publications

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended by the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92–516. (Title 7 U.S.C. 135–135K, 136–136Y (1972)).

Federal Water Pollution Control Act Amendments of 1972 (Title 33 U.S.C. 1151 et seq.).

Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052).

Solid Waste Disposal Act as amended (Title 42 U.S.C. 3251 et seq.).

AR 40–5	Health and Environment.
AR 40–7	Use of Investigational Drugs in Humans and the Use of Schedule I Controlled Drug Substances.

AR 40-13	Radiological Emergency Medical Teams (REMT).
AR 40-37	Licensing and Control of Radioactive Materials for Medical Purposes.
AR 40-61	Medical Logistics Policies and Procedures.
AR 40-574	Real Property Dispersal of Pesticides.
AR 50-5	Nuclear Surety.
AR 50-6	Chemical Surety.
AR 55-55	Transportation of Radioactive and Fissile Material Other Than Weapons.
AR 55-56	Transportation of Dangerous or Hazardous Chemical Materials.
AR 55-228	Transportation by Water of Explosives and Hazardous Cargo.
AR 55-355	Military Traffic Management Regulation.
AR 75-1	Malfunctions Involving Ammunition and Explosives.
AR 75-14	Interservice Responsibilities for Explosive Ordnance Disposal.
AR 75-15	Responsibilities and Procedures for Explosive Ordnance Disposal.
AR 360-5	General Policies.
AR 360-43	Information Guidance—Nuclear Accidents and Nuclear Incidents.
AR 385-10	Army Safety Program.
AR 385-16	System Safety.
AR 385-30	Safety Color Code Markings and Signs.
AR 385-32	Protective Clothing and Equipment.
AR 385-40	Accident Reporting and Records.
AR 385-60	Coordination with Armed Services Explosives Safety Board.
AR 385-61	Safety Program for Chemical Agents and Associated Weapon Systems.
AR 385-64	Ammunition and Explosives Safety Standards.
AR 385-80	Nuclear Reactor Health and Safety Program.
AR 420-74	Natural Resources—Land, Forest, and Wildlife Management.
AR 420-76	Pest Control Services.
AR 700-52	Licensing and Control of Sources of Ionizing Radiation.
AR 750-20	Prevention, Control, and Abatement of Pollution from Mobile Equipment.
AR 755-15	Disposal of Unwanted Radioactive Material.
TM 3-261	Handling and Disposal of Unwanted Radioactive Material.
TM 5-629	Herbicide Manual for Noncropland Weeds.
TM 5-630	Ground Maintenance and Land Management.
TM 5-632	Military Entomology Operational Handbook.
TM 38-250	Packaging and Materials Handling: Preparation of Hazardous Materials for Military Air Shipment.

TABLE 6-3—PESTICIDE CONTAINER DISPOSAL GUIDELINES

RECOMMENDED INTERIM GUIDELINES FOR DISPOSAL OF EMULSIFIABLE CONCENTRATE METAL CONTAINERS

Step 1. Empty containers in the normal manner and allow to drain for one minute into the spray or mix tank.

Step 2. First Rinse.

a. Add the correct amount of water rinse solution:

Container size:	*Minimum water rinse solution*
Less than 1 gal	¼ container volume.
1 gal	1 qt.
5 gal	2 qts.
15 gal	1.5 gal.
30 gal	5 gal.
55 gal	3 gal.

b. Replace closure.

c. Rotate and up end container to get rinse over all interior surfaces.

d. Drain rinse into the spray or mix tank.

Step. 3. Second Rinse.

a. Repeat step 2 a thru c.

b. Puncture head of the metal container near the edge adjacent to the pour spout and drain the rinse into the spray or mix tank.

NOTE: If 15-55 gallon containers are to be recycled through a registered drum reconditioner, DO NOT PUNCTURE the containers.

Step 4. Third Rinse.

a. Repeat step 2, but gently rotate the drum to rinse interior of the container being careful not to spill rinse through the puncture area.

b. Metal containers up to and including five gallon size:

(1) Allow rinsed container to drain for one minute into the spray or mix tank.

(2) Crush the rinsed container and bury in sanitary landfill in conformance with State and local standards, or recycle through a properly equipped metal reclaiming firm, if applicable.

c. Metal containers, 15-55 gallon capacity:

(1) Allow the rinsed container to drain for one minute into the spray or mix tank.

(2) Replace all closures, accumulate rinsed drums in a secure area, and:

(a) Recycle through a registered drum reconditioner; [1] or

(b) Return to a pesticide manufacturer or formulator for refilling with the same chemical class of pesticide providing such return and reuse is legal under currently applicable U.S. Department of Transportation regulations; [2] or

(c) Recycle as scrap metal through a metal reclaiming firm.

(3) If drums are not recycled, they should be rinsed and punctured as outlined in Step 3, crushed and buried in a sanitary landfill in conformance with State and local standards.

NOTE: Never re-use emptied pesticide containers.

RECOMMENDED INTERIM GUIDELINES FOR DISPOSAL OF TECHNICAL GRADE METAL CONTAINERS

Step 1. Empty container should be allowed to drain for one minute into the spray tank.

Step 2. Replace closure.

Step 3. Accumulate unrinsed empty drums in a secure area, and:

a. Store pending receipt of DOD disposal instructions; or

b. Return empty drums to a registered drum reconditioner [3] or a pesticide manufacturer or formulator for refilling with the same chemical class of pesticide as previously contained provided such return and refilling is legal under current applicable US Department of Transportation regulations; [2] or

c. Recycle as scrap metal through a metal reclaiming firm having EPA and/or State approved burning equipment suitable for incineration of pesticides.

RECOMMENDED INTERIM GUIDELINES FOR DISPOSAL OF SPECIFIED CONTAINERS (BAIT, DUST, AEROSOL AND GRANULE)

Step 1. Empty container in the normal manner.

a. Residue should be completely removed from bait, dust and granule containers.

b. Aerosol containers should be completely expended. [4]

Step 2. Crush container with the exception of aerosol containers.

Step 3. Dispose container in the sanitary landfill in conformance with State and local standards, or accumulate and recycle the crushed metal containers through a properly equipped metal reclaiming firm, if applicable.

NOTE.—Never re-use emptied pesticide containers.

RECOMMENDED INTERIM GUIDELINES FOR DISPOSAL OF WATER WETTABLE POWDER CONTAINERS (METAL AND PAPER)

Step 1. Empty container in the normal manner.

Step 2. Rinse container three times, each time using a volume of water equal to approximately 10 percent of the container capacity and adding the rinse water to the spray tank. This rinse water should be calculated as part of the required diluent.

Step 3. Rinsed metal containers can be crushed and sold as scrap metal, if applicable. Unsalvaged containers should be rendered unuseable and buried in an approved sanitary landfill in conformance with State and local standards.

NOTE.—Never re-use emptied pesticide containers.

RECOMMENDED INTERIM GUIDELINES FOR DISPOSAL OF ONE GALLON OIL SOLUTION READY-MIX METAL CONTAINERS (6840-844-7353 DIAZINON 0.5 PERCENT; 6840-180-6069 BAYGON HOUSEHOLD SPRAY 1 PERCENT)

Step 1. Empty container in the normal manner.

Step 2. Puncture top of metal container near the edge adjacent to the pour spout and allow to drain for 5 minutes into the spray tank.

Step 3. The empty container should be crushed and buried in an approved sanitary

[1] Information on registered drum reconditioners "Reuse of Specification 17 Series Steel Drums" and the reuse of empty pesticide containers may be obtained from: Department of Transportation, Office of Hazardous Materials, Operations Division, 400 Sixth Street, SW., Washington, D.C. 20590.

[2] Information on registered drum reconditioners "Re-use of Specification 17 Series Steel Drums" and the re-use of empty pesticide containers may be obtained from:

Department of Transportation, Office of Hazardous Materials, Operations Division, 400 Sixth Street, SW., Washington, DC 20590.

[4] In expending aerosol containers, some propellant usually remains. This propellant can be ignited if a large quantity of aerosol cans are crushed while being disposed in sanitary landfill operations. The vapors of propellant (in sufficient volume) can be sucked over the hot bulldozer engine by its fan and such vapors can ignite, consuming the equipment and operators in flames. Therefore, never store spent aerosol cans for disposal at one time; rather dispose them either singly or in quantities of no more than six cans.

landfill in conformance with State and local standards.

NOTE.—Never re-use emptied pesticide containers.

TABLE 6-4.—RECOMMENDED PROCEDURES FOR REPACKAGING LIQUID PESTICIDES AND DISPOSITION OF EMPTY CONTAINERS

1. Observe prescribed safety procedures during all operations to prevent spilling of, or exposure of personnel to the pesticides, and:

a. Stay up wind while pouring pesticides.

b. Do not drink, eat, smoke, or use tobacco in pesticide handling areas.

c. Wear neoprene or neoprene coated gloves and a neoprene or Buna-N rubber apron while repackaging.

d. Wear face shields or chemical goggles during repackaging.

e. Do not put fingers in mouth or rub eyes while repackaging.

f. Wash hands before eating, smoking, or using the toilet and immediately after repackaging.

g. Wear protective clothing; remove contaminated clothing immediately and launder before wearing again.

h. Work clothes and street clothes should not be stored in the same locker.

i. Workers should shower at the end of each shift or upon completion of repackaging operations.

j. Respirators or gas masks with proper canisters approved for the particular type of exposure by the US Bureau of Mines or the National Institute for Occupational Safety and Health should be available. Combat masks (M17, M17A1) should not be used.

k. Leaking containers should be repackaged under the supervision of the installation Facilities Engineer's past management personnel.

2. Approved containers for repackaging liquid pesticides are:

Five gallon—FSN 8110-282-2520, Drum Metal: New; 22 USS sheet metal gage steel; enamel exterior; nonremovable ends, 13$^{9}/_{16}$ in. outside H, 11¼ in. OD; five gal normal filled capacity; bail attached to top; spout; FED PPP-P-704, Type 1, Class 8, push-pull spout.

Fifty-five gallon-FSN 8110-597-2353, Drum, Shipping and Storage: 16 USS sheet metal gage steel; enamel exterior; nonremoval cover, 35$^{5}/_{16}$ in. outside H, 23$^{7}/_{16}$ in. OD; 55 gal capacity; two expanded outward rolling hoops; bung and vent located in end; reusable; FED PPP-D-729, Type 1.

3. When repackaging liquid pesticides, the interior surface of each metal drum FSN 8110-282-2520 and FSN 8110-597-2353, shall be completely lined with two coats, .0015 inch total thickness, of bisphenol expoxide and phenol-formaldehyde resins mixture conforming to MIL-V-12276D, Type III, class optional.

4. Empty the leaking container into one of the above approved containers and mark as shown in paragraph 8 or 9.

NOTE.—Do Not Combine Pesticides During Repackaging.

5. After emptying the contents of a container, puncture the top of the container near the edge adjacent to the pour spout and allow one gallon containers one additional minute and larger containers 3 to 5 additional minutes to drain.

6. With storage some pesticides develop sludges or crystals that solidify and adhere to the bottom of the container. Should this occur, dissolve with a solvent and add the dissolved sludge to the new container being used to repackage the contents of the leaking container. Pesticides containing sludges are considered unserviceable.

7. Container Rinse Procedures.

a. Rinse the empty container three times, each time using a volume of the normal diluent equal to approximately 10 percent of the container's capacity. The diluent for 5 percent DDT, FSN 6840-253-3892, is kerosene; diluents for other pesticides are indicated on the pesticide container labels.

Container size:		*Minimum diluent required for each rinse*
1 gal	quart	1.0
5 gal	quarts	2.0
15 gal	gallon	1.5
30 gal	do	3.0
55 gal	do	5.0

b. Add the correct amount of rinse solution and GENTLY ROTATE the container for one minute to get the rinse over interior surfaces avoiding spillage of the rinse through the leaking areas.

c. Drain the rinse into an approved container. Note: Never reuse emptied pesticide containers.

(1) For a pesticide declared SERVICEABLE, drain the rinse into a separate container. DO NOT RINSE INTO THE CONTAINER BEING USED TO REPACKAGE THE CONTENTS OF THE LEAKING CONTAINER. (Serviceability must be verified by a quality assurance test.)

(2) For a pesticide declared UNSERVICEABLE, drain the rinse into the container being used to repackage the contents of the leaking container.

d. Repeat paragraphs 7 b and c (second rinse).

e. Repeat paragraphs 7 b and c (third rinse), and:

(1) Allow to drain for 5 minutes into one of the above approved containers.

(2) Crush and bury empty containers in a sanitary landfill in conformance with Federal, State and local standards or recycle rinsed containers to a commercial metal reclaiming firm having EPA and/or State approval burning equipment suitable for incineration of pesticides.

8. Labeling containers of UNSERVICEABLE pesticides (diluted or undiluted) and rinse solutions.

a. Marking shown on one side of drum will not occupy more than the upper one-third of the side:

(1) WASTE MATERIAL NOT APPROVED FOR USE.

(2) FSN—Repackaged.

(3) Nomenclature and percentage.

(4) Type and quantity of rinse solution added to repackaged container.

(5) Total quantity in gallons.

(6) Level of protection and date packaged (B-month/year).

(7) Gross weight and cube.

b. Marking shown on drum head or ends not removed in order to use contents (applies to 55 gallon drums only):

(1) WASTE MATERIAL NOT APPROVED FOR USE.

(2) FSN—Repackaged.

(3) Total quantity.

9. Labeling containers of SERVICEABLE pesticides.

a. Marking shown on one side of drum will not occupy more than the upper one-third of the side:

(1) FSN—Repackaged.

(2) Nomenclature and percentage.

(3) Total quantity in gallons.

(4) Level of protection and date packaged (B-month/year).

(5) Gross weight and cube.

b. Marking shown on drum head or ends not removed in order to use contents (applies to 55 gallon drums only):

(1) FSN.

(2) Nomenclature and percentage.

(3) Total quantity.

(4) Lot or batch numbers.

(5) Date of pack (earliest repackage date).

(6) Contract number(s).

(7) Name and address of the contractor(s).

c. Marking shown on the diametrically opposite side of the container from that containing the identification marking and will be located in the upper one-third of the side:

(1) Contract, purchase, or delivery order number(s).

(2) Name(s) and address(es) of prime contractor(s).

d. In order for repackaged pesticides to be considered serviceable, returned to the supply system, transferred or sold for use as originally intended, an additional label which conforms with the original EPA or USDA registered label to include the registration number must be attached. If the item does not have an EPA or USDA registered label, the additional label must then conform to the labeling instructions contained in the original military or Federal specification for each line item.

10. Storage.

a. Store UNSERVICEABLE repackaged pesticides with other UNSERVICEABLE pesticides and hold pending DOD disposal instructions.

b. Store SERVICEABLE repackaged pesticides with other SERVICEABLE pesticides and use for intended purpose.

11. Reference.

39 FR 15235-15241, May 1, 1974, Environmental Protection Agency, Pesticides and Pesticide Containers, Regulations for acceptance and Recommended Procedures for Disposal and Storage.

Subpart G—Environmental Noise Abatement

GENERAL

§ 650.161 Purpose.

The provisions contained in this chapter implement the provisions of the Noise Control Act of 1972 (Pub. L. 92-574) and Federal Regulations promulgated pursuant to this Act, including Executive Order 11752, Office of Management and Budget Circular No. A-106, and EPA procedures for Reporting Proposed Pollution Abatement Projects For Federal Facilities.

§ 650.162 Goal and objectives.

The Department of the Army (DA) goal is to control noise produced by Army activities to protect the health and welfare of its members and the public within, adjacent to, and surrounding Army installations. The following objectives are necessary to achieve this goal:

(a) Assess the environmental impact of noise produced by Army activities and mitigate harmful or objectionable effects to the maximum extent practicable.

(b) Comply with applicable Federal, State, interstate and local standards pertaining to noise, consistent with military requirements.

(c) Achieve noise abatement through the application of engineering noise reduction procedures, administrative noise control measures, modern land use planning and procurement of less noisy equipment.

(d) Incorporate noise control provisions, consisten with national security

requirements, into the development and procurement of weapons systems and other military equipment for use in combat operations; and in the design and siting of facilities.

§ 650.163 Explanation of terms.

(a) *Administrative noise control measures.* Policy decisions and administrative actions taken to regulate the conduct of training, operations and activities for the purpose of relocating, rescheduling, or restricting activity to abate or control noise; e.g., decisions on the time of day, site, and number of operations, firing schedules, flight patterns, etc.

(b) *Ambient noise.* The all encompassing noise associated with a given environment, usually composite of sounds from many sources.

(c) *Decibel (dB).* Unit of measure indicating the sound pressure level of a measured sound. dBA indicates that the sound level is measured through the A-weighting network of a sound level meter.

(d) *Engineering noise reduction.* Control of noise at the source, path or receptor site through use of acoustical engineering techniques. Among other techniques, this involves enclosures, absorbent materials, and barriers.

(e) *Environmental noise.* The intensity, duration, and character of sounds from all sources.

(f) *Impulsive noise (also referred to as impulse or impact noise).* Noise with abrupt onset, high intensity, short duration—typically less than one second. This type of noise can be produced by weapons fire, explosions, punch presses, and drop hammers, and consists of a short burst of acoustical energy of either a single impulse or a series of impulses.

(g) *Land use planning.* That aspect of master planning wherein the best possible use is made of available land areas by considering, among other factors, mission and environmental protection requirements.

(h) *Noise control management.* The abatement of noise through use of low-noise-emission products, engineering noise reduction, or administrative noise control measures.

(i) *Noise pollution control standards.* Noise emission standards for products adopted in accordance with provisions of the Noise Control Act of 1972 or provisions of State, interstate, and local standards for control and abatement of environmental noise.

§ 650.164 Policies.

The Department of the Army will—

(a) Comply with all DOD and applicable Federal, State and local noise control standards promulgated pursuant to the Noise Control Act in the planning, siting, design, construction and operation of Army controlled facilities and installations. The aim is to promote an environment for all people free from noise that jeopardizes their health and welfare.

(b) Procure commercial equipment and products, or those adapted for military use, that are in compliance with established Federal noise standards and give priority to use of low-noise-emission products within reasonable cost and emission limitations.

(c) Incorporate noise control provisions in the design and procurement of vehicles, aircraft, weapons systems and other military-unique equipment for use in combat operations to the extent that essential operational capabilities are not significantly impaired.

(d) Include the impact of environmental noise in any assessment of an Army action or program.

(e) Institute measures to reduce and/or control the generation of noise from flying and flying-related activities and comply with DOD Instruction 4165.57 on Air Installations Compatible Use Zones (AICUZ).

(f) Periodically monitor Army installations and their environs to insure that applicable Federal, State, interstate and local noise standards are met.

§ 650.165 Responsibilities.

(a) Department of the Army Staff.

(1) The Chief of Engineers will—(i) Promulgate basic policies, guidance and regulations for the control of environmental noise produced by military equipment (aircraft, vehicles, etc.), and that resulting from the conduct of various types of military training activities (DAEN-ZCE).

(ii) Monitor the structural engineering aspects of the environmental noise pollution control program to assure that facilities on Army real property satisfies established noise control standards (DAEN-MC).

(iii) Provide guidelines and assistance for the selection of architectural and engineering measures to be employed, to control noise levels in conjunction with installation master planning or the siting of new facilities. (e.g., siting considerations, noise barriers or berms, operational controls, and sound attenuation in new and existing structures) (DAEN-MC).

(iv) Coordinate noise abatement criteria, standards, policies, and corrective measures with The Surgeon General, and The Inspector General and Auditor General, (Army Director of Safety).

(v) Incorporate noise attenuation measures in the design and construction of new structures and provide technical assistance on noise attentuation techniques for existing structures (DAEN-MC).

(2) The Deputy Chief of Staff for Operations and Plans will—(i) Monitor operations and activities to assure control of noise produced by military equipment, aircraft, and vehicles, resulting from the conduct of various types of military training activities.

(ii) Ensure compliance with appropriate noise standards during test and evaluation of Army material and during operational testing.

(3) The Deputy Chief of Staff for Research, Development and Acquisition will—(i) Monitor compliance with applicable noise control standards during the development and testing of new material.

(ii) Process and staff requests for exemptions (§ 650.175) for military unique equipment where essential operational characteristics are significantly impaired by adherence to applicable noise standards, and where the equipment is deemed essential to mission accomplishment.

(4) The Surgeon General will—(i) Monitor health and welfare aspects of environmental noise within the Department of the Army to assure that the required degree of noise control is maintained.

(ii) Issue health and medical policy guidance obtained from liaison with other Federal agencies assigned responsibility for environmental noise control.

(iii) Coordinate in the development of noise abatement criteria, standards and corrective measures with the Chief of Engineers and when appropriate with Director of Safety, HQDA.

(b) Commanding General, US Army Health Services Command will—

(1) Accumulate, evaluate, and disseminate data on environmental noise conditions that may adversely affect the health of men and animals.

(2) Conduct environmental noise studies when requested, provide acoustical technical assistance for preparation of Environmental Impact Assessments (EIA) or Environmental Impact Statements (EIS) and make recommendations on programs or projects to achieve noise pollution control.

(3) Provide technical consultation to commanders on health aspects of environmental noise control and assist in the development of environmental noise abatement programs for facilities and activities.

(c) Commanding General, US Army Materiel Development and Readiness Command and other materiel development and procurement agencies will—

(1) Procure equipment or materiel which complies with DA adopted noise emission standards and retrofit existing vehicles as appropriate, to reduce noise to acceptable levels.

(2) Initiate and forward requests for waiver of noise standards for military equipment to DAEN-ZCE when it has been determined that compliance with such standards would significantly degrade the required military capability of the equipment.

(3) Pursue a research and development, test and evaluation program for the abatement or control of noise from military equipment.

(d) Major Army commanders will—

(1) Comply with applicable Federal, State, interstate, and local standards regarding environmental noise control and abatement.

(2) Establish a program for an initial survey and periodic review of environmental noise control.

(3) Program and budget for those resources required for environmental noise control.

(4) Report resource requirements for the conduct of the noise pollution control program in accordance with Subpart J of this part.

(e) Installation and activity commanders will—

(1) Comply with applicable Federal, State, interstate, and local standards regarding environmental noise.

(2) Identify continuous or recurring sources of noise at an installation or by an activity which exceed standards; are an annoyance to others; are injurious to health; and develop remedial projects or procedures to reduce such noise to acceptable levels.

(3) Monitor the conduct of training activities producing inherently high noise levels for the purpose of minimizing its effect on nearby military and civilian populations.

(4) Maintain liaison with appropriate Federal, State, and local noise pollution abatement authorities, for the purpose of noise control measures insofar as installation and military operational requirements permit in accordance with Subpart A of this part.

(5) Program and budget for resources necessary to conduct an effective noise control program.

(6) Maintain a log of citizen complaints of noise produced by Army activities.

§ 650.166 Reports.

Sources of noise pollution will be identified and those requiring remedial action will be reported as specified in Subpart J of this part. An example of an exhibit prepared on a typical environmental noise control project is shown in Figure 10–7.

§ 650.167 References.

See table 7–1, for related publications to be used in conjunction with this subpart.

Standards and Procedures

§ 650.168 Standards.

(a) Undue exposure to noise may be detrimental to the health and welfare of Department of the Army personnel and members of civilian communities adjacent to military installations. Consequently it is necessary to assess major sources of noise to ensure there are no adverse impacts. Normally this is accomplished by making sound level measurements and comparing them to established noise standards which include:

(1) Occupational noise level standards—a noise exposure standard established for the protection of hearing of workers by the Army Surgeon General and/or under the Occupational Safety and Health Act.

(2) Product noise source emission standards—maximum noise levels that may be produced by specified items of equipment under the authority of the Noise Control Act or State, interstate and local standards.

(3) Environmental noise standards—property use and/or operational noise levels that are permitted under those conditions specified in Federal, State, interstate and local standards and regulations.

(b) Occupational noise level standards applicable to the Army are contained in AR 40–5, AR 385–10, TB MED 251 and MIL–STD–1474(MI).

(c) Product noise emission standards are published in the Code of Federal Regulations (CFR). Army materiel excluded from compliance with such emission standards at the time of manufacture are aircraft, vehicles, weapons systems and other products produced for combat use. Commercially manufactured products or those adapted for general military use will comply with the following Federal noise standards:

(1) Commercial Aircraft—14 CFR Parts 21, 36 and 91.

(2) Motor Carrier Noise Emission Standards—40 CFR Part 202 and 23 CFR Part 772. (Section 18 of Noise Control Act only).

(3) Motors and Engines—40 CFR Part 206.

(4) Railroad Noise Emission Standards—40 CFR Part 201.

(5) Construction Equipment—40 CFR Part 204.

(6) Transportation Equipment—40 CFR Part 205.

(d) MIL–STD–1474(MI), Noise Limits for Army Materiel, establishes acoustical noise limits for Army materiel and prescribes the testing requirements and measurement techniques for determining conformance to the noise limits therein.

(e) Environmental noise will be assessed and controlled in accordance with the provisions set forth herein.

§ 650.169 Noise measurement standards.

(a) Noise pollution control standards are applicable to both existing and new Army facilities.

(b) Army facilities and activities will comply with applicable Federal, State, interstate and local noise standards unless a waiver is specifically obtained in accordance with § 650.175. Where no applicable noise regulations and standards exist, installation commanders will minimize noise intrusions into areas surrounding the installations to prevent them from being a source of complaint. An EPA manual that provides general guidance in the absence of specific standards is listed in table 7–1.

(c) Measurements in decibels (dBA) should be used for measuring continuous sound levels from Army activities or facilities. For impulse noise such as weapons firing and explosives, the EPA has recommended dBC.

(d) Environmental noise levels should be identified using an equivalent sound level description system known as Leq/Ldn. This new methodology supplements and replaces earlier techniques such as Composite Noise Ratings (CNR) and Noise Exposure Forecast (NEF). The basic reference is EPA Document 550/9–74–004, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety," March 1974. It is available from the U.S. Government Printing Office. Use will be made of this descriptor system in discussing noise implications in all Environmental Impact Assessments (EIA) and Environmental Impact Statements (EIS). Other rating schemes may be used, but should be related to Leq/Ldn. L.dn is recommended by EPA for blast impulse noise on an interim basis pending further research and study.

§ 650.170 Assessment of noise.

The impact of environmental noise whose source is located on Army-controlled property will be included in an EIA or an EIS of any Army proposed action. Analyses of such significant sources of environmental noise as airfields and firing ranges should be based on field measurements by acoustical technicians.

(a) Technical assistance on land use management or real property associated noise problems (e.g., blast noise, etc.) can be obtained from U.S. Army Construction Engineering Research Laboratory (CERL), P.O. Box 4005, Champaign, IL 61820. A helpful reference on this matter is the CERL document: "User Manual for the Acquisition and Evaluation of Operational Blast Noise Data," Technical Report E–42, CERL, June 1974 (NTIS, see table 7–1).

(b) Technical assistance to include field surveys and the preparation of environmental noise pollution evaluations relating to health and welfare considerations of all types of environmental noise problems can be provided by the U.S. Army Environmental Hygiene Agency. Requests for assistance should be sent to Commander, U.S. Army Health Services Command (HSC–PA), Fort Sam Houston, TX 78234. This assistance includes—

(1) The evaluation of existing or potential noise problems which are evidenced by complaints, litigation, or official inquiries;

(2) The assessment of those situations where existing or proposed civilian-community actions may adversely impact noise-sensitive areas located on Army installations;

(3) The assessment of those situations where a proposed civilian community action may be adversely impacted from an ongoing Army activity;

(4) The recommendation of measures to mitigate an existing or potential adverse noise impact;

(5) The evalution of Department of the Army activities to ensure that they comply with applicable noise standards and regulations; and

(6) The conduct of environmental noise assessments as input to EIS's, excluding all projects involving land management and acquisition.

(c) Technical assistance, such as information and technical documents, is also available from the EPA. Inquiries may be sent directly to EPA Office of Noise Abatement & Control, Washington, D.C. 20460, or to the noise representative in the respective EPA Region (see fig. 9–1 and table 9–3).

§ 650.171 Noise sources.

Common sources of environmental noise produced by military activities that may require some form of noise control include—

(a) Aircraft operations and training.

(b) Vehicles (combat and noncombat) operations and training.

(c) Weapons firing, explosives and demolition operations and training (blast noise, § 650.169(d)).

(d) Fixed noise sources (power plants and generators, manufacturing plants, industrial facilities, carpenter shops, dynamometer buildings etc.).

(e) Electrical and electronic equipment.

(f) Construction equipment operations and training.

(g) Recreational activities (e.g., snowmobiles, trailbikes, etc.).

(h) All other noise sources that exceed 55 dBA measured at a distance of 50 feet from the source.

§ 650.172 Noise control.

(a) Control of new and existing sources of environmental noise can normally be achieved by applying singly or in combination noise reduction at the source, altering the path of noise, and noise reduction at the receptor site. Further, low-noise-emission products and equipment will be acquired wherever possible.

(b) Engineering noise controls, establishment of noise buffer zones, site design and building construction for noise control, and similar land use planning techniques will be employed in the siting and design of new military structures and facilities.

(c) Projects and resources required to control sources of environmental noise, reported in accordance with § 650.166, will be programed and budgeted using established procedures.

(d) To preclude the need for expensive engineering noise reduction techniques, the impact of environmental noise should be integrated into military land use planning. Attention will be given such matters in the master planning process (AR 210-20) with particular emphasis on—

(1) Routes of high volume traffic flow.

(2) Family housing area locations.

(3) Location of off-post residential areas.

(4) Sites of hospital complexes.

(5) Sites for on-post and off-post school facilities.

(6) Sites for new ranges, impact areas and airfields.

(e) The identification of critical noise rating contours at an installation for the purpose of aiding in land use planning will be a required component of each installation master plan (AR 210-20). Assistance in preparing data for these contours can be obtained through the Office Chief of Engineers (DAEN-MCE-P) and Construction Engineering Research Laboratory (CERL). Requests for such assistance are to be forwarded in accordance with reference CERL Technical Report E-42, table 7-1. Blast noise, helicopter noise, and truck noise programs are under development and OCE will issue Technical Reports in each area.

(f) Technical assistance in quantifying noise problems, identifying possible violation of standards, making noise surveys for inclusion in environmental impact assessments or impact statements, etc., may be requested from the US Army Environmental Hygiene Agency (USAEHA) in accordance with § 650.170(b).

§ 650.173 Noise complaints.

While not to be used as the sole criterion for judging the severity of environmental noise impacts, citizen complaints may be indicators of situations where noise control measures will be necessary. Such complaints should be logged, investigated, and appropriate corrective measures taken wherever possible. In many instances, such problems can be resolved to the mutual satisfaction of the Army and the community through direct consultation among those involved.

§ 650.174 Low-noise-emission products.

Under section 15 of the Noise Control Act of 1972 (Pub. L. 92-574), the US Environmental Protection Agency is responsible for administering a national program for the development of low-noise-emission products. EPA certifies new products whose noise emissions are significantly below the EPA source emission standards for these products as low-noise-emission products. Such certified products of a commercial nature will be acquired by purchase by the Army in lieu of other products if the Administrator of General Services determines that the product costs no more than 125 per cent of the retail price of the least expensive type of product for which these are certified substitutes. Those products found to meet the low-noise-emission criteria will be announced as available through regular supply procurement sources (40 CFR Part 203 and Noise Control Act of 1972, section 15).

§ 650.175 Waivers and exemptions from noise standards.

Requests for exemption or waiver of a Federal or State noise standard will be forwarded through channels to HQDA (DAEN-ZCE) WASH DC 20310 who will take appropriate action to obtain OSD approval. Waivers will be requested for the specified period of time (normally one year) needed to permit compliance. Exemptions must be fully justified on the basis of mission accomplishment and military necessity.

TABLE 7-1.—RELATED PUBLICATIONS

Executive Order 11514, Protection and Enhancement of Environmental Quality, March 7, 1970 (35 FR 4247).

Executive Order 11752, Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities, December 19, 1973 (38 FR 243).

DOD Instruction 4165.57, Air Installation Compatible Use Zones, July 30, 1973.

Noise Control Act of 1972, Pub. L. 92-574 (86 Stat. 1248).

Amendment to the Federal Aviation Act of 1958 to require Aircraft Noise Abatement (Pub. L. 90-411).

AR 40-5 Health and Environment.

AR 210-20 Master Planning for Permanent Army Installations.

AR 385-10 Army Safety Program.

AR 750-20 Prevention, Control, and Abatement of Pollution from Mobile Equipment.

TB MED 251 Noise and Conservation of Hearing.

MIL-STD 1474 (MI), Noise Limits for Army Material.

User Manual for the Acquisition and Evaluation of Operational Blast Noise Data, Technical Report E-42, Construction Engineering Research Laboratory, June 1974. Available under AD No. 782-911/2G1 from National Technical Information Service (NTIS), Springfield, VA 22151.

Predicting Community Response to Blast Noise, Technical Report E-17, Construction Engineering Research Laboratory, December 1973. Available under AD No. 773-690 from NTIS, Springfield, VA 22151.

HUD Dept. Circular 1390.2, Noise Abatement and Control: Department Policy, Implementation Responsibilities, and Standards.

EPA Document # 550/9-74-004, Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety (March 1974).

Subpart H—Historic Preservation

GENERAL

§ 650.181 Purpose.

This chapter sets forth guidance and procedures to be used by the Department of the Army in the implementation of Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (36 F.R. 8921, 16 U.S.C. 470), in accordance with:

(a) The Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431 et seq),

(b) The Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq),

(c) The National Historic Preservation Act of 1966 (80 Statfl 915, 16 U.S.C. 470 et seq),

(d) The National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq),

(e) The Archeological and Historic Preservation Act of 1974 (88 Stat. 174, 16 U.S.C. 469 et seq).

§ 650.182 Goal and objectives.

The Department of the Army goal is to protect through preservation, restoration, or rehabilitation all sites, structures and objects of historical, architectural, archeological, or cultural significance located on Army-controlled property. Objectives in attaining this goal are to identify, report and take those actions necessary to protect and preserve those Army-controlled properties (Historic Properties).

§ 650.183 References.

Related publications which should be used in conjunction with this regulation are contained in table 8-1.

§ 650.184 Policy.

The National Historic Preservation Act of 1966 (Pub. L. 89-665) establishes a national policy for historic preservation stating "that the historical and cultural foundations of the nation should

be preserved as a living part of our community life and developed in order to give a sense of orientation to the American people." Therefore, it is the policy of the Department of the Army to—

(a) Locate, inventory, evaluate, and nominate to the Secretary of the Interior all properties under Army jurisdiction or control that appear to qualify for inclusion in the National Register of Historic Places (National Register).

(b) Administer and maintain historic properties which are under Army control or jurisdiction in a spirit of stewardship and trusteeship for future generations.

(c) Assess all Army-controlled activities to minimize, eliminate, or mitigate any adverse impact on historic properties.

(d) Initiate, plan and budget for support of programs necessary to preserve, restore, or rehabilitate historic properties.

(e) Coordinate, when applicable, plans, programs, procedures, and activities with the Advisory Council on Historic Preservation, the Secretary of Interior, State Historic Preservation Officers, The National Trust For Historic Preservation, the Smithsonian Institution, and other Federal, State, or local historic organizations.

(f) Encourage and assist the Secretary of the Interior, non-Federal public agencies, local historical societies or similarly oriented organizations to administer and maintain historic properties where such activity does not adversely impact on the performance of the Army mission.

§ 650.185 Definitions.

Definitions as used in these procedures are contained in § 800.3, 36 CFR Part 800 (appendix).

§ 650.186 Responsibilities.

(a) The Chief of Engineers will exercise primary Army staff responsibility for directing and coordinating a Preservation Program for Army-controlled historic properties. The Chief of Engineers will—

(1) Promulgate policy and regulations on protection and enhancement of the cultural and historic environment which reflect Department of Defense guidance and policy.

(2) Establish and monitor the program to preserve, restore, or rehabilitate all Army-controlled properties of historical, architectual, archeological, or cultural significance.

(3) Monitor surveys to identify all Army-controlled properties of historical, architectural, archeological, or cultural significance.

(4) Provide guidance and direction to Army installations on the preparation of nominations to the National Register and reports submitted under section 106 of Pub. L. 89-665 and Executive Order 11593, as implemented in 36 CFR Part 800 (appendix).

(5) Maintain, as part of the Inventory of Real property, a record of all Army-controlled properties listed in the National Register. This record will include a copy of the nomination forms with all attachments for each listing and a record of all reports and memoranda of agreement as required under 36 CFR Part 800 (appendix).

(6) Review and evaluate construction programs and master plans to minimize or eliminate adverse impacts on Army-controlled properties of historical, architectural, archeological, or cultural significance.

(7) Ensure that all actions undertaken with this guidance have been coordinated, where applicable, with local historical societies; State Historic Preservation Officers (SHPO); the Secretary of the Interior; the Advisory Council on Historic Preservation; the Smithsonian Institution; and the National Trust for Historic Preservation (appendix).

(8) Issue guidance and provide technical assistance on the development and execution of historic preservation projects.

(9) Process permits to authorize archeological investigations (AR 405-80).

(b) The Chief of Military History will—

(1) Publish a comprehensive listing of Army-controlled properties listed in the National Register to include the historic significance, photographs and other factors as deemed appropriate. This publication will be updated with a supplement published every 3 years thereafter.

(2) Provide professional support as requested.

(c) Major Army commands (MACOM). Major Army commanders will develop programs, in accordance with TM 5-801-1, Historic Preservation, which will encompass, at a minimum, the following:

(1) The conduct of initial, and triennial surveys thereafter, of installations under their control or jurisdiction to identify all properties of historical, architectural, archeological, or cultural significance.

(2) The programing and budgeting of funds for the maintenance through preservation, restoration, or rehabilitation of structures, sites and objects of historical, architectural, archeological or cultural significance.

(3) The retention and use of historic properties which are a functional part of Army installations or are so located that their disposal is impractical.

(4) The nomination to the National Register of all Army-controlled properties which appear to meet the minimum criteria established by the Secretary of the Interior (appendix).

(5) The coordination of proposed actions having an effect on a registered and/or nominated historic property with the SHPO and the Advisory Council on Historic Preservation as required by 36 CFR Part 800 (§ 650.190 and appendix).

(6) The inclusion, where applicable, of evidence of compliance with 36 CFR Part 800 in each environmental assessment or environmental impact statement (§ 650.190).

(7) The maintaining of a record of each property under their control or jurisdiction which is listed in the National Register including a copy of the nomination forms with all attachments and a record of all reports and Memoranda of Agreement as required under 36 CFR Part 800.

(8) The protection of archeological sites by insuring that all investigations, excavations and salvage activities are undertaken with the written concurrence of the Secretary of the Interior and the Smithsonian Institution in accordance with AR 405-80.

STANDARDS AND PROCEDURES

§ 650.187 Standards.

The preservation, restoration, rehabilitation and maintenance of historic properties under Army control or jurisdiction will be accomplished in accordance with the standards and procedures established by the Secretary of the Interior and as promulgated by the Chief of Engineers in TM 5-801-1, Historic Preservation.

§ 650.188 Procedures for preparing nominations to the National Register (RCS DOI-1005).

Procedures for preparing nomination forms for Army controlled properties which appear to qualify for listing in the National Register of Historic Places are contained in TM 5-801-1. Completed forms will be forwarded through channels to HQDA (DAEN-FEB-P) WASH DC 20314. RCS DOI-1005 applies.

§ 650.189 Funding of historic preservation activities.

(a) Funding for the requirements for historic properties will be accomplished through regular programing/budgeting channels.

(b) Historic properties in the Army Family Housing inventory will be funded in the Family Housing Management Account (FHMA). Requirements for historic properties other than family housing will be supported by the appropriation financing all other real property maintenance activities on the installation.

(c) Projects for restoration and/or rehabilitation of historic properties, which include construction-type work in excess of $50,000, will be included in the installation's military construction programs for accomplishment under Military Construction—Army (MCA) or FHMA programing procedures as outlined in AR 415-15 and AR 210-50. Block 25 of DD Form 1391 (Military Construction Project Data) of these projects will contain a statement identifying the project as supporting a historic property listed in the National Register.

(d) Projects for preservation of registered historic places, which include construction-type work not in excess of $50,000, will be identified and processed for approval by the appropriate approving authority, as reflected in AR 415-35 and/or AR 420-10, and will be programed and budgeted in the normal budget cycle. Requirements will be identified to the proper supporting appropriation (FHMA, Operation and Maintenance, Army (OMA), Operation and Maintenance, Army Reserve (OMAR), etc.) in the installation and command budget submissions (RCS CSAB 205

series), and specifically identified as supporting a historic property listed in the National Register (AR 415–15).

§ 650.190 Utilization of historic properties.

(a) Historic properties which are a functional part of Army installations or are so located that their disposal or outleasing is impractical will be preserved and maintained by the installation commander. All efforts will be made to utilize these properties for military purposes in order to justify funds expended under this program. The concept of "adaptive use" (TM 5–801–1) for these properties compatible with their cultural values will be observed, whenever possible. Where this is not possible, a stabilization project will be developed to prevent further deterioration of the property.

(b) In all instances, the planned use of a historic property listed in the National Register will be reviewed with the SHPO and the Advisory Council on Historic Preservation in accordance with 36 CFR Part 800 (§ 650.190 and appendix).

(c) Historic properties which would be more adequately administered by the Department of the Interior, non-Federal public agencies, local historical societies, or similarly oriented organizations should not be retained by the Army. Therefore, when there is no adverse impact on the performance of the Army mission, the installation commander may recommend, in the Analytical Report of the Installation Master Plan, the disposal of a historic property for historic monument purposes in accordance with AR 405–90 and the Federal Property and Administrative Services Act of 1949 as amended, or recommend its outleasing for historic preservation, park and recreation or similar purposes in accordance with AR 405–80. In the latter case, the installation commander's recommendations must include assurances that the grantee has a viable plan for use of the property in a manner compatible with preservation objectives and policies. In such instances, the installation commander will notify the SHPO and the Advisory Council on Historic Preservation and, if appropriate, consummate a "Memorandum of Agreement" that the proposed action will not adversely affect the historical, architectural, archeological or cultural value of the property (§ 650.191).

§ 650.191 Compliance procedures.

(a) The applicable Federal regulation that contains the review requirements of section 106 of Pub. L. 89–665 and Executive Order 11593 is 36 CFR Part 800, Procedures for the Protection of Historic and Cultural Properties, and is included in its entirety in the appendix.

(b) Any action which may have an effect on a National Register property or an historic place which appears eligible for listing in the National Register must go through two integral but separate review procedures. First, the environmental impact assessment (Subpart B of this part) must identify cultural resources potentially affected by the proposed action. Second, where the identification of cultural resources indicates that properties included in the National Register will be affected, evidence of compliance with the review requirements of 36 CFR Part 800 will be included in the environmental impact assessment and/or EIS Comments by the Advisory Council on Historic Preservation, should be included in the EIA or draft EIS and must be included in the final EIS.

(c) If there is an effect, but it is determined that the action will not have an adverse effect, a description of the proposed action together with the commander's determination of "no adverse effect" will be forwarded to the SHPO for comments. If the SHPO concurs in the findings, then a copy of this correspondence will be forwarded to the Executive Director of the Advisory Council on Historic Preservation (§ 650.191(f)). If there is no reply within 45 days, the action may proceed.

(d) If it appears that there will be an adverse effect, the installation commander will prepare a technical report documenting the identification of cultural resources, the assessment of the impact of the undertaking on those resources, and the feasibility of mitigative measures. All mitigative measures proposed to minimize adverse effects on properties included or eligible for inclusion in the National Register should have the concurrence of the SHPO and the Advisory Council on Historic Preservation and should be documented in a memorandum of agreement signed by all three parties. In most cases, an onsite inspection/consultation by the signees is required as part of the development of the Memorandum of Agreement. All correspondence regarding the determination of "no adverse effect," (§ 650.191(b)) or in obtaining a Memorandum of Agreement is to be forwarded to the parties directly involved with information copies to the appropriate major command and HQDA (DAEN–MCZ–E) WASH DC 20314.

(e) If a Memorandum of Agreement cannot be consummated, the case will be forwarded through Army channels to HQDA (DAEN–MCZ–E) WASH DC 20314, who will in turn forward it to the Advisory Council on Historic Preservation for review and evaluation. Where a Memorandum of Agreement cannot be obtained or an unfavorable ruling is obtained from the Advisory Council, then an Environmental Impact Statement containing the comments of the Advisory Council must be prepared covering the basic action and the proposed mitigative measures. If it is determined that the Army should proceed with the proposed action and that action will result in the destruction or major alteration of the property, then records of the property, including measured drawings, photographs, and written data will be prepared for deposit in the Library of Congress as part of the Historic American Buildings Survey or the Historic American Engineering Records in accordance with the standards promulgated by the Office of Archeology and Historic Preservation, Department of the Interior, Wash DC 20240. (TM 5–801–1 explains the standards and § 650.192 discusses archeology).

(f) Advice on matters relating to implementing 36 CFR Part 800 may be obtained from the Advisory Council on Historic Preservation as indicated below:

(1) Eastern Area: Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, NW, Washington, DC 20005, Telephone: (202) 254–3974.

(2) Western Area: Director, Western Office, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, Telephone: (303) 234–4946.

§ 650.192 Archeological sites.

(a) The Secretary of the Army, under the authority of 16 U.S.C. 432, may issue archeological permits on Army-controlled installations after referral of the permit application to the Smithsonian Institution for his recommendations (AR 405–80).

(b) All Army-controlled property will be surveyed to identify and locate archeological sites. Due to the magnitude of such surveys, installation commanders will establish coordination with the appropriate field offices of the National Park Service, SHPO and/or EO 11593 consultant, to review current Army plans, programs and activities which may lead to the destruction of an archeological site and to develop survey schedules for affected areas. Since Army activities may necessarily lead to destruction of archeological sites, the survey must include value judgments assessing the relative significance of the surveyed sites so that destruction of the more significant archeological sites may be avoided.

(c) The National Park Service may not be able to provide timely surveys of archeological resources necessary for preparation of legally sufficient environmental statements on Army activities. In these cases, the installation commander is authorized to contract with outside experts for the survey of archeological sites after receipt of a written turndown by the National Park Service, except as limited in paragraph (c)(2) of this section. Copies of all such surveys should be furnished appropriate field officials of the National Park Service.

(1) While such inventories generally would be confined to a literature search and a reconnaissance of the affected area, there may be occasions when testing of archeological sites will be necessary in order to establish the need for the National Park Service to budget full-scale archeological survey programs at a later date.

(2) In any instance where estimated contract cost of such work exceeds $25,000, the matter must be referred to HQDA (DAEN–MCZ–E) WASH DC 20314 prior to consummation of a contract.

(d) A copy of the program requirements for archeological investigations and salvage activities as jointly determined by the installation commander

and the National Park Service will be provided HQDA (DAEN–MCZ–E) WASH DC 20314, in order to assist in overall program coordination between DAEN–MCZ–E and the Office of Archeology and Historic Preservation, Department of the Interior.

(e) Salvage activities. (1) Procedures for authorizing archeological salvage activities on Army-controlled property are contained in AR 405–80.

(2) Installation commanders are responsible for instituting security measures for the protection of an archeological site during salvage operations. Assistance in salvage operations may be made when determined to be within the capability of the installation.

(3) Permits for archeological investigations and salvage activities will identify a museum responsible for preserving artifacts found as a result of the investigation. Therefore, where appropriate, permits for archeological investigations on Army-controlled property will designate the post museum as the recipient of all specimens. If the post museum is not appropriate, the Commanding General, US Army Center of Military will determine which museum will be designated.

(f) In the event that a suspected archeological site is encountered during construction or some other form of activity, operations in the area will be suspended until the Secretary of the Interior is consulted and the site is investigated by a professional archeologist approved by the Secretary of the Interior. All construction contracting procedures, both through direct contracting or by the District Engineer, will be amended to require the provision to obtain expert archeological analysis as required. Installation commanders and District Engineers are authorized to expend funds appropriated for Army activities for the survey and salvage of scientific, historic, archeological, and paleontological resources which are being or may be irreparably lost or damaged as a result of those Army activities. Such expenditures may not exceed one percent of the project amount.

§ 650.193 National Historic Landmarks.

(a) The National Park Service regularly surveys historic properties under the National Historic Landmark Program. Designation of a National Historic Landmark automatically places the property in the National Register of Historic Places.

(b) Notification from the Department of the Interior that Army-controlled property has been designated as a National Historical Landmark will be forwarded through channels to HQDA (DAEN–MCZ–E) Wash, DC 20314. Also, subsequent correspondence regarding the landmark such as plaque application, notifications of annual visits and other related matters will be forwarded to the Department of the Interior with information copies to HQDA (DAEN–MCZ–E) Wash. D.C. 20314.

TABLE 8–1.—RELATED PUBLICATIONS

The National Register of Historic Places—1972. USDI (Available from the Superintendent of Documents, US Government Printing Office, Washington, DC 20402. Price $7.80 domestic postpaid, or $7.25 GPO Bookstore. Stock No. 2405–0294).

The National Register of Historic Places—Supplement—1974. USDI (Available from Superintendent of Documents, US Government Printing Office, Washington, DC 20402. Price $9.45. Stock No. 2405–00542).

AR 210–20	Master Planning for Army Installations.
AR 405–80	Granting Use of Real Estate.
AR 405–90	Disposal of Real Estate.
AR 415–15	MCA Program Development.
AR 415–35	Minor Construction.
AR 420–10	General Provisions, Organization, Function and Personnel.
AR 420–70	Buildings and Structures.
AR 870–5	Military History: Responsibilities, Policies and Procedures.

Subpart I—Oil and Hazardous Substances Spill Control and Contingency Plans

GENERAL

§ 650.201 Purpose.

This chapter sets forth the procedures for the control of discharges of oil and hazardous substances under the Federal Water Pollution Control Act (FWPCA) Amendments of 1972 and as promulgated by US Environmental Protection Agency and US Coast Guard Regulations. Further guidance on hazardous and toxic materials management appears in subpart F of this part.

§ 650.202 Goal and objectives.

The Department of the Army goal, in support of national policy, is to prevent the discharge of oil and hazardous substances and to provide for the prompt, coordinated responses to contain and clean up spills should they occur. Objectives for attaining this goal are to—

(a) Transport, store, handle, and dispose of oil, fuels, lubricant products, and hazardous liquid substances in a safe and environmentally acceptable manner.

(b) Institute a responsive alert procedure in the event of a spill and be prepared to rapidly respond in the containment and cleanup of a spill.

(c) Plan for and cooperate with other Federal, State, interstate, and local Government agencies to ensure that the public health and welfare are provided adequate protection from discharge of oils and other hazardous liquid substances.

§ 650.203 Explanation of terms.

For the purpose of this regulation and AR 500–60, the following apply—

(a) *Advisory agencies.* Departments or agencies which can make major contributions during response activities for certain types of discharges. These agencies are: the Nuclear Regulatory Commission; Department of Health, Education, and Welfare; Department of Justice; Federal Disaster Assistance Administration; and Department of State.

(b) *Applicable water quality standards.* The water quality standards adopted by the State and approved by EPA pursuant to Section 303 of the Federal Water Pollution Control Act or promulgated by EPA pursuant to that section.

(c) *Coastal waters.* Generally, those US waters navigable by or to be established by deep draft vessels, the contiguous zone, the high seas, and other waters subject to tidal influence.

(d) *Contiguous zone.* The entire zone established by the United States or to be established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone. This is the zone contiguous to the territorial sea which extends 200 miles seaward from the baseline from which the territorial sea is measured.

(e) *Discharge.* Includes but is not limited to any spilling, leaking, pumping, pouring, emitting, emptying, or dumping. For the purpose of the Spill Prevention Control and Countermeasure Plan (SPCC Plan) and the Installation Spill Contingency Plan (ISCP), the term discharge will not include any discharge of oil which is authorized by a permit issued by a Federal or State authority; i.e., issued pursuant to section 13 of the River and Harbor Act of 1899 (30 Stat. 1121, 33 U.S.C. 407), or sections 402 or 405 of the FWPCA Amendments of 1972 (86 Stat. 816 et seq., 33 U.S.C. 1251 et seq.).

(f) *Discharge classifications.* The following classifications are provided for guidance and serve as criteria for reporting and general response actions. They are not meant to imply or connote associated degree of hazard to the public health or welfare, or a measure of environmental damage. A discharge that poses a substantial threat to the public health or welfare, or results in critical public concern will be classed as a major discharge, notwithstanding the following quantitative measures.

(1) *Minor discharge.* A discharge to the inland waters of less than 1,000 gallons of oil, or a discharge of less than 10,000 gallons of oil to the coastal waters.

(2) *Medium discharge.* A discharge of 1,000 to 10,000 gallons of oil to the inland waters, or a discharge of 10,000 to 100,000 gallons of oil to the coastal waters, or a discharge of a hazardous substance in a harmful quantity as defined in EPA or Army regulations.

(3) *Major discharge.* A discharge of more than 10,000 gallons of oil to the inland waters, or more than 100,000 gallons of oil to the coastal waters, or a discharge of a hazardous substance that poses a substantial threat to the public health or welfare.

(g) *Hazardous substance.* An element or compound, or mixture (other than oil) which, when discharged in any quantity onto land or into or upon navigable or coastal waters, presents an imminent and substantial danger to the public health or welfare, including fish, shellfish, wildlife, shorelines, and beaches (e.g., hazardous substances include strong acids, strong bases, potentially toxic pesticides, or other bulk-stored chemicals

used in manufacturing processes and maintenance or repair operations).

(h) *Inland waters.* Generally, those waters upstream from coastal waters.

(i) *Installation on-scene coordinator (IOSC).* The official predesignated by the Army Installation Commander to coordinate and direct Army control and cleanup efforts at the scene of an oil or hazardous substance discharge on or adjacent to an Army installation.

(j) *Installation response team (IRT).* Those collective individuals on an installation designated to act in an emergency to perform those functions directed by the IOSC.

(k) *National Response Center (NRC).* The Washington, D.C., headquarters for coordinating activities relative to pollution emergencies. It is located at Headquarters, USCG.

(l) *National Response Team (NRT).* A team of representatives from the primary and advisory agencies which serves as the national body for planning and preparedness actions prior to a pollution discharge and for coordination and advice during a pollution emergency.

(m) *Navigable waters of the United States.* "Navigable waters" as defined in section 502(7) of the FWPCA and includes—

(1) All navigable waters of the United States, as defined in judicial decisions prior to passage of the 1972 amendments to the FWPCA (Pub. L. 92–500), and tributaries of such waters;

(2) Interstate waters;

(3) Intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes; and

(4) Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce.

(n) *Nontransportation-related onshore and offshore facilities.* Includes, but is not limited to, oil storage facilities and related equipment and appurtenances, as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps, and drainage systems used in the storage of oil. These facilities include—

(1) Waste treatment facilities including in-plant pipelines, effluent discharge lines, and storage tanks, but excluding waste treatment facilities located on vessels and terminal storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels and associated systems used for offloading vessels.

(2) Loading racks, transfer hoses, loading arms and other equipment which are appurtenant to a nontransportation-related facility or terminal facility and which are used to transfer oil in bulk to or from highway vehicles or railroad cars.

(3) Highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a nontransportation-related facility and which are not intended to transport oil in interstate or intrastate commerce.

(4) Pipeline systems which are used for the transport of oil exclusively within the confines of a nontransportation-related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce, but excluding pipeline systems used to transfer oil in bulk to or from a vessel.

(o) *Offshore facility.* Any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or public vessel.

(p) *Oil.* Oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. The terms "oil" and "POL" are used interchangeably in this regulation.

(q) *On-scene coordinator (OSC).* The Federal official predesignated by the EPA or the USCG to coordinate and direct Federal discharge removal efforts in approved regional contingency plans at the scene of an oil or hazardous substance discharge.

(r) *Onshore facility.* Any facility (including but not limited to motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States, other than submerged land.

(s) *Person.* Includes any individual, firm, corporation, association, and partnership.

(t) *Potential discharge.* Any incident or circumstance which threatens to result in the discharge of oil or a hazardous substance.

(u) *Primary agencies.* Federal departments or agencies comprising the NRT and designated to have primary responsibility and resources to promote effective operation of the National Oil and Hazardous Substances Pollution Contingency Plan. These agencies are the Departments of Commerce, Interior, Transportation, Defense, and the Environmental Protection Agency (EPA).

(v) *Public health or welfare.* All factors affecting the health and welfare of man. They include but are not limited to, human health, the natural environment, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(w) *Public vessel.* A vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

(x) *Regional administrator.* The Regional Administrator of the EPA, or his designee, in and for the region in which the facility is located.

(y) *Regional Response Center (RRC).* The Federal regional site for the control of pollution emergency response activities. It provides communications, information storage, and necessary personnel and facilities to promote the proper functioning and administration of regional pollution emergency response operations.

(z) *Regional Response Team (RRT).* A team of regional Federal representatives of the primary or selected advisory agencies, which acts within its region as an emergency response team performing functions similar to those of the NRT.

(aa) *Sheen.* An iridescent appearance on the surface of water.

(bb) *Sludge.* An aggregate of oil or oil and other matter of any kind having a combined specific gravity equivalent to or greater than water.

(cc) *Spill event.* A discharge of oil or hazardous substance on land or into or upon the navigable waters of the United States or adjoining shorelines in harmful quantities. For oil, a harmful quantity is that oil in excess of established State water quality standards; or that which causes a film, sheen, or discoloration on the surface of the water or adjoining shorelines; or quantities in excess of 1,000 U.S. gallons on land. For other hazardous substances, quantity guidelines will be published by DAEN-ZCE when information is developed by EPA.

(dd) *Toxic pollutant.* Those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations in such organisms or their offspring.

(ee) *Vessel.* Every type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.

§ 650.204 Policies.

(a) A capability will be established and maintained to respond in emergency situations to promptly contain and clean up accidental DA-caused oil discharges and spills of hazardous and toxic substances that occur at or near Army installations and activities.

(b) Assistance will be provided to contain and clean up non-DA-caused spills under the provisions of the National Oil and Hazardous Substances Pollution Contingency Plan consistent with operational commitments.

(c) All materials (including oils, fuels, petroleum products, and other hazardous chemicals) will be handled, used and stored to avoid or minimize the possibility of an accidental spill and potential pollution of land, air, and water.

(d) Storage facilities for oil and other hazardous substances (at date described herein) will be designed to incorporate such safeguards as dikes, catchment areas, and relief vessels to contain the flow of oil and hazardous liquids and to minimize the contamination of land and water resources.

(e) DA agencies will cooperate with the Council on Environmental Quality, Department of Interior, Department of Transportation, the Environmental Protection Agency, and the Department of Commerce in the planning and execution of activities to minimize the possibility of discharges or mitigating the effects of spills, wherever they occur.

(f) Contracts for disposal of oil or other wastes will contain provisions that

require the disposal method to be in accordance with Federal, State, and/or local regulations and standards.

(g) Each installation or activity with the capability of storing, dispensing, or discharging oils, oil products, and bulk quantities of liquid toxic and hazardous substances will prepare, maintain and implement a current SPCC Plan and an ISCP as specified herein. (The requirements for a spill prevention plan and a spill contingency plan may be satisfied by one plan with two distinctive sections—SPCC and ISCP).

§ 650.205 Implementing guidelines.

(a) The willful discharge of oil, petroleum products, or hazardous and toxic substances from installations, vehicles, aircraft, and watercraft onto land or into waters is prohibited except in cases of extreme emergency and if considered essential for the protection of human life. Every reasonable precaution, therefore, will be taken to prevent the accidental discharge of oil or petroleum products on land or water or their vapors to the air.

(b) Oil-water separators will be installed and maintained to reduce the oil content of oil-water wastes produced from vehicle and equipment washracks, industrial processes, steam cleaning operations, etc., to levels specified by Federal, State, or local standards.

(c) The discharge of ballast water from vessels will be strictly controlled either by the use of ship-board or on-land oil-water separators capable of processing accumulated waste waters. Oil and fuel contaminated wastes produced during the cleaning of fuel storage tanks and combustion engine components will also be collected and treated for oil removal prior to discharge.

(d) Waste oil produced on Army installations will be collected, segregated, and protected to avoid contamination. Where cost effective, waste oil will be used as a fuel additive in large oil burning heating plants. Waste oil will not be used as a dust palliative on roads or other surfaces. If the generating installation does not have the capability to use the waste oil, it will be offered to other installations that are located within cost-effective transportation distances. If the oil cannot be cost-effectively used, it will be reported to a Defense Property Disposal Office (PDO) in the area for disposal. If disposal to PDO is economically unfeasible, installation should make arrangements with local contractors for disposal of waste products.

(e) Waste water discharges will be monitored for oil content and other toxic and hazardous substances in accordance with the provisions of the permits issued under the National Pollutant Discharge Elimination System (NPDES).

(f) DA will provide representatives to the RRT located in each of the Standard Federal Regions (figure 9–1) in accordance with § 650.206. The number of representatives may vary, depending upon the requirements in that Federal regional area and with details specified in each regional contingency plan.

(g) The RRT will be activated automatically if a major or potentially major discharge occurs. In any other pollution emergency, the RRT may also be activated upon an oral request by any primary agency representative to the Chairperson of the RRT. Such requests for team activation will be confirmed in writing.

(h) During a major pollution discharge involving activation of the RRT, the IOSC may be directed and controlled by the EPA or USCG OSC.

(i) In the event an installation commander provides assistance on non-DA caused spills (those not covered by EPA, USCG or the National Plan) a civil support release and/or reimbursement agreement should be obtained similar to appendix A, AR 75–15. Paragraph 216011, AR 55–355, Assistance to Carriers, also provides guidance.

§ 650.206 Responsibilities.

(a) Department of the Army Staff.

(1) The Chief of Engineers will—(i) Promulgate basic policies and procedures for Department of the Army implementation of the National Oil and Hazardous Substances Pollution Contingency Plan (National Plan) for Army-caused discharges and for the preparation and implementation of SPCC and ISCP plans.

(ii) Provide technical direction, design guidance, and engineering procedures to military installations on implementation of SPCC and ISCP plans.

(iii) Provide primary and alternate members (for Civil Works) to the RRT in each of the Standard Federal Regions as required. Nominations will be provided directly to the Chairperson of the RRT.

(2) Deputy Chief of Staff for Operations and Plans will exercise Army Staff supervision of DA support to the EPA and USCG in the cleanup of pollution discharges caused by other than Army agencies under the National Oil and Hazardous Substances Pollution Contingency Plan.

(3) The Inspector General and Auditor General, (Army Director of Safety) will provide assistance and guidance on the safety aspects of the storage, use, handling, and disposal of hazardous and toxic substances.

(4) The Surgeon General will provide assistance and guidance on the health and environmental aspects of the storage, use, handling, and disposal of hazardous and toxic substances.

(b) Major Army commanders will—(1) Promulgate instructions for early preparation and periodic review of the ISCP for prompt identification, reporting, containment, and cleanup of accidental oil discharges and spills of hazardous and toxic substances at or near Army installations.

(2) Initiate a program for an initial survey and periodic evaluation of oil storage transfer and handling facilities for the purpose of developing an SPCC Plan for each installation.

(3) Program and budget for personnel, materials and equipment required for oil and hazardous substances spill prevention, containment and cleanup activities of DA-caused spills at Army installations.

(c) Commanding General, FORSCOM will—(1) Upon oral request, confirmed in writing by the EPA or USCG, provide personnel and resources support in accordance with the provisions of AR 500–60 during activation of the NRT and/or RRT and implementation of the National Oil and Hazardous Substances Pollution contingency Plan. Such support is to be on a reimbursable basis.

(2) Provide primary and alternate representatives (for military matters) to the RRT for each Standard Federal Region as required. Nominations will be provided directly to the Chairman of the RRT.

(d) Installation and activity commanders will—(1) Establish SPCC plans and ISCP's and procedures to prevent spills and to insure prompt reporting, containment, and cleanup of accidental discharges of oil and hazardous substances that occur at Army installations and nearby activities.

(2) Perform periodic surveys or inspections to verify compliance with the provisions of this regulation and to periodically test the effectiveness of SPCC Plans and ISCP's.

(3) Ensure that all fuels, oils, and hazardous materials (such as acids, bases, organic solvents, and other toxic chemicals) are used, stored and handled to avoid or minimize the possibilities of environmental pollution.

(4) Provide engineering safeguards (such as dikes, catchment areas, relief vessels) necessary to prevent pollution of navigable waters by accidental discharge of stored fuels, solvents, oils, and other chemicals.

(5) Identify in their ISCP (§ 650.214) other possible DA resources that could be made available to the RRT if DA agencies are requested to assist in the containment and/or cleanup of a non-DA caused spill in accordance with AR 500–60.

(6) When directed by CG, FORSCOM, provide available resources to support the OSC during implementation of the National Oil and Hazardous Substances Pollution Contingency Plan (AR 500–60).

(7) Inform the installation information officer and next higher information office about the anticipated news media coverage and local public reaction at an accidental discharge of oil or hazardous substances.

(8) Program and budget for personnel, materials, equipment, and training programs required for oil and hazardous substances spill prevention, containment and cleanup of DA-caused spills.

(9) Determine, for DA-caused off-post spills in the immediate vicinity of the installation, if his military organization is within the most reasonable distance of the pollution discharge and if he has the resource capability to respond to the discharge incident. If he does not respond to the containment and cleanup of the spill, the installation commander will ensure that the RRT and appropriate DOD agencies are notified for necessary action.

(10) Ensure that all reportable spills of oil and hazardous substances are reported through channels to DAEN-ZCE and to EPA, USCG or other civil authorities (§§ 650.215-650.218).

§ 650.207 References.

See table 9-1 for related publications to be used in conjunction with this subpart.

SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN

§ 650.208 General.

Regulations have been issued by the US Environmental Protection Agency (EPA), as required by the Federal Water Pollution Control Act (FWPCA) amendments of 1972, to prevent discharges of oil into the navigable waters of the United States and to contain these discharges if they do occur. These regulations require installations having certain nontransportation-related onshore and offshore oil storage facilities (as described below) to prepare, maintain, and implement a Spill Prevention Control and Countermeasure Plan (SPCC plan) to prevent and control the discharge of oil and hazardous substances before they occur.

(a) The SPCC Plan will identify potential sources of oil and hazardous substances and the measures required to prevent and contain any accidental discharge resulting from equipment or storage facility failure. The SPCC plan is directed by Title 40 CFR Part 112, copies of which are available from the EPA, Washington, DC 20242 or from any EPA regional office.

(b) Army installations will prepare and implement a current SPCC plan when their oil or hazardous substance storage facilities meet any one of the following:

(1) Aggregate above-ground oil storage, at any one location on the installation, is greater than 1,320 gallons.

(2) Any single tank above-ground oil storage, at any one location on the installation, is greater than 660 gallons.

(3) Total underground oil storage, at any one location on the installation, is greater than 42,000 gallons.

(4) Single bulk storage of hazardous liquid substances (acids, chemical solvents, etc.) is greater than 500 gallons. The 500 gallon limit represents that total combined quantity of hazardous liquid substance at a single storage location on an installation.

(5) Nontransportation-related onshore and offshore facilities which, because of their location or operations, could reasonably be expected to discharge oil or hazardous material in harmful quantities into or upon the navigable waters of the United States.

(c) For purposes of an SPCC plan, the oil storage facilities will include, but not be limited to, storage for a facility such as a heating or boiler plant, electric generating unit, fuel dispensing or transfer facility, tank car or truck loading/unloading rack, bulk fuel storage, etc. An above-ground or underground oil storage facility may be a single tank or grouping of tanks in a localized area on an installation.

§ 650.209 Preparation and implementation of plan.

(a) An SPCC plan will be prepared expeditiously by each installation having oil or hazardous substances storage facilities as required in § 650.208(b), and each plan will be periodically reviewed triennially and updated as necessary.

(b) Completed plans will be fully implemented (including required construction and installation of equipment and/or training of personnel) as soon as possible after January 10, 1975. Newly activated installations will prepare an SPCC plan within 6 months after the date they begin operation and will fully implement it not later than 1 year after operations begin.

(c) An extension of time for the preparation and full implementation of an SPCC plan beyond the times specified may be obtained from the EPA Regional Administrator. A copy of any request for an extension will be furnished through command channels to HQDA (DAEN-ZCE) Wash., D.C. 20310.

§ 650.210 Review and evaluation.

Each SPCC plan will be—(a) Reviewed by a registered professional engineer (PE) and certified to have been prepared in accordance with good engineering practices, after onsite examination of the facility, and after familiarity with Title 40 CFR Part 112. This certification may be accomplished by a PE at the next higher command if no PE is available at the installation.

(b) Original and changes maintained current and reviewed by a registered professional engineer and will be made available for onsite review by the EPA regional administrator at the office of the facilities engineer. Copies of all original plans and changes will also be filed at appropriate MACOM environmental office.

(c) Reviewed and evaluated at least once every 3 years. If the review shows that more effective prevention and control technology will significantly reduce the likelihood of a spill event and if the technology has been field-proven and can be procured and installed at the time of the review, the DA component will amend the SPCC plan to include the more effective technology and have it certified by a registered professional engineer. Technological improvements should be included in Operation and Maintenance, Army or Major Construction, Army budgets as appropriate.

(d) Reviewed and amended in accordance with § 650.216, as required by the EPA Regional Administrator, whenever a facility has discharged more than 1,000 US gallons of oil into the navigable waters in a single spill event or when there have been two spill events within any 12-month period.

§ 650.211 Minimum plan requirements.

As a minimum, the SPCC plan will contain—(a) A detailed description of the equipment and measures specified for oil spill prevention, control, and countermeasure, including structures and equipment for diversion and containment of discharges, facility drainage, and identification of resources to cleanup spills. Measures adopted should permit as far as practical reclamation of spilled substance. Many prevention and control requirements are similar to safety requirements for the design and operation of oil tanks, pipelines and pumping facilities.

(b) A description of each nontransportation-related spill event that has occurred at that facility within the past 12 months with corrective action taken, and plans for preventing recurrence.

(c) An inventory list of storage, handling, and transfer facilities for which there is a reasonable possibility of a significant discharge of oil or other hazardous polluting substances. For each listing, where experience indicates a reasonable potential for equipment failure (e.g., tank overflow, rupture, or leakage), include a prediction of the direction, rate of flow, and total quantity of oil which could be discharged as a result of a major type of failure.

(d) A graphic description showing all containment and/or diversionary structures or equipment required to prevent discharged oil from reaching a navigable water course. Included among the various preventive measures that can be employed are: Impervious berm and dike; curbing; culverting, gutters, or other drainage systems; weirs, booms, or other barriers; spill diversion ponds; and retention ponds. If it is not practicable to install structures, sorbent materials such as straw or commercial products can be used for containment or cleanup of spills at locations specified in the plan.

(e) When it is determined that the installation of the preventative structures or equipment listed (§ 650.211(d)) is not practicable, the installation commander will demonstrate fully such impracticability and include the written provisions of the Installation Spill Contingency Plan (ISCP) in this section of the SPCC plan.

§ 650.212 Detailed guidance.

In addition to the minimum prevention measures (§ 650.211), sections of the SPCC plan will include a written analysis and complete discussion of conformance with applicable guidelines on other effective spill prevention and containment procedures. The guidelines are described in Title 40 CFR Part 112.7(e) and cover the following areas:

(a) Onshore facility diked storage drainage areas including valve restraints.

(b) Onshore bulk storage tank and dike construction material, liquid alarm systems and sensing devices.

(c) Facility transfer operations criteria for piping, valves, and inspection requirements.

(d) Facility tank car and tank truck loading/unloading rack, barriers, and warning requirements.

(e) Field storage, mobile, and portable fueling facilities such as bladders and tank trucks (See 40 CFR Part 112.3).

(f) Inspections and records procedures.

(g) Security fencing, pump control, pipeline connections, and lighting systems devices.

(h) Personnel, training, and spill prevention procedures.

INSTALLATION SPILL CONTINGENCY PLAN

§ 650.213 General.

A National Oil and Hazardous Substances Pollution Contingency Plan was developed in accordance with the provisions of the Federal Water Pollution Control Act (FWPCA) Amendments of 1972 (33 U.S.C. 1151 et seq.) and requires Federal agencies to develop a plan to clean up discharges of oil and hazardous substances for which they are responsible. Commanders will remain an Installation Spill Contingency Plan (ISCP) to identify resources to be used to cleanup discharges on Army installations and will be prepared to provide assistance to non-DA agencies when requested. (AR 500–60 provides policy and guidance for the DA response to the National Oil and Hazardous Substance Pollution Contingency Plan to assist EPA and the USCG in spills caused by other than DA agencies).

(a) The ISCP will establish the responsibilities, duties, procedures, and resources to be employed, to contain and cleanup accidental discharges.

(b) All Army installations will maintain a current ISCP which will be reviewed and evaluated at least once every 3 years.

(c) The resources identified for possible use by a RRT in support of the National Oil and Hazardous Substances Pollution Contingency Plan are to be specifically identified as an element of the ISCP.

(d) The ISCP will be simulated at least annually by the installation commander in coordination with the responsible officers of the SPCC Plan in order to ensure timely and effective personnel and equipment response in the event of an accidental discharge.

(e) Copies of original ISCP and any changes will be kept on file at installation facility engineer (FE) office and at MACOM environmental office.

(f) All Army installations will establish a thorough training program for oil spill response personnel.

§ 650.214 Minimum plan requirements.

As a minimum the ISCP will contain—

(a) The name, responsibilities and duties of the IOSC. The IOSC is the official predesignated by the installation commander to coordinate and direct Army control and cleanup efforts at the scene of an Army caused oil or hazardous substance discharge on or adjacent to an Army installation.

(b) The specification, composition, and training plans of the IRT which acts as an emergency response team performing response functions as defined and directed by the IOSC. A preplanned location for an installation response operations center.

(c) IRT alert and mobilization procedures including provisions for access to a reliable communications system for timely notification of an oil or hazardous substance discharge.

(d) A current list of positions, telephone numbers, and addresses (e.g. names of key contact people in an ISCP appendix) of the responsible persons and alternates on call to receive notification of an oil or hazardous substance discharge as well as the names, telephone numbers and addresses of key organizations and agencies to be notified when a discharge is discovered.

(e) Surveillance procedures for the early detection of oil and hazardous substances discharges.

(f) Quantities and locations of manpower, equipment, vehicles, supplies, and material resources required to expeditiously contain, recover, and remove any maximum harmful quantity of oil or hazardous substance discharged by Army activities on post or at nearby Army operations. Plans will identify specific action for various size potential spills (identified in the SPCC Plan inventory list (§ 650.211(c))), and will identify a priority list in which various critical water uses are to be protected as a result of a discharge.

(g) Sources of additional resources that are available to an installation for the cleanup or reclamation of a large DA-caused spill, if such a pollution spill exceeds the response capability of the installation (e.g., resources such as U.S. Coast Guard, Air Force, Navy, or private contractors). An established, prearranged procedure for requesting assistance, and agreements for acquisition of resources, during a major disaster or response exceeding situation.

(h) Procedures and techniques to be employed in identifying, containing, dispersing, reclaiming, and removing oil and hazardous substances used in bulk quantity on an installation. Identification of chemicals (whose technical product data has been provided to and accepted by EPA) that may be used to concentrate, neutralize, collect, disperse and remove oil or hazardous substances discharges. Pollution control actions taken will be in accordance with applicable Federal, State, or local standards, EPA guidelines, and the current National Oil and Hazardous Substances Pollution Contingency Plan.

(i) Reporting procedures as required by §§ 650.215 and 650.216 in the event of an oil or hazardous substance discharge by Army activities.

(j) Army resources useful to the RRT in the event Army agencies are tasked to aid in the cleanup of a non-Army caused spill. Specific procedures to facilitate recovery of costs encountered during cleanup of non-Army spills are given in AR 500–60.

REPORTS OF ARMY ACCIDENTAL OIL AND HAZARDOUS SUBSTANCE DISCHARGES

§ 650.215 General.

In the event of any spill, responsive actions will be taken to prevent oil and hazardous substances from entering any navigable waters or water supplies. All personnel assigned or employed by the Department of the Army will promptly report any observed oil spill, significant discharges of hazardous and toxic substances, or evidence of a spill by discovery of a slick or sheen on water from oil, gasoline, jet fuel, or other hazardous polluting substance. Spill events will be reported immediately by telephonic means to the EPA Regional Office, U.S. Coast Guard District Office or National Response Center (800) 424–8802. On-post spill events (delete "(§ 650.203)") not entering navigable waters are to be reported promptly and completely, but EPA or USCG may not require further reporting in accordance with § 650.216. Off-post incidents will be reported as above and to the nearest or appropriate political jurisdiction and to the RRT at the RRC.

§ 650.216 Pollution Incident Report (RCS EPA 1001).

(a) Medium and major spills (§ 650.203) and any discharge of more than 1,000 U.S. gallons of oil or a spill of more than 500 U.S. gallons of other hazardous liquid substance into navigable waters on or adjacent to an Army installation in the United States will be promptly reported by the IOSC by telephonic means to (800) 424–8802, or to the nearest USCG District Office, to the EPA Regional Office, and electronically through channels to HQDA (DAEN–ZCE), Wash., D.C. 20310. (See figures 9–1 and 9–2 for regions and districts.)

(1) When it has been determined by the OSC that a spill of a hazardous substance (less than 500 gallons) is in a harmful quantity or that the discharge poses a substantial threat to the public health or welfare, it will be classed as a medium or major discharge and a Pollution Incident Report will be submitted.

(2) The format for the Pollution Incident Report is given in table 9–2.

(3) Telephonic or electronic reports will be confirmed by a follow-up written message within 30 days after the spill to the EPA Regional Administrator, the NRT or RRT, as appropriate, and to DAEN–ZCE.

(b) When more than 1,000 U.S. gallons of oil (medium and major spills) or more than 500 U.S. gallons of a hazardous liquid substance (or any major discharge of a hazardous substance) have been discharged into or upon a navigable water in a single spill or when two spill

events occur within any 12-month period, this written follow-up report will contain (in addition to the items in table 9–2) the following:

(1) Description of facility from which spill originated; (including maps, flow diagrams, and topographic maps) date facility was put into operation; storage or handling capacity; and normal daily/weekly through-put.

(2) Cause of spill, including a failure analysis of system or subsystem in which the failure occurred. Describe unique problems encountered.

(3) Post spill corrective actions, including resources committed, attempts to reclaim spilled substance and/or countermeasures taken. Include a description of equipment repairs and/or replacements.

(4) Effectiveness of response and removal actions by the discharger, State, and local forces, or Federal agencies and special forces.

(5) Additional preventive measures taken or contemplated to minimize the possibility of a recurrence and recommendations to improve response actions and chances for reclaiming if a similar spill should occur.

(6) A complete copy of the SPCC plan with any amendments.

(c) Based on the above spill report information, the EPA Regional Administrator may require amendments to the SPCC plan and will notify the commander concerned by certified mail. A copy of such report will also be submitted to the state water pollution control authority.

(d) Upon discovery of a spill in which the pollutant may flow past the boundary of the installation, or a spill into navigable waters, or a spill from a vessel, the IOSC will notify the installation judge advocate's office to ensure that information, records, and samples adequate for legal purposes are obtained and safeguarded for future use.

§ 650.217 Reports on DA support provided to control non-DA spills.

Reports on the commitment of Army resources to spills, either requested by EPA or USCG, or by authority of the installation commander, in response to the provisions of the National Oil and Hazardous Substance Pollution Contingency Plan will be provided to Director of Military Support HQDA (DAMO–MS) WASH DC 20310, in accordance with the provisions of AR 500–60.

§ 650.218 Exclusions.

(a) Policies and procedures applicable to nuclear accidents and incidents as outlined in AR 360–5, AR 50–5, and AR 40–13 are not affected by this regulation.

(b) Policies and procedures applicable to chemical agent accidents and incidents as outlined in AR 50–5 and AR 385–40 are not affected by this regulation.

TABLE 9–1—RELATED PUBLICATIONS

Council on Environmental Quality—National Oil and Hazardous Substances Pollution Contingency Plan (40 FR 28, p. 6282, February 10, 1975).

EPA—Oil Pollution Prevention, Non-Transportation-Related Onshore and Offshore Facilities (38 FR 237, p. 34164, December 11, 1973).

The Federal Water Pollution Control Act Amendments of 1972 (Title 33 U.S.C. 1251 et seq.).

River and Harbor Act of 1899 (30 Stat. 1121, 33 U.S.C. 407).

Executive Order 11752, Prevention, Control and Abatement of Environmental Pollution at Federal Facilities (38 FR 243, p. 34793).

Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052).

Department of Transportation—Discharge of Oil (Title 40 U.S.C. Part 110).

Pollution Prevention, Vessel and Oil Transfer Facilities, CFR Title 33, Chapter 1, Subchapter O, US Coast Guard.

AR 40–13 Radiological Emergency Medical Teams (REMT).
AR 50–5 Nuclear Surety.
AR 50–6 Chemical Surety.
AR 55–355 Military Traffic Management Regulation.
AR 56–9 Watercraft.
AR 75–15 Responsibilities and Procedures for Explosive Ordnance Disposal.
AR 385–10 Army Safety Program.
AR 385–40 Accident Reporting and Records.
AR 500–60 Disaster Relief.
TB 55–1900–206–14 Control and Abatement of Pollution by Army Watercraft.

TABLE 9–2—FORMAT FOR POLLUTION INCIDENT REPORT (RCS EPA–1001)

Item	*Data*
1	Name and location of installation.
2	Commander of installation and his phone number.
3	Date and time (GMT) of incident or time of discovery.
4	Severity of incident. Specify size of oil discharged (major, medium, minor).
5	Location of incident and specific areas affected by spill.
6	Cause and source of incident.
7	Type and estimated amount (barrels, gallons, liters, pounds) of pollutant. If applicable, length by width of slick.
8	Samples taken (yes or no)
9	Damage impact on surroundings (fish, wildlife, and underground water, e.g. drinking water).
10	Potential dangers (fire, explosion, toxic vapor, etc.).
11	Corrective action to eliminate pollution source.
12	Corrective action to remove pollutant.
13	Assistance required.
14	Estimated completion date of remedial actions.
15	Anticipated or actual reaction by news media and public to the incident.
16	Other items required in the regional contingency plan and a general discussion of the incident.

Figure 9-1

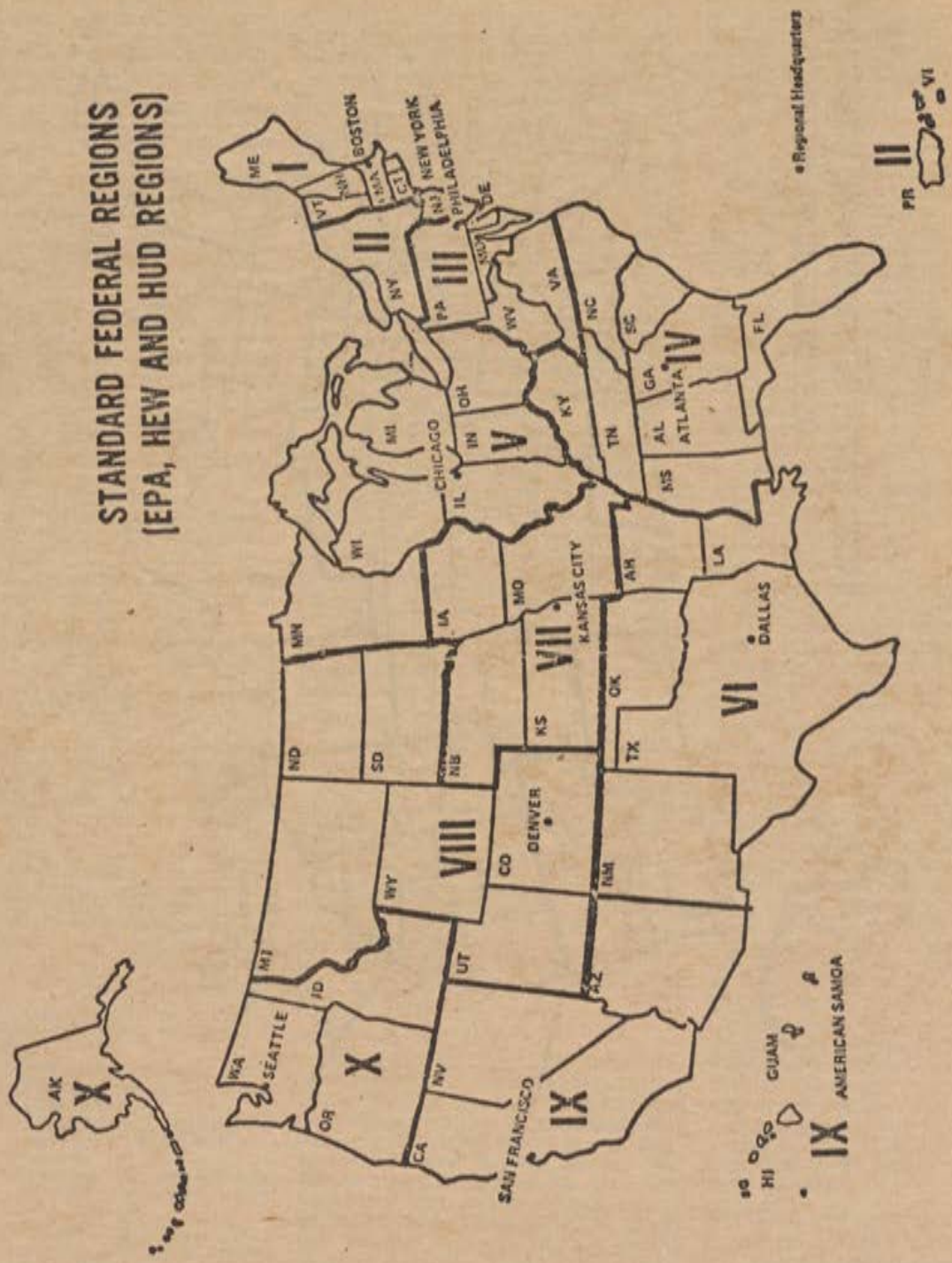
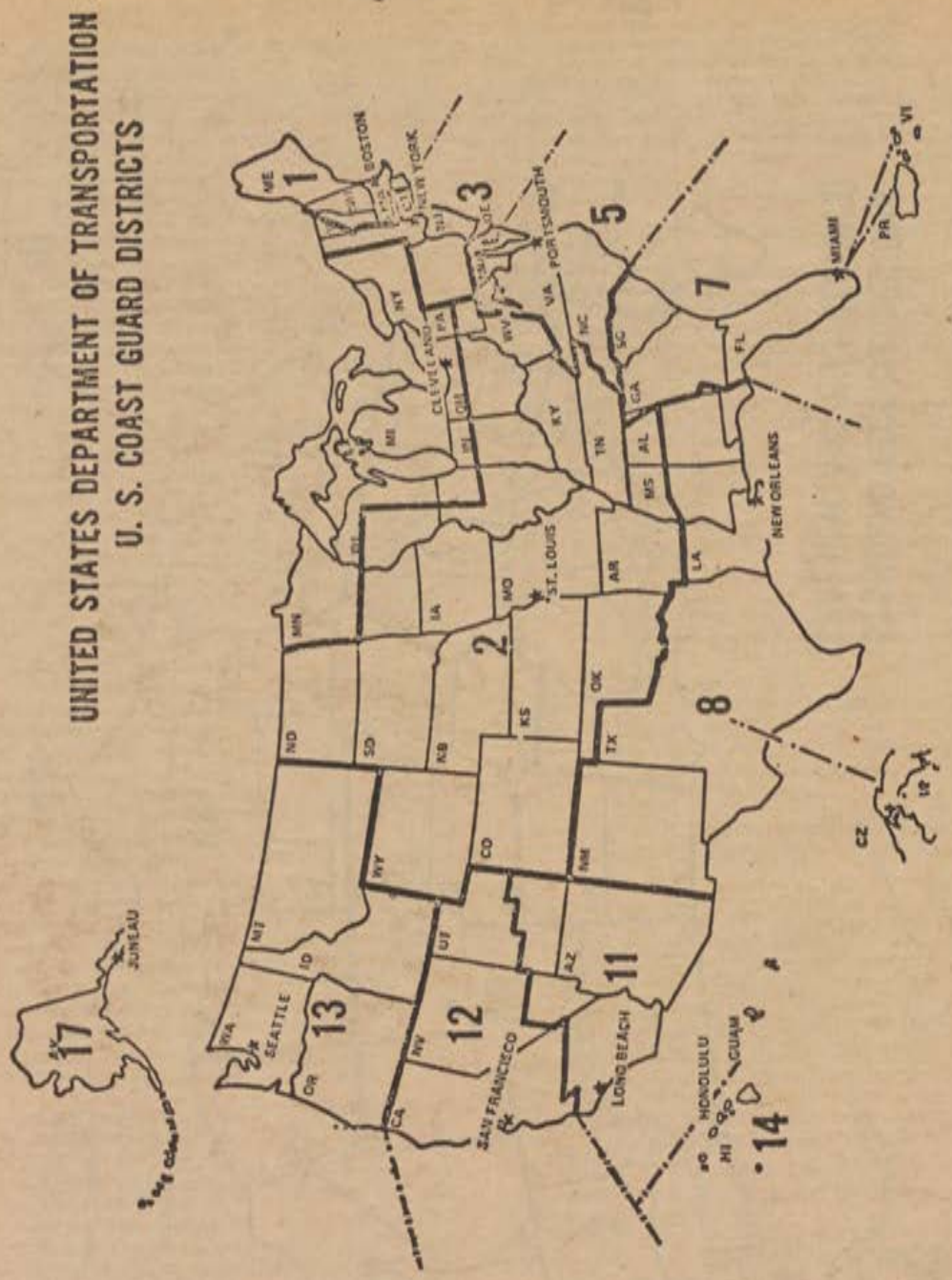

STANDARD FEDERAL REGIONS
(EPA, HEW AND HUD REGIONS)
• Regional Headquarters
I
BOSTON
ME
VT
NH
MA
CT
II
NEW YORK
NJ
PHILADELPHIA
DE
MD
NY
III
PA
WV
VA
NC
SC
IV
ATLANTA
GA
FL
AL
KY
TN
MS
V
CHICAGO
MI
OH
IN
IL
WI
MN
VI
IA
MO
VII
KANSAS CITY
KS
NE
AR
LA
DALLAS
VI
OK
TX
ND
SD
VIII
DENVER
CO
WY
MT
UT
AZ
NM
X
SEATTLE
WA
ID
OR
NV
CA
IX
SAN FRANCISCO
AK
HI
GUAM
AMERICAN SAMOA
PR
VI

Figure 9-2


UNITED STATES DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD DISTRICTS
1
2
3
5
7
8
11
12
13
14
17
BOSTON
NEW YORK
PORTSMOUTH
MIAMI
CLEVELAND
ST. LOUIS
NEW ORLEANS
SAN FRANCISCO
LONG BEACH
SEATTLE
JUNEAU
HONOLULU
GUAM
ME
NY
PA
WV
VA
NC
SC
GA
FL
PR
VI
MI
OH
IN
KY
TN
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MN
IA
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AR
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SD
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OK
TX
CZ
WY
CO
NM
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ID
UT
AZ
WA
OR
NV
CA
HI

TABLE 9–3.—ENVIRONMENTAL PROTECTION AGENCY

REGIONAL OFFICES

Environmental Protection Agency, Region I, Room 2303, John F. Kennedy Federal Building, Boston, MA 02203, Tel: (617) 223–7265.

Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, NY 10007, Tel: (202) 548–8730.

Environmental Protection Agency, Region III, Curtis Bldg., 6th and Walnut Streets, Philadelphia, PA 19106, Tel: (215) 597–9898.

Environmental Protection Agency, Region IV, 345 Peachtree St., NE., Atlanta, GA 30308, Tel: (404) 881–4062.

Environmental Protection Agency, Region V, Federal Building, 230 South Dearborn Street, Chicago, IL 60604, Tel: (312) 896–7591.

Environmental Protection Agency, Region VI, Suite 1600, 1600 Patterson St., Dallas, TX 75201, Tel: (214) 749–3840.

Environmental Protection Agency, Region VII, 1735 Baltimore Ave., Kansas City, MO 64108, Tel: (816) 374–3778.

Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, CO 80203, Tel: (303) 837–3880.

Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111, Tel: (415) 556–6254.

Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101, Tel: (206) 442–4343.

Telephone numbers are 24 hour working numbers either through automatic switching or provision of answering services.

TABLE 9–4—DEPARTMENT OF TRANSPORTATION

US COAST GUARD DISTRICTS

1st Coast Guard District (I), 150 Causeway Street, Boston, MA 02114, Duty Officer: (617) 223–6650.

2nd Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63101, Duty Officer: (314) 622–4614.

3rd Coast Guard District (II), Governors Island, New York, NY 10004, Duty Officer: (212) 264–4800.

5th Coast Guard District (III), Federal Building, 431 Crawford Street, Portsmouth, VA 23705, Duty Officer: (703) 393–7611.

7th Coast Guard District (IV), Room 1012, Federal Bldg., 51 SW. 1st Avenue, Miami, FL 33130, Duty Officer: (305) 350–5611.

8th Coast Guard District (VI), Customhouse, New Orleans, LA 70130, Duty Officer: (504) 527–6225.

9th Coast Guard District (V), 1240 East 9th Street, Cleveland, OH 44199, Duty Officer: (216) 522–3984.

11th Coast Guard District, Heartwell Bldg., 19 Pine Avenue, Long Beach, CA 90802, Duty Officer: (213) 590–2311.

12th Coast Guard District (IX), 630 Sansome Street, San Francisco, CA 94126, Duty Officer: (415) 556–5500.

13th Coast Guard District (X), 618 2nd Avenue, Seattle, WA 98104, Duty Officer: (206) 524–2902.

14th Coast Guard District, P.O. Box 45, FPO, San Francisco, CA 96610, Duty Officer: (808) 546–7109 (Commercial only), AUTOVON—321–4825.

17th Coast Guard District, FPO, Seattle, WA 98771, Duty Officer: (907) 586–7340 (Commercial only), AUTOVON—388–1121.

Telephone numbers shown are available and manned 24 hours ("*") denotes district office where coastal regional Contingency Plans for standard Federal regions are available.

Subpart J—Environmental Pollution Prevention, Control, and Abatement Report (RCS DD–I&L(SA) 1383)

GENERAL

§ 650.231 Purpose.

(a) This chapter provides reporting procedures to be followed within the Department of the Army to control environmental pollution from existing facilities as contained in section 3(a)(3) Executive Order 11752 of December 17, 1973, entitled, "Prevention, Control and Abatement of Environmental Pollution at Federal Facilities." This section of the Executive Order provides that "Heads of Federal agencies shall, with regard to all facilities under their jurisdiction in the United States: * * *. (3) Present to the Director of the Office of Management and Budget (OMB), annually, a plan to provide for such improvement in the design, construction, management, operation, and maintenance of existing facilities as may be necessary to meet applicable standards specified * * *"

(b) The report described herein will be the principal mechanism for identifying pollution control projects and those resources needed to effectively execute installation and major command environmental programs. Properly defined information presented in this report can be used as a basis for necessary programing and budget actions by DA and major commands.

(c) These instructions implement OMB Circular A–106, dated 31 Dec. 74, which supersedes OMB Circular A–78 and A–81, dated 18 May 70.

§ 650.232 Explanation of terms.

(a) The terms used herein will be the same as those defined in chapter 1.

(b) The term, "project" will mean an action to achieve needed corrective measures relative to identified environmental pollution sources.

(c) The term "cost" will mean the amount of funds required to install the necessary environmental protection measures. These funds include the capital costs of structures and equipment, irrespective of the appropriation chargeable, but not the annual maintenance and operating costs.

§ 650.233 Applicability.

Each active, semiactive and Army Reserve installation operated by or for the Department of the Army, and National Guard facilities/sites supported by federally appropriated funds in the Continental United States; Alaska, and Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Panama Canal Zone, and the Trust Territories of the Pacific, whether Army-controlled or under jurisdiction of the Army by lease or similar instrument, where environmental protection measures do not meet the current requirements and/or standards established by appropriated Federal, State, or local regulatory agencies are to be listed in the Environmental Pollution Control Report. Each installation identifying a new pollution source or environmental protection requirement will report through command channels in accordance with these instructions. Negative report will be rendered by responsible commands in the form of a listing of those installations where remedial measures are not needed to correct a source of pollution or where no additional resources are needed to meet the provisions of this regulation.

§ 650.234 Scope.

(a) The report described herein consists of one exhibit to be prepared at the installation or activity level and two exhibits to be prepared at the major command level. Reports are to be forwarded through channels to HQDA (DAEN–FEU) WASH, DC 20314, by November 15, and May 15, of each year. The exhibits will reflect information as of October 20, and April 20.

(b) Exhibit 1 is entitled—Proposed Project Report. Separate Exhibits will be prepared for each project or activity on an installation in each of the following categories:

(1) Air pollution.
(2) Water pollution.
(3) Solid waste pollution.
(4) Radiation pollution.
(5) Noise pollution.
(6) Pesticide and hazardous/toxic materials pollution.
(7) Environmental management.

(c) Exhibit 2 is entitled—Status report. It indicates the amount programed, appropriated, or funded; the current working estimate (CWE); and the status of each active project. Separate exhibits will be completed by the major commands for each category or projects (i.e. air, water, noise, solid waste, etc.). After the initial report, marked-up copies of the ADP printout giving an update on all previously reported projects is all that is necessary. The ADP printout to be used for this purpose will be provided by HQDA (DAEN–FEU) WASH, DC 20314.

(d) Exhibit 3 is entitled—Narrative report. Major commands will provide a short explanation of the objectives that will be achieved, the elements of their environmental program that will be given particular emphasis over the short term, and the extent that statutory pollution control requirements and DA environmental goals and objectives will be satisfied by executing the projects or actions listed in the report. For any specific portion of the program that requires more than 12 months to complete, an identification of the major milestones for accomplishing the various actions are also to be included.

§ 650.235 Responsibilities.

(a) *Department of the Army Staff.* (1) The Chief of Engineers will compile the overall DA report based on submissions from major commands and the National Guard Bureau.

(2) The Chief, Army Reserve will monitor those reports by the major commands to ensure that Reserve installations for which they provide logistic support are included in the Pollution Control Report.

(3) The Chief, National Guard Bureau will submit a report to the Chief of Engi-

neers including those projects for National Guard sites or installations which are supported by Federally appropriated funds.

(b) *Major commands.* (1) Major commands controlling installations or activities, or providing logistical support to Reserve installations in the United States, District of Columbia, Puerto Rico, Canal Zone, Guam, American Samoa, Virgin Islands, and the Trust Territories will submit reports in accordance with this regulation.

(2) Major commands controlling installations or activities in overseas areas will submit reports identifying pollution abatement projects required for compliance with host nation regulations, international or Status of Forces Agreements.

(3) Commanding General, U.S. Army Materiel Development and Readiness Command will submit reports on retrofit projects and programs to bring mobile sources (vehicles, aircraft and watercraft) into compliance with air, water and noise standards.

INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF EXHIBITS

§ 650.236 Exhibit 1—Proposed Project.

(a) An Exhibit 1 will be prepared and maintained current for all known pollution control projects using the format in figure 10–1 and for valid environmental protection resource requirements using the format in figure 10–2. Exhibit 1's previously submitted on air and water pollution control projects which are still valid, but not yet completed, do not have to be resubmitted in the new format except when a significant change takes place to make the earlier Exhibit 1 obsolete. Exhibit 1's are not required for completed projects.

(b) Exhibit 1's for new or revised projects or requirements will be submitted semi-annually by November 15, and May 15, of each year to DAEN–FEU based on the latest information as of 30 days prior to the above reporting dates.

(c) Each project will be identified as to the category of pollution control needed (i.e., air, water, solid waste, radiation, noise, pesticides, and environmental management). Projects within a category will be assigned consecutive numbers by DAEN–FEU beginning with "1." Project numbers are for permanent identification and may not be reassigned to new projects. Existing air and water pollution control projects previously numbered under RCS DD–I&L(SA) 1383 are to be continued under their originally assigned numbers. These project numbers apply strictly to this report and are not to be confused with or to replace programing line-item numbers.

(d) Each project at the same installation required for a distinct and separate purpose is to be considered a separate project. Separate projects will be reported individually using the project number assigned by DAEN–FEU.

(e) Every item in Figures 10–1 or 10–2 is to be completed for each project. Where no entry is appropriate, enter NA (not applicable). A specific effort must be made by the installation to obtain any information not immediately on hand.

(f) The following will be reported as other relevant information:

(1) Item 10 of Exhibit 1 will include information not shown elsewhere on the exhibit which is necessary for the evaluation of the project. For example, where the command knows of changing circumstances which will affect the practicability of undertaking a project at a particular facility (e.g., replacement of a facility or a change in installation mission which would alter control needs), these changes are to be stated. If a project is discontinued, state in this item the reasons and circumstances, if any, which might lead to a re-activation of the projects (e.g., plant is put in layaway; re-activation would be based on further troop strength increase or mobilization requirements).

(2) For facilities leased by the Army which are subject to the provisions of this regulation, describe under Item 10 the lease arrangements that would affect the requirements for control measures for such facilities. Such projects will be included in Exhibit 2 with a reference in the margin to the explanation given on Exhibit 1.

(3) If a project proposed in one environmental category is likely to generate pollution of other types, Item 10 is to include a brief description and how it is to be controlled.

(4) Citations or other forms of litigation by regulatory agencies or other official entities will be reported under Item 10.

(g) Enter in Item 11, Figure 10–1 or Item 5, Figure 10–2 known or estimated funding requirements by appropriation account (OMA, MCA, etc). (This source of project and cost data can be helpful to major commands in the development of annual budget requests to support their environmental program.)

(1) *Air.*—(i) *Item 2.* Identify the pollutant(s) by name for which the project will be required (for example: Particulate matter, sulfur oxides, hydrocarbons, carbon monoxide, nitrogen oxides, etc).

(ii) *Item 3.* State the amount of pollutants emitted by each point of emission being controlled within the facility. These amounts should be measured amounts if available and expressed in the same terms of the applicable emission standard, normally State standards (e.g., lb/hr, ppm, etc.) in Item 8 at maximum process operating rate.

(iii) *Item 4.* Identify the specific emission point(s) which the project will control. This identification should be specific (e.g., two coal-fired boilers in building "xyz" rather than just "boiler").

(iv) *Item 5.* Specify the existing pollution control measures at the individual emission points. If no control measures are being utilized, so state.

(v) *Item 6.* Indicate the percentage of the pollutant which the control device removes.

(vi) *Item 7.* Indicate the type control device or process modification to be utilized to control emissions.

(vii) *Item 8.* Cite the applicable Federal, State or local air pollution emission control standard which the facility is required to meet, referencing the specific code, chapter, and part. Also, include the date the statutory requirements became effective.

(viii) *Item 9.* Indicate the project schedules proposed by the installation and that required by the statutory standards listed in Item 8. If the schedule for achieving compliance differs from statutory, regulatory, or other milestones and deadlines, indicate the dates the facility will meet them and explain why the statutory or regulatory dates will not be met. If a compliance schedule has been negotiated and accepted by the Regional EPA administrator, list those dates in lieu of those cited in a statute or regulation and indicate the date the compliance schedule was accepted.

(ix) Items 10 & 11. Complete according to instructions §§ 650.236 (a) thru (f).

(2) *Water*—(i) *Item 2.* Describes specific pollution and nature of problem, e.g., unintercepted washrack wastes containing oil and grease; overloaded sewage treatment plant bypasses raw or partly treated sewage to river; combined sewage overflow carries untreated sewage to lake, etc. Use this item and items 3, 6, and 7 as appropriate to describe infiltration inflow problems and measures required by NPDES permit and/or by "Spill Control and Countermeasure Plans" formulated pursuant to 40 CFR Part 112, "Oil Pollution Prevention," and promulgated in chapter 9 of this regulation.

(ii) *Item 3.* Show amount of waste generated and treated. Indicate gpd, tgd, or mgd.

(iii) *Item 4.* Show whether discharge is due to water (name of receiving water and location thereon), sewer system (name), land application, subsurface (e.g., septic system, drainfield, etc.).

(iv) *Item 5.* If problem as described in items 2 and 4 does not relate to an existing or proposed treatment plant, identify in this item the plant, if any, which ultimately receives, or will receive, and treats the wastewater.

(v) *Items 6 and 7.* In appropriate item, show existing and proposed ppm and/or lbs. in influent and effluent and percent removal for all principal polluting constituents. As a minimum Biochemical Oxygen Demand (BOD) (Chemical Oxygen Demand (COD) and total organic carbon (TOC) where applicable) and suspended solids data should be shown wherever possible.

(vi) *Item 8.* Cite the applicable Federal, State or local discharge standard which the facility is required to meet, referencing the specific code, chapter and part. Also include date statutory requirement became effective. Briefly summarize the discharge limitations if a NPDES permit has not been issued. When a draft or final NPDES permit has been issued, indicate:

(A) When a permit application was submitted;

(B) The application and/or permit number, and the effective and expiration dates of any permit(s) issued; and

(C) The conditions of each permit in summary form, other than the compli-

ance dates which are to be entered in item 9.

(vii) *Item 9.* Indicate the project schedules proposed by the command and as required by the standards listed in item 8. Where issued, NPDES permit schedules should be entered in the Regulation Schedule column. If the command schedule for achieving compliance differs from the regulatory, or NPDES scheduled dates indicate the date the facility will be in compliance and explain why the required dates will not be met.

(viii) *Item 10.* Under lease construction arrangements, state who is responsible for obtaining NPDES permits or for meeting schedules and requirements.

(ix) *Item 11.* Provide funding requirements.

(3) *Solid waste*—(i) *Item 2.* Indicate the activity which is not in compliance with solid waste disposal standards; i.e., waste collection, segregation of wastes, siting or operation of sanitary landfill.

NOTE.—Particular attention is to be given to controlling leachate from landfill seeping into ground or surface water sources, control of surface runoff, sanitation of waste collection and transfer systems.

(ii) *Item 3.* If specific amounts of pollution are known, list or otherwise provide best estimate.

(iii) *Item 4.* Give details of the problem; i.e., whatever it is that is not in compliance with standards.

(iv) *Item 5.* Indicate, as applicable, quantities, types, and sources of solid waste handled; frequency of operation; year of original construction/operation; design life; and estimated remaining life.

(v) *Item 6.* Discuss effectiveness of existing solid waste management system or practices, if applicable.

(vi) *Item 7.* Give brief description of proposed project which will bring operation into compliance.

(vii) *Item 8.* Specify the DA, EPA, or other solid waste management guideline applicable and the specific requirement that makes the project necessary and the effective date of the regulation.

(viii) *Items 9, 10 and 11.* Complete according to instructions §§ 650.236 (a) through (f).

(4) *Radiation*—(i) *Item 2.* Identify specific type of pollutant; i.e., plutonium, cobalt 60 and other substances emitting ionizing radiations.

(ii) *Item 3.* Indicate levels of contamination (Curies or subunits, etc.).

(iii) *Item 4.* Give details of the problem.

(iv) *Item 5.* Explain current protection measures being employed, if any.

(v) *Item 6.* Discuss effectiveness of current control measures.

(vi) *Item 7.* Give brief description of proposed remedial measures.

(vii) *Item 8.* Specify NRC, EPA, or DA standards that are applicable and effective date of the regulation.

(viii) *Items 9, 10 and 11.* Complete according to instructions §§ 650.236 (a) through (f).

(5) *Noise Pollution*—(i) *Item 2.* Specify the character of the noise if known or by answering the following questions:

(A) Is the noise impulsive or non-impulsive?

(B) Is the noise on continuously or is it on-and-off intermittently?

(C) When the noise is on, is it steady in level, or does the level of loudiness fluctuate?

(D) Is there a discernable tone or whine in the noise?

(ii) *Item 3.* Specify: (A) the sound level, if measured, and the measurement methodology utilized; (B) the elevation of the noise source, and the distance from the source to the noise impacted area; (C) identify the facilities or areas affected including the nature of the activities affected by the noise intrusions; e.g., churches, schools, hospitals, homes, recreational areas, offices and business areas, etc., and (D) whether areas affected are on or off-post. Technical assistance on identification and characterization of noises should be requested from Commander, US Army Health Services Command (HSC-PA), Fort Sam Houston, TX 78234.

(iii) *Item 4.* Identify the specific course of noise pollution which requires control. Report as a minimum, those sources which have been the subject of citizen complaints.

(iv) *Item 5.* (A) Give description of existing level of noise control provided in terms of noise control management techniques such as engineering noise reduction, land use planning, or administrative procedures on controlling the source, path or receptor.

(B) State if sources of acoustic expertise were provided by an acoustical laboratory within the Army, or from commercial acoustical consultants to obtain noise level data.

(v) *Item 6.* Describe the effectiveness of existing treatment and control measures.

(vi) *Item 7.* Describe any remedial measures proposed and estimated effect in correcting the noise problem.

(vii) *Item 8.* Specify those portions and effective dates of applicable Federal, State or local noise regulations, statutes, standards to which the project responds, and the acceptable sound level permitted thereafter. If no regulations are known to apply, indicate if the nature of citizen complaints would justify some form of corrective action.

(viii) *Item 9.* Indicate the project schedules proposed to comply with standards listed in Item 8. If the schedule for achieving compliance differs from statutory or, regulatory laws, indicate the dates the requirements will be met and explain the reasons therefor.

(ix) *Item 10.* (A) Identify the complaints received on the noise source in terms of the nature and number of complaints, source of complaints (military or civilian) and how they were registered with the installation (e.g., petitions, phone calls, letters, telegrams, etc.).

(B) Indicate if any legal actions are anticipated or have been initiated against the installation as a result of this reported source of environmental noise pollution.

(x) *Item 11.* Provide funding requirements.

(6) *Pesticides and hazardous/toxic materials.* (i) Projects to be reported should involve the control and abatement of pesticide and hazardous/toxic material pollution. Do not describe proposed and/or current programs involving the use of pesticides. Examples of pollution control projects would be measures to correct inadequate storage or disposal facilities to clean up land areas contaminated as a result of a pesticide spill, to provide mixing sinks and bathing facilities for personnel to repackage leaking chemical stock's, etc.

(ii) *Item 2.* Identify the pesticide or chemical that is the source of pollution and indicate the reason for correcting existing conditions.

(iii) *Items 3 thru 6.* Complete according to instructions (§§ 650.236(a) through (f)).

(iv) *Item 7.* Describe the proposed method of disposal or nature of proposed corrective action.

(v) *Items 8 thru 11.* Complete according to instructions (§§ 650.236(a) through (f)).

(7) *Environmental Management.* (i) Exhibit 1-EM (figure 10-2) will be used to identify needed resources not included in an Exhibit 1 prepared in accordance with a previous paragraph but are required to comply with the provisions of this regulation. Items to be reported are those needed for the management of an installation environmental program and can logically include:

(A) NEPA resources—Preparation of Environmental Assessments and Environmental Impact Statements.

(B) Manpower resources—Full time environmental coordinators, staff officers, instructors, etc.

(C) Training—Schooling for operators (i.e., sewage treatment plant operators, lab technicians, pesticide applicators); training for management personnel (i.e., environmental co-ordinator, sanitary engineers, etc.).

(D) Environmental surveys—Ecological or archeological surveys of an installation to obtain information needed for an Environmental Impact Assessment or an Environmental Impact Statement (EIA or EIS).

(E) Special studies—Technical or engineering studies to define sources of pollution and identify possible remedial measures.

(F) Other—Specify.

(ii) *Item 2.* Identify the basic requirement using the identification in subparagraphs (1)(i) (A) through (F) of this paragraph.

(iii) *Item 3.* Explain the requirement and provide a brief justification for any new or additional resources needed for the management of the installation environmental program.

(iv) *Item 4.* List only those items which are quantifiable, such as number of personnel required, special equipment items, school courses, man-year requirements for studies, etc. by fiscal year.

(v) *Item 5.* Cite one-time costs or 5-year projected costs by appropriation as applicable.

(vi) *Item 6.* List other relevant information and specify. (See figure 10–9 and § 650.236(f).)

(h) Sample Exhibits—Examples of Exhibit 1's for each of the media are shown in figures 10–3 through 10–9.

§ 650.237 Exhibit 2—Status Report.

(a) Exhibit 2 is a command report which provides a financial summary of the projects in the program and their status. A separate Exhibit 2 is required for each media or category of projects (i.e., air, water, noise, solid waste, etc.) and will be submitted semiannually along with Exhibit 1's on November 15, and May 15 of each year.

(b) Exhibit 2 will include all active projects plus those completed or discontinued subsequent to the submission of the previous report. Once a project is reported as completed or discontinued, it will be dropped from the report. The May 15 report will contain all projects which the command will submit in the next fiscal year budget. In addition, the November 15 report will reflect congressional appropriation action taken on the prior fiscal year budget.

(c) The initial Exhibit 2's for each media will be prepared by the reporting command using the format in Figure 10–10. Subsequent reports will be only an update of the previous command report. As each Exhibit 2 is received from a command, it will be converted to an ADP printout and returned to the reporting command by DAEN–FEU in 45–60 days for use in the next report update. The following updating procedures will be observed:

(1) One copy of a marked-up printout of the previous Exhibit 2 will accompany the semi-annual report.

(2) Corrections, changes and additions will be made neatly with a RED marking pen.

(3) An asterisk in the left margin will be used to identify projects which have been completed, discontinued or changed.

(4) New projects will be added to the bottom of the appropriate media printout.

(5) Exhibit 2's submitted on May 15 will contain the amount included or proposed to be included in the President's budget for each project, or the amount actually appropriated or funded.

(6) Major Command updating will be done only for non-MCA funded projects. MCA funded project status will be updated by DAEN–FEU.

(7) Each revision of Exhibit 2 will reflect the information as of October 20 and April 20, as appropriate.

(8) Funding totals by appropriation type for each fiscal year and for each media reported will be provided at the bottom of the last page:

(9) Current and relevant information will be presented in the "Status" column using the following format:

(i) Indicate "PP ——" if the project is in the preliminary planning stage. The blank provided should contain the estimated completion date for construction.

(ii) Indicate "DES ——" if the project is under design or has been designed, but is *not* under construction. The blank provided should contain the estimated completion date for construction and not the completion date of design.

(iii) Indicate "CON —" if the project is under construction. The blank provided should contain the estimated completion date.

(iv) Indicate "CPL —" if the project has been completed. The blank provided should contain the actual completion date.

(v) Indicate "DIS" if the project has been discontinued or dropped. Reasons should be given.

(vi) Indicate "DEF" if the project has been deferred or significantly delayed. Reasons for and what corrective actions taken, if any, should be given.

(vii) Indicate "OTH" if other than the above circumstances apply. An explanation should be given.

§ 650.238 Exhibit 3—Narrative Report.

(a) The narrative report will be a brief summary of the command environmental program. No specific format is prescribed; however, it will contain the following:

(1) Financial displays for the current FYDP period by appropriation account (MCA, PA, OMA, etc.) and by program media (air, water, noise, etc.). The elements of the program presented in the Exhibit 1–EM are to be aggregated by management activity to identify funding requirements for training, preparation of EIA/EIS, environmental surveys and studies, personnel costs, etc.

(2) An explanation of the environmental objectives to be achieved by completing the projects reported or funding those activities contained in Exhibit 1's. For any specific portion of the program that requires more than 12 months to complete, identify the major milestones for accomplishing the actions.

(3) Elements of the command program that will be given particular emphasis over the short term.

(4) Projection of when statutory pollution control requirements, Federal, or state, will be satisfied by the various elements of a command.

(5) Summary of potential or pending environmental litigation involving installations within the command.

(6) Explanation of anticipated problem areas requiring DA assistance.

(b) The content of the narrative report is basically a forecast of how the major command intends to accomplish its environmental program during the succeeding 12 months. This requirement should not be confused with the requirement for the annual status report (RCS DD-I&L(A) 1269), specified in § 650.9 of Subpart A of this part of this regulation, which is an annual summary of environmental protection accomplishments for the specified preceding calendar year.

EXHIBIT 1

CIRCULAR NO. A–106

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Project No.:
Media: Date Prepared:
Date Revised:
GSA Inventory Control No.:

1. *Facility*

Name: ----------

Address: ----------
(city, county, state)

Agency Contact: ----------
(name, title, telephone)

2. *Specific Type of Pollution.*

3. *Amount of Pollution.*

4. *Pollution Source, and Discharge, Emission, or Deposit Point.*

5. *Existing Treatment and Other Control Measures.*

6. *Effectiveness of Existing Treatment and Control.*

7. *Remedial Measures Proposed and Estimated Effect in Correcting Problem.*

8. *Applicable Standards.* (Cite the specific State, interstate, local, or Federal regulation and specific requirement for which the project is needed.)

9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)		
Construction (start)		
Construction (completion)		
Operation (start)		
Final compliance		

10. *Other Relevant Information.*

11. *Funding Schedule.*

Figure 10–1

EXHIBIT 1–EM

ENVIRONMENTAL POLLUTION CONTROL

Proposed Management Requirement

Date Prepared:
Date Revised:
GSA Inventory Control No.:

1. *Facility.*

Name: ----------

Address: ----------
(city, county, state)

Agency Contact: ----------
(name, title, telephone)

2. *Resource Identification.*

3. *Explanation and Justification of Resource Requirement.* Identify why resources, personnel and/or funds are needed for the "management" or conduct of the installation environmental program.

4. *Proposed Resource Schedule.* List by fiscal year for the period of the FYDP, when applicable.

5. *Funding.* Indicate appropriation account, amounts by fiscal year and whether amount is programed or unprogramed.

6. *Other Relevant Information.*

Figure 10–2

EXHIBIT 1

CIRCULAR NO. A–106

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Department of the Army
Media: Air

Project No.: A–078C
Date Prepared: 5/26/73
Date Revised: 2/11/74
GSA Inventory Control No.:

1. *Facility.*

Name: ABC Army Ammunition Plant.
Address: Kingstown, Georgetown County, S.C.
Agency Contact: MJR B. A. Smith Facility Engineer (615) 765–4321.

2. *Specific Type of Pollution.* NO_x
3. *Amount of Pollution.* 4,500 #/hr when process is operated at maximum rate.
4. *Pollution Source and Discharge, Emission, or Deposit Point.* Nitric Acid Plant No. 13, Bldg. A.
5. *Existing Treatment and Other Control Measures.* No control measures.
6. *Effectiveness of Existing Treatment and Control.* 0% Removal efficiency.
7. *Remedial Measures Proposed and Estimated Effect in Correcting Problem.* Construct packed column control device 94% efficient to achieve full compliance.
8. *Applicable Standards.* (1) State: State Air Code, Chapter V, S113.a(ii).
(2) Region:
(3) Actual standard or exact citation: Maximum of 450 #/hr allowed as per the XYZ test method; effective date of emission standard is 1/31/72.
9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)	4–74	4–74
Construction (start)	10–74	9–74
Construction (completion)	1–75	11–74
Final operation (start)	6–75	5–75
Final compliance	7–75	9–75

Explanation of difference between items 8 and 9: project advanced to provide margin of safety.

10. *Other Relevant Information.* Citizens complaints received on 12/15/73. Suits initiate on 12/30/73 by Onaconda Environmental Study Group.

11. Funding.

[In thousands of dollars]

PEMA	Fiscal years				
	1976	1977	1978	1979	1980
Programed	[1] 875	0	0	0	0
Unprogramed	0	0	0	0	0

[1] Included as part of plant modernization program.

Figure 10–3

EXHIBIT 1

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Department of the Army
Media: Water

Project No.: A–999b.
Date Prepared: 2–29–72
Date Revised: 12–26–73
GSA Inventory Control No.: 45678

1. *Facility.*
Name: Camp Faraway.
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer. (615) 755–0022.

2. *Specific Type of Pollution.* Domestic sewage, partly treated. Existing treatment plant overloaded. Excess flow bypassed to river. Influent includes small amounts (.01 mgd) of filter backwash from water treatment plant containing precipitates of alum, iron, and manganese.

3. *Amount of Pollution.* Total flow: 6.2 mgd. Treated: 4.0 mgd.

4. *Pollution Source, and Discharge, Emission, or Deposit Point.* Secondary treatment plant discharges to Obstacle River, 3 miles below Mulch City water supply intake.

5. *Existing Treatment and Other Control Measures.* Secondary—high rate trickling filter plant, final sedimentation, and chlorination. Design Capacity=4.0 mgd.

6. *Effectiveness of Existing Treatment and Control.*

Principal constituent	In parts per million		Percent removal
	Influent	Treated effluent	
BOD5	235	36	83
Suspended solids	392	60	85
Total phosphorous as P	8.98	4.67	48
Total nitrogen as N	24.96	21.14	15

7. *Remedial Measures Proposed and Estimated Effect in Correcting Problem.* Replace existing treatment plant with AWT plant: chemical/activated sludge/multi-media filtration to achieve 95 percent removals or better. Design capacity=7.5 mgd.

8. *Applicable Standards. State Standards.* SD Code: Water Poll—Chapter 61, 1960 Supp. SD Code: Public Health—Chapter 27, 1960 Supp. Water Quality Standards for Surface Waters: Reg E–1.10A (Rev.).

Federal Regulations. 40 CFR 125, 133, PL 92–500, SS 301, 313, PL 92–500, S 402–NPDES, NPDES Permit Number—SD0012345, Permit Period—1974–1979.

9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)	4–75	N/A
Construction (start)	6–75	5–75
Construction (completion)	2–77	1–77
Operation (start)	4–77	N/A
Final compliance	6–77	7–77

Regulations schedule as required by NPDES permit. State water quality standard requires adequate secondary treatment by 1/74.

Unable to meet State requirement because of design problems and funding cycle. State has permitted delay on condition NPDES permit deadline is met.

10. *Other Relevant Information.* Installation may become surplus in FY 75 or FY 76 leading to project discontinuance.

Funding

[In thousands of dollars]

MCA	Fiscal years				
	1976	1977	1978	1979	1980
Programed	0	8,000	0	0	0
Unprogramed	0	0	0	0	0

FIGURE 10–4

EXHIBIT 1

CIRCULAR NO. A–106

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Department of the Army.
Media: Solid Waste.

Project No.: A–001
Date Prepared: 2/11/74
Date Revised:
GSA Inventory Control No.:

1. *Facility.*
Name: Camp Faraway.
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer (615) 755–0022.

2. *Specific Type of Pollution.* Camp landfill.

3. *Amount of Pollution.* Leachate of high BOD concentration.

4. *Pollution Source, and Discharge, Emission, or Deposit Point.* Landfill is used for disposal of installation wastes. Due to frequent rains, wastes build up high moisture content and leachate, which emanates from side of fill. Also, area is noted to be a common breeding ground for flies and mosquitos, and is generally unsightly.

5. *Existing Treatment and Other Control Measures.* a. Landfill receives 10 tons per day of solid waste altogether, 5 from the Camp and 5 from the nearby Lindberg Air Base. It consists mainly of normal municipal-type wastes delivered on Monday, Wednesday and Friday of each week. Once a week a large load of oily rags is dumped in one corner of the landfill site.

b. Landfill was first opened in Summer of 1970 and is designed to operate until 1990.

c. Some control of run-off waters is exercised by a trench on the downhill side of landfill draining into a settling pond.

6. *Effectiveness of Existing Treatment and Control.* Trench prevents run-off waters from entering local bay waters, but does not solve vector, or aesthetic problems, nor does it minimize the amount of leachate forming.

7. *Remedial Measures Proposed and Estimated Effect in Correcting Problem.* Purchase of bulldozer to compact and cover wastes, minimize formation of leachate, control vectors, and improve general appearance. Relocate landfill to area with better drainage.

8. *Applicable Standards.* EPA Guidelines for Land Disposal of Solid Wastes, published in FEDERAL REGISTER July 1, 1974, requirements under sections 241.204, 241.207, 241.208, 241.209, and 241.210.

9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)	N/A	N/A
Construction (start)	N/A	N/A
Construction (completion)	N/A	N/A
Begin procurement action	7–75	N/A
Operation (start)	7–76	N/A
Final compliance	7–76	N/A

10. *Other Relevant Information.* Station planning to build an incinerator in 1980 to extend life of landfill.

11. *Funding.*

[In thousands of dollars]

	Fiscal years				
	1976	1977	1978	1979	1980
PEMA:					
Programed	0	0	0	0	0
Unprogramed	30	0	0	0	0
OMA:					
Programed engineering study	3	0	0	0	0
Unprogramed construction new landfill		10			

FIGURE 10–5

EXHIBIT 1

CIRCULAR NO. A-106

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Department of the Army.
Media: Radiation.

Project No.: A-001
Date Prepared: 6/14/74
Date Revised: 6/15/74
GSA Inventory Control No.:

1. *Facility.*
Name: Camp Faraway, Power Reactor.
Address: Mulch City, Enny County, SD.
Agency Contact: Col. John Smith, Facilities Engineer (615) 755-0022.

2. *Specific Type of Pollution.* Tritium in primary water cooling system.

3. *Amount of Pollution.* Tritium concentrations exceed new NRC, EPA, and DA standards for discharge of primary coolant water.

4. *Pollution Source and Discharge, Emission or Deposit Point.* Primary coolant water discharged to holding tank and then periodically released to Lake Enny.

5. *Existing Treatment and Other Control Measure.* Holding tank before release to lake.

6. *Effectiveness of Existing Treatment and Control.* Only limited decay obtained from retention in holding tank.

7. *Remedial Measures Proposed and Estimated Effect in Correcting Problem.* Redesign holding tank system to include addition of ion exchanger.

8. *Applicable Standards and Regulations.* 10 CFR Parts 20 and 50, 40 CFR Part 190 and AR 385-80.

9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)	2-75	N/A
Construction (start)	5-75	N/A
Construction (completion)	7-75	N/A
Operation (start)	8-75	N/A
Final compliance	8-75	N/A

10. *Other Relevant Information.* None.

11. *Funding.*

[In thousands of dollars]

MCA	Fiscal years				
	1976	1977	1978	1979	1980
Program	375				

FIGURE 10-6

EXHIBIT 1

CIRCULAR NO. A-106

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Department of the Army.
Media: Noise.

Project No.: A-001
Date Prepared: 6/1/74
Dated Revised:
GSA Inventory Control No.: 45678

1. *Facility.*
Name: Camp Faraway.
Address: Mulch City, Enny County, SD.
Agency Contact: Col. John Smith, Facilities Engineer (615) 755-0022.

2. *Specific Type of Pollution.* Noise is broadband with discernible tones. (Noise is nonimpulsive; it is continuous at a steady in level, but with a discernible tone.)

3. *Amount of Pollution.* The source measures 75 dBA at the property line. Source is 20 feet from boundary line at a height of 15 feet. Facilities or areas affected: Civilian school and housing (off the installation).

4. *Pollution Source, and Discharge, Emission, or Deposit Point.* One power plant with forced draft fans and cooling tower.

5. *Existing Treatment and Other Control Measures.* No noise control exists. Acoustic expertise-Acoustics, Inc., Chicago, IL.

6. *Effectiveness of Existing Treatment and Control.* None.

7. *Remedial Measures Proposed and Estimated Effect in Correcting Problems.* Installation of commercially available mufflers on all forced draft fans and noise enclosure on cooling tower. It is expected that this action will lower the sound level below the background noise.

8. *Applicable Standards.* Mulch Noise Ordinance, Section 4-12, Chapter 17 of the Municipal Code of Mulch, requires that the noise level at the boundary line in business and commercial districts not exceed 62 dBA.

9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)	9-76	N/A
Construction start	11-74	N/A
Construction (completion)	2-77	N/A
Operation (start)	3-77	N/A
Final compliance	4-77	N/A

The standards require immediate compliance. Agency schedule provides for earliest possible installation of control measures.

10. *Other Relevant Information.* (a) Community complaints have included 26 telephone calls, 15 letters, and 3 personal visits. Nature of complaints centered upon annoyance. (Log of noise complaints attached.)

(b) Legal action has not been initiated, but may be by County School Board.

11. *Funding.*

[In thousands of dollars]

OMA	Fiscal years				
	1976	1977	1978	1979	1980
(a) Mufflers on forced draft fans:					
Programed		25			
Unprogramed					
(b) Enclosures on cooling tower:					
Programed					
Unprogramed		10			

FIGURE 10-7

EXHIBIT 1

ENVIRONMENTAL POLLUTION CONTROL

Proposed Project Report

Agency: Department of the Army
Media: Pesticides & Hazardous/Toxic Materials

Project No.: A-002
Date Prepared: Sept. 15, 1974
Date Revised:
GSA Inventory Control No.:

1. *Facility.*
Name: Camp Faraway.
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer (615) 755-0022.

2. *Specific type of pollution.* The following pesticides registered for the control of pests: malathion, diazinon, chlorpyrifos, propoxur, lindane, chlordane.

3. *Amount of Pollution.* Quantities of pesticide concentrate mixed per month: Malathion 10 gal; diazinon, 10 gal; chlorpyrifos, 7 gal; propoxur, 10 gal; lindane, 2 gal; chlordane, 10 gal.

4. *Pollution Source, and Discharge, Emission, or Deposit Point.* N/A.

5. *Existing Treatment and Other Control Measures.* Mixing sink and sump.

6. *Effectiveness of Existing Treatment and Control.* Sink too small. Inadequate neutralization and sump capacity. Requires manual bailing.

7. *Remedial Measures Proposed and estimated Effect in Correcting Problem.* Replace small mixing sink with larger double mixing sink. Install a neutralization and holding tank with sump pump for pesticide rinses.

8. *Applicable Standards.* Executive Order #11643—Environmental Safeguards on Activities for Animal Damage Control on Federal Lands. February 8, 1972. Additionally, the EPA, under statutory authority of Section 4, Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act.

9. *Project Schedule.*

	Agency schedule—month and year	Regulation schedule—month and year
Design (completion)	10-75	N/A
Construction (start)	1-76	N/A
Construction (completion)	3-76	N/A
Operation (start)	4-76	N/A

10. *Other Relevant Information.* Other stocks of suspended on finally cancelled pesticides will be stored until proper disposal methods are developed. Inventory: 5 percent DDT in oil—350 gallons; 75 percent DDT wettable powder—220 lbs.

11. *Funding Schedule.*

[In thousands of dollars]

OMA	Fiscal years				
	1976	1977	1978	1979	1980
Programed	3.0	0	0	0	0
Unprogramed	0	0	0	0	0

FIGURE 10-8

EXHIBIT 1-EM

ENVIRONMENTAL POLLUTION CONTROL

Proposed Management Report

Agency: Department of the Army
Media: Management

Date Prepared: 1 Oct. 74
Date Revised:
GSA Inventory Control No.: *12345*

1. *Facility.*
Name: Fort Stoner.
Address: Podunk, Organ County, S.D.
Agency Contact: COL J. J. Jones, Facility Engineer, AV 823-1555.

2. *Resource Identification.* Training.

3. *Explanation and Justification of Resource Requirement.* Training is required for sewage treatment plan superintendent, operators and laboratory technician to meet certification standards of South Dakota. A new sewage treatment plant will be put into operation in December 1975 and trained personnel will be required to operate it. Current personnel are not familiar with the operation of the new plant and require instructions on State requirements and standards.

4. *Proposed Resource Schedule.* Training offered at University of South Dakota. Attendance at one-week courses is as follows:

	Fiscal years				
	1975	1976	1977	1978	1979
Superintendent	1				
Operator		2	2	1	1
Lab technician		1			

5. *Funding.*

[In thousands of dollars]

OMA	Fiscal year				
	1975	1976	1977	1978	1979
Programed	0.2	0.6			
Unprogramed			0.4	0.2	0.2

6. *Other Relevant Information.* Outyear requirements reflect training for new hires.

FIGURE 10–9

EXHIBIT 2

_____ POLLUTION STATUS REPORT
(media)

Agency: _____
Agency contact: _____
Telephone: _____

Appropriation account: _____ (OMA, MCA, etc.)
Page ____ of _____
Reporting Date _____

Project No.	Project name and location (GSA inventory control No.)	Project costs ($1,000's)—Amount in President's budget or agency plan or amount appropriated or funded						Present cost estimate	Status
		Fiscal year −2	Fiscal year −1	Current fiscal year	Fiscal year +1	Fiscal year +2	Fiscal year +3		

NOTE.—Provide totals on the last page for each appropriation account.

FIGURE 10–10

APPENDIX A—PROCEDURES FOR THE PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

FRIDAY, JANUARY 25, 1974
WASHINGTON, D.C.
Volume 39—Number 18
PART II
See FEDERAL REGISTER 39 FR 3366–3370, January 25, 1974.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PROCEDURES FOR THE PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

[FR Doc.77-36275 Filed 11-28-77;8:45 am]

federal register

THURSDAY, DECEMBER 29, 1977
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Procedures for Evaluating Specific Learning Disabilities

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Procedures For Evaluating Specific Learning Disabilities

AGENCY: Office of Education, HEW.

ACTION: Final rule.

SUMMARY: These regulations provide procedures for evaluating specific learning disabilities. The regulations supplement basic evaluation requirements under the regulations for part B of the Education of the Handicapped Act which were published August 23, 1977. Upon the effective date of these regulations, the two percent limit (the "cap") on the number of children with specific learning disabilities who may be counted for allocation purposes under part B is removed.

EFFECTIVE DATE: As required by section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these amendments have been transmitted to Congress concurrently with publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of transmission, subject to the provisions concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Daniel Ringelheim, Director, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Avenue SW. (Room 4046, Donohoe Building), Washington, D.C. 20202. Telephone: 202-472-2265.

Or

Frank S. King, State Plan Officer, Field Services Branch, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Avenue SW., (Room 4946, Donohoe Building), Washington, D.C. 20202. Telephone: 202-245-9815.

SUPPLEMENTARY INFORMATION:

RULEMAKING HISTORY—PUBLIC PARTICIPATION

Because of the potential impact that these regulations could have on the education of specific learning disabled (SLD) children throughout the Nation, and on the agencies that serve them, the Office of Education recognized the need for intensive public participation in the development of the regulations, and has taken steps to insure maximum public involvement throughout the entire rulemaking process. Experts and citizens representing advocate groups, including parents and professionals, were invited to participate in meetings where the primary issues regarding the development of these regulations were identified and discussed.

Following the series of meetings, a draft concept paper was developed. The concepts contained in that paper were shared at a special meeting with State educational agency representatives from 34 States. The purpose of this activity was to attempt to ascertain if the concepts contained in the draft paper presented any major philosophical and implementation problems for States.

On November 29, 1976, the proposed rules were published in the FEDERAL REGISTER (41 FR 52404). Written comments and recommendations on the proposed rules were invited for a 120 day comment period. Public hearings were held in Washington, San Francisco, Denver, Chicago, Boston, and Atlanta during that period. This comment period on the proposed regulations extended beyond the period of the annual international conference of the Association for Children with Learning Disabilities, where the proposed regulations were a major topic of both presentations and discussions at that conference. Many sessions on the proposed regulations were conducted by Office of Education personnel and others. During the comment period, over 980 letters were received. In addition 88 formal presentations were made at the hearings. All written and verbal comments were reviewed and considered by the Office of Education in preparing these final regulations.

The tapes of the hearings and copies of written comments are available for public inspection at the Bureau of Education for the Handicapped, Room 4921, Donohoe Building, 400 6th Street SW., Washington, D.C. 20202.

SUMMARY OF PROCEDURES FOR EVALUATING SPECIFIC LEARNING DISABLED CHILDREN

These regulations have been developed to comply with section 5(b) of Pub L. 94-142, which required the Commissioner to develop procedures for evaluating children who have a specific learning disability (SLD). Upon the effective date of these SLD regulations, they will be incorporated into the general regulations under part B of the Education of the Handicapped Act published in August (45 CFR Part 121a).

The part B regulations set out basic procedures which public agencies are required to use in evaluating all handicapped children, including, for example, the following requirements: (1) That tests and other evaluation materials are provided and administered in the child's native language or other mode of communication; (2) That no single procedure is used as the sole criterion for determining an appropriate educational program for a child; and (3) That the evaluation is made by a multidisciplinary team including at least one teacher or other specialist with knowledge in the area of suspected disability.

These SLD regulations set out additional procedures which apply only to the evaluation of children suspected of having a specific learning disability. Following is a summary of these additional requirements:

First, the multidisciplinary team must include the child's regular teacher. (If the child has no regular teacher, a person qualified to teach a child of that age would be assigned to the team.) The team also must include a person qualified to conduct individual diagnostic examinations. (Within the SLD population, there are children who primarily display problems of language development. For this population, qualified specialists in speech and language disorders represent an appropriate professional resource.)

Second, criteria are set out for use by the team in determining the existence of a specific learning disability. This determination is made based on (1) whether a child does not achieve commensurate with his or her age and ability when provided with appropriate educational experiences, and (2) whether the child has a severe discrepancy between achievement and intellectual ability in one or more of seven areas relating to communication skills and mathematical abilities.

These concepts are to be interpreted on a case by case basis by the qualified evaluation team members. The team must decide that the discrepancy is not primarily the result of (1) visual, hearing, or motor handicaps; (2) mental retardation; (3) emotional disturbance; or (4) environmental, cultural, or economic disadvantage.

The regulations also set out procedures for observing the child's performance and for preparing a written report of the results of the evaluation.

MAJOR CHANGES FROM PROPOSED REGULATIONS

The following major changes have been made from the proposed regulations:

(1) The formula has been deleted;

(2) The "50 percent" figure for determining "severe discrepancy" has been deleted;

(3) Provisions duplicating requirements in final regulations for general evaluation procedures and for medical examinations under Part B have been deleted.

(4) The monitoring sections have been deleted, since State educational agency (SEA) monitoring responsibilities are covered under § 121a.601 of the Part B regulations. The Commissioner has established these detailed monitoring responsibilities of the SEAs and will monitor each State's compliance with these and other requirements of Part B.

The statute provides that when these final regulations take effect, the two percent cap on the number of children with specific learning disabilities who may be counted for allocation purposes is removed (section 5(c)). Therefore, § 121a.-702.(a)(2) of the Part B regulations, which repeated the statutory cap requirement, is deleted.

ACTION TAKEN OF PUBLIC COMMENTS

The Office of Education conducted a careful review of the public comments received and summarized them by topic.

Of the 982 letters of comment and 88 presenters at the public hearings, the most frequently expressed concern was with the inclusion of the use of a formula as a part of the diagnostic criteria. With the exception of the composition of the evaluation team, there were relatively few comments on other portions of the proposed regulations.

Only a few commenters made suggestions for a different approach to be used to determine the existence of specific learning disabilities. Each of these suggestions was determined to be inappropriate for use in these regulations because it was based on unproven theories or on current practice for which no professional consensus is available.

ANALYSIS OF REGULATIONS

The appendix to the Part B regulations is amended by (1) a discussion of significant comments received on these regulations and the action taken with respect to those comments, and (2) an explanation of the basis for any changes made from the proposed rules published on November 29, 1976.

TECHNICAL CORRECTIONS TO PART 121a REGULATIONS PUBLISHED ON AUGUST 23, 1977

(1) In the definition of "specific learning disability" (§ 121a.5(b)(9)), the phrase "of emotional disturbance" was inadvertently omitted. This has been corrected, and the revised definition is set out in amendment No. 1, below.

(2) The following comment and response regarding Civil Action is contained in the Part 121a Regulations published on August 23, 1977:

CIVIL ACTION (§ 121a.511)

Comment: Commenters wanted the regulations revised to allow for direct appeal to the courts without first using administrative hearing and review procedures if those procedures would be futile, the timeliness or adequacy of the administrative proceedings are being challenged, or a class action is involved. Commenters cited language in the Congressional Record in support of this interpretation (121 Cong. Rec. S20433 daily ed., November 19, 1975).

Response: No change has been made. The legislative history cited is nongermane as it was made in reference to the Senate Bill (S. 6) which did not contain the final statutory provision on civil actions. The provision on civil action was added as a Conference substitute. The issue of exhaustion of remedies will be up to the courts to resolve.

The statement made by the Office of Education regarding the legislative history cited by the commenter was incorrect, since the legislative history referred to occurred during consideration of the Conference Report. Therefore, a correction has been made to that statement, as set out in amendment No. 4, following.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis (previously referred to as an Inflationary Impact Statement) under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.449, Education of Handicapped Children, Part B.)

Dated: October 18, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: December 19, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 121a of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 121a.5 is amended by revising paragraph (b)(9) to read as follows:

§ 121a.5 Handicapped Children.

* * * * *

(b) * * *

(9) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

* * * * *

§ 121a.702 [Amended]

2. Section 121a.702 is amended by deleting paragraph (a)(2).

3. The following new sections are added:

ADDITIONAL PROCEDURES FOR EVALUATING SPECIFIC LEARNING DISABILITIES

§ 121a.540 Additional team members.

In evaluating a child suspected of having a specific learning disability, in addition to the requirements of § 121a.532, each public agency shall include on the multidisciplinary evaluation team:

(a)(1) The child's regular teacher; or

(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or

(3) For a child of less than school age, an individual qualified by the State educational agency to teach a child of his or her age; and

(b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

(20 U.S.C. 1411 note.)

§ 121a.541 Criteria for determining the existence of a specific learning disability.

(a) A team may determine that a child has a specific learning disability if:

(1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, when provided with learning experiences appropriate for the child's age and ability levels; and

(2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

(i) Oral expression;
(ii) Listening comprehension;
(iii) Written expression;
(iv) Basic reading skill;
(v) Reading comprehension;
(vi) Mathematics calculation; or
(vii) Mathematics reasoning.

(b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:

(1) A visual, hearing, or motor handicap;
(2) Mental retardation;
(3) Emotional disturbance; or
(4) Environmental, cultural or economic disadvantage.

(20 U.S.C. 1411 note.)

§ 121a.542 Observation.

(a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(20 U.S.C. 1411 note.)

§ 121a.543 Written report.

(a) The team shall prepare a written report of the results of the evaluation.

(b) The report must include a statement of:

(1) Whether the child has a specific learning disability;
(2) The basis for making the determination;
(3) The relevant behavior noted during the observation of the child;
(4) The relationship of that behavior to the child's academic functioning;
(5) The educationally relevant medical findings, if any;
(6) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and
(7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(c) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

(20 U.S.C. 1411 note.)

4. Appendix A is amended as follows:

a. The response under "CIVIL ACTION (§ 121a.511)," appearing at 42 FR 42512, is amended to read as follows:

Response. No change has been made. The Office of Education has decided not to regulate on this question. The issue of exhaustion of remedies will be up to the courts to resolve.

The following paragraphs have been added immediately preceding the capital letter heading LEAST RESTRICTIVE ENVIRONMENT, appearing at 42 FR 42513:

ADDITIONAL PROCEDURES FOR EVALUATING SPECIFIC LEARNING DISABILITIES

Sections 121a.540–121a.543 provide procedures for evaluating specific learning disabilities which supplement the basic evaluation requirements set out above ("PROTECTION IN EVALUATION PROCEDURES," §§ 121a.530–121a.534). These additional procedures were written to comply with section 5(b) of Pub. L. 94–142, which required the Commissioner to develop regulations that establish (1) criteria for determining whether a particular disorder or condition may be considered a specific learning disability, (2) diagnostic procedures for use in identifying SLD children, and (3) monitoring procedures for use in determining whether public agencies are complying with the criteria and diagnostic procedures.

The following major changes have been made from the proposed regulations published on November 29, 1976 (The reasons are set forth below in the discussion of specific comments.):

(1) The formula has been deleted;

(2) The "50 percent" figure for determining "severe discrepancy" has been deleted;

(3) Provisions duplicating requirements in final regulations for general evaluation procedures and for medical examinations under Part B have been deleted.

(4) The monitoring sections have been deleted, since State educational agency (SEA) monitoring responsibilities are covered under § 121a.601 of the Part B regulations. The Commissioner has established these detailed monitoring responsibilities of the SEAs and will monitor each State's compliance with these and other requirements of Part B.

The statute provides that when these final regulations take effect, the two percent cap on the number of children with specific learning disabilities who may be counted for allocation purposes is removed (section 5(c)). Therefore, § 121a.702(a)(2) of the Part B regulations, which repeated the statutory cap requirement, is deleted.

The following comments were made regarding the SLD proposed regulations:

USE OF FORMULA

Comment. Many commenters objected to the formula proposed for establishing a severe discrepancy between ability and achievement. Their concerns fell primarily into four areas:

(1) The inappropriateness of attempting to reduce the behavior of children to numbers;

(2) The psychometric and statistical inadequacy of the procedure;

(3) The fear that use of the formula might easily lend itself to inappropriate use to the detriment of handicapped children;

(4) The inappropriateness of using a single formula for children of all ages, particularly pre-school children.

Response. The formula has been deleted. Because of the above and other concerns, the Office of Education conducted a study to determine the effectiveness of the formula. While the findings showed that the formula has a certain degree of operational validity, they also identified pronounced technical limitations in its application, including all four concerns listed above.

Given the type and number of technical limitations, it has been determined that the formula should not be included in the final regulations.

Comment. A few commenters recommended alternative formulae for use in determining the existence of a severe discrepancy between ability and achievement.

Response. None of these formulae were adopted. Each was found to have the same types of technical limitations as the formula in the proposed rules.

USE OF OTHER APPROACHES

Comment. A few commenters suggested other approaches to defining specific learning disabilities. Among the suggestions for alternate approaches were those which:

(1) Required that a major discrepancy between verbal and performance scores on the WISC be established in order for a child to be considered as having a specific learning disability;

(2) Required that each area of information processing be subdivided into discrete functions and analyzed in terms of their effects on achievement. If the areas of discrepant functioning were determined to be critical to successful achievement, then a child could be considered as having a specific learning disability.

Response. Neither of these alternative approaches has been adopted. It was determined that the approaches could not be validated without engaging in extensive additional research.

COMPOSITION OF THE EVALUATION TEAMS

Comment. Many commenters had recommendations for requiring additional participants on the evaluation team. This was particularly true of speech and language pathologists who stated that a high percentage of children evaluated for specific learning disabilities have speech and language problems. A significant number of comments on the topic of the team composition were received from members of the field of reading as well.

Response. The general requirements for evaluation in § 121a.532 provide for appropriate selection of individuals to serve on the multi-disciplinary team. Therefore, no substantive change was made. For children with language and speech problems as part of, or associated with, specific learning disabilities, speech and language pathologists represent an appropriate professional resource.

Comment. Some commenters wanted the parents of the child in question to be part of the evaluation team.

Response. No change has been made. The comprehensive evaluation of children necessarily involves the collection of a variety of information, including information from the parents concerning their perceptions of the child's behavior. Such a practice is considered routine and basic to any evaluation and therefore unnecessary to be specifically listed. It might be emphasized that parents have the right under other sections of these Part B regulations to (1) participate in the development of the individual education program of their child, (2) request a due process hearing in the event they disagree with the findings of the evaluation team, (3) have access to all records pertaining to their child, and (4) have other due process safeguards.

SLD CRITERIA AND PROCEDURES

Comment. A few commenters felt that Congressional mandate in section 5(b) of Pub. L. 94–142, which required the Commissioner to establish criteria and procedures for use in identifying specific learning disabilities, was not adequately met by the regulations.

Response. The Office of Education has satisfied the Congressional mandate in the following manner:

First, criteria have been developed for determining the existence of a specific learning disability (i.e., it must be established (a) that a severe discrepancy exists between ability and achievement; (b) that there is a severe achievement problem in one or more of seven areas relating to communication skills and mathematical abilities; and (c) that the discrepancy is not the result of other known handicapping conditions or of environmental, cultural, or economic disadvantages).

Second, comprehensive diagnostic procedures have been established, which are to be used in concert with the above criteria. These procedures include (a) the basic evaluation requirements in sections 121a.530–121a.534 which must be used in evaluating all handicapped children (including those suspected of having a specific learning disability), and (b) the additional procedures (set out in §§ 121a.540–121a.543) to be used in evaluating SLD children.

Third, with respect to monitoring procedures, these are already included throughout the Part B regulations. The Commissioner has established State educational agency monitoring procedures under § 121a.601, and will monitor each State's compliance with these and other requirements of Part B.

EXCLUSION CONDITIONS

Comment. Some commenters stated that children should not be excluded from consideration as having a specific learning disability if their severe academic discrepancy is primarily the result of: (1) a visual, hearing, or motor handicap; (2) mental retardation; (3) emotional disturbance; or (4) environmental, cultural, or economic disadvantage.

Response. No change has been made. These exclusions are statutory.

Comment. Commenters asked for definitions of visual handicaps, motor handicaps, and other "exclusion" terms.

Response. The term "visually handicapped" and other handicapping conditions are defined in § 121a.5. Motor handicap is considered as being included in the definition of orthopedically impaired. Other terms will be applied on a case-by-case basis by professional team members.

THEORY OF THE PROCEDURAL APPROACH

Comment. Commenters requested information on the theoretical basis for the approach taken.

Response. Those with specific learning disabilities may demonstrate their handicap through a variety of symptoms such as hyperactivity, distractability, attention problems, concept association problems, etc. The end result of the effects of these symptoms is a severe discrepancy between achievement and ability. If there is no severe discrepancy between how much should have been learned and what has been learned, there would not be a disability in learning. However, other handicapping and sociological conditions may result in a discrepancy between ability and achievement. There are those for whom these conditions are the primary factors affecting achievement. In such cases, the severe discrepancy may be primarily the result of these factors and not of a severe learning problem. For the purpose of these regulations, when a severe discrepancy between ability and achievement exists which cannot be explained by the presence of other known factors that lead to such a discrepancy, the cause is believed to be a specific learning disability.

It was on this basic concept that these regulations were developed.

CERTIFICATION REQUIREMENTS

Comment. A few commenters questioned the need for certification by the team as to the existence of specific learning disabilities.

Response. No change has been made. By specifying the procedures to be used in determining the existence of a specific learning disability and because the team has all of the data on which to make an appropriate decision, heavy reliance was placed on the judgment of the evaluation team. Since the team has a great deal of latitude in making the determination of the existence of a specific learning disability, it was apparent that the team should document its decision and should clearly indicate the basis on which the determination was made.

SPECIFIC AREAS OF ACHIEVEMENT TO BE REVIEWED

Comment. A few commenters expressed concern that spelling not be listed as one of the eight areas of function which could be evaluated to establish a severe discrepancy between ability and achievement. It was stated that a severe discrepancy in spelling would not necessarily be indicative of a specific learning disability and that the component factors of spelling could be included under one or more of the other seven factors. Some of those commenters stated that when spelling was one of the factors to be evaluated the requirement should be that a severe discrepancy in two or more areas would have to be indicated.

Response. Though "spelling" is listed in the statute, the components of spelling can be assumed under the other seven areas of function. Spelling as a category per se has been deleted from the final regulations.

MAINTENANCE OF 2 PERCENT CAP ON COUNT

Comment. Some commenters indicated that (1) since specific learning disabilities are difficult to define based on current knowledge and (2) because of the need for extensive research to be conducted before a universally accepted definition can be created, the requirement in the Act that limits the number of children eligible to be counted as learning disabled for the purpose of generating the Part B entitlement should be extended. The suggestion was that the cap on counting these children for allocation purposes would remain until such time as it was possible to differentiate all of the specific learning disabilities.

Response. Under the statute, the cap is removed upon the effective date of these regulations. It is generally agreed by parents and professionals alike that the isolation of various labels used by different theorists, as cited in the legislative history, are overlapping and represent assumptions about conditions which cannot with current technology be successfully determined or discretely categorized. Other categories of handicapping conditions as defined have no cap. Since there may in fact be more than two percent of the school age population in some States that are handicapped by specific learning disabilities, such a limitation is inequitable. Such a procedure would not help provide a basis for the determination of whether a child has a specific learning disability, and would not provide assistance in helping to resolve questions of appropriate diagnosis or placement in the event of due process hearings. For these reasons, it is better to adopt the regulations and lift the cap.

NEED FOR ADDITIONAL RESEARCH

Comment. Several commenters pointed out the need for additional research in the area of specific learning disabilities.

Response. As stated in the preamble to the proposed regulations, this need is almost universally acknowledged. The Bureau of Education for the Handicapped and other HEW agencies will continue to support research on the nature and treatment of specific learning disabilities.

MEDICAL EVALUATION

Comment. A few commenters expressed concern that medical examinations were not mandated for every child suspected of having a specific learning disability.

Response. Medical services that are necessary for diagnostic purposes are covered by the definition of related services in § 121a.13.

MORE DETAIL

Comment. Commenters asked for more detail on some of the requirements, for example, a more extensive description of length of observation and specific behaviors to be observed.

Response. No change has been made. The Office of Education believes the evaluation procedures are already very extensive and should prevent mislabeling.

[FR Doc.77-36597 Filed 12-28-77;8:45 am]

federal register

THURSDAY, DECEMBER 29, 1977

PART IV

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, 1138]

[Docket Nos. AO-231-A45, etc.]

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Parts	Marketing area	Docket Nos.
1071	Neosho Valley	AO-227-A34
1073	Wichita, Kans	AO-173-A35
1097	Memphis, Tenn	AO-219-A34-RO1
1102	Fort Smith, Ark	AO-237-A28-RO1
1104	Red River Valley	AO-298-A28
1106	Oklahoma Metropolitan	AO-210-A41
1108	Central Arkansas	AO-243-A32-RO1
1120	Lubbock-Plainview, Tex	AO-328 A21
1126	Texas	AO-231-A45
1132	Texas Panhandle	AO-262-A30
1138	Rio Grande Valley	AO-335-A26

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would provide for a "base-excess" plan for paying producers under 11 southwestern Federal milk orders, beginning September 1, 1978. The plan was proposed by a major cooperative association at a public hearing held in April 1977. Under the plan, each producer's average daily delivery of milk during September through December would be his established base. In the following March through July, each producer would be paid a higher uniform base price for milk deliveries up to his base, and a lower price for any excess milk. During August through February, producers would receive the blend price for all their deliveries. The intent of the plan is to provide an incentive to producers to even out their milk production during the year.

DATE: Comments are due on or before January 30, 1978.

ADDRESS: Comments (six copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of Hearing: Issued February 11, 1977, published February 14, 1977 (42 FR 9674); issued March 3, 1977, published March 25, 1977, published March 31, 1977 (42 FR 17130). Notice of Extension of Time for Filing Briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26217).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Texas and certain other marketing areas, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR PART 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 30, 1978. The exceptions should be filed in six copies. 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 hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Irving, Tex., on April 5-8, 1977, pursuant to the above listed notices of hearing.

This hearing with respect to the Memphis, Tenn.; Fort Smith, Ark.; and Central Arkansas marketing areas is a reopening of the hearing held December 14-16, 1976, to consider the merger and expansion of such marketing areas. The December hearing was reopened for the limited purpose of receiving evidence with respect to the need for modifying the base-excess plans already applicable in these three markets to make them conform with any common base-excess plan found appropriate for the 11 markets involved in the April 1977 hearing.

A recommended decision providing for the merger of the Memphis, Fort Smith, and Central Arkansas orders was issued on July 21, 1977 (42 FR 38070). The Department later concluded that the proceeding should be halted at that point and a termination of proceeding was issued on October 17, 1977 (42 FR 56337).

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

1. The need for a common base-excess plan in the 11 markets, and

2. Order provisions implementing the base-excess plan.

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. *The need for a common base-excess plan in the 11 markets.* A common base and excess plan for distributing returns for milk among producers should be provided under each of the 11 orders included in this proceeding. The plan should be made effective on September 1, 1978.

A base-excess plan is a means of apportioning among producers on the basis of their deliveries of milk to handlers the money due them from such handlers. The plan in no way affects the cost of milk purchased by handlers. Producers in total receive the same amount of money under a base-excess plan as they would receive under a blend price payment procedure. The plan is designed to encourage production in the fall months of seasonally low production and to discourage excess production in the spring months of seasonally high production.

Under the base-excess plan proposed herein, each producer under the 11 orders would receive a daily base equal to the average of his daily deliveries of milk to all handlers under such orders during the 4-month period of September through December. The daily base of a producer who delivered less than 90 days' production to all handlers under such orders during the 4-month period would be computed by dividing his total deliveries during such period by 90. This base would then be used during the following months of March through July to determine how much of the producer's milk is to be priced at the base and excess prices. The quantity of milk which a producers delivers during each of the months of March through July which is in excess of his base milk for the month would be paid for at the excess price, which would be the Class III price for the month. The quantity of milk not in excess of the producer's base milk would be paid for at the base price.

The base price for each market using marketwide pooling would be determined by subtracting the total value of all excess milk in the market from the total pool obligation of all handlers and dividing the resulting amount by the pounds of base milk. The base prices for milk received by individual handlers in the Memphis, Tenn., and Fort Smith, Ark., orders, which provide for individual handler pooling, would be determined by subtracting the total value of all excess milk received at the plant of each handler from the total obligation of such handler to producers and dividing the resulting amount by the pounds of base milk.

Eight of the 11 orders under consideration provide that producers shall receive a blend price during all months of the year. The three other orders under consideration (Memphis, Fort Smith, and Central Arkansas) presently provide for a base-excess plan for paying producers. The base-forming months in the three orders are September through January and the base-paying months are March through July. The base-excess plans of the three orders provide for the computation of a producer's daily base by dividing the total deliveries of such producer to handlers regulated under the three orders by the number of days in such period beginning with the first day during September-January milk was delivered to handlers regulated under one of the orders, but by not less than 120 days. Dur-

ing the base-and-excess payment period a producer's daily base is multiplied by the number of days in the month to obtain a monthly base, which is used to determine how much of the producer's deliveries is base milk and excess milk.

The producer's base and excess milk is apportioned among handlers, and ultimately among the three orders, according to the percentage that the producer's deliveries to each handler is of his total deliveries to handlers regulated under the three orders.

The value of excess milk under the Central Arkansas, Fort Smith, and Memphis orders is computed by assigning excess milk in series, beginning with Class III milk, to the producer milk in each class and multiplying the quantities of milk so assigned to each class by the respective class prices. The total value of the excess milk is then divided by the total pounds of excess milk and the answer is rounded to the nearest cent. Under the Central Arkansas order, 4 cents per hundredweight is deducted to maintain a reserve in the producer-settlement fund.

Under the Central Arkansas order, which provides for marketwide pooling, the base price is computed by subtracting the total value of the excess milk from the total obligation of pool handlers and dividing the resulting amount by the pounds of base milk. The resulting price is reduced between 4 and 5 cents to maintain a reserve in the producer-settlement fund.

Under the Fort Smith and Memphis orders, which are individual handler pool orders, the base price for each handler is computed by subtracting the value of the excess milk received by the handler from his total obligation to producers and dividing such amount by the quantity of base milk.

It should be noted that in computing the base and excess prices adjustments are made for purposes of applying location adjustments and funding the advertising and promotion programs. These adjustments to the prices received by producers are necessary during all months and do not affect the operation of the base-excess plan.

The Southern Region Division of Associated Milk Producers, Inc. (AMPI), proposed that a base plan for the 11 orders be made effective September 1, 1977. The Southern Region Division markets the milk of its members to handlers located in a seven-state area who are regulated under the 11 orders under consideration. The cooperative proposed a base plan patterned after the provisions of the base plan in the Central Arkansas order. Under its proposal, milk from an individual producer that is received as producer milk during the base-forming months by handlers fully regulated under any of the 11 orders would be used to compute a base for such producer. The producer's base would be computed by dividing the total pounds of milk delivered to such handlers during September–December by the number of days in such period beginning with the first day on which milk was first received from such producer, but not less than 90 days.

Proponent proposed that producers receive base and excess prices for their deliveries during the months of February through July. The excess price would be the Class III price for the month. The value of base milk in the individual markets would be determined by subtracting from the total obligation of pool handlers the value of the excess milk. To determine the base price, the value of the base milk would be divided by the quantity of base milk, and the resulting amount would be reduced between 4 and 5 cents to provide a reserve in the producer-settlement fund.

AMPI contended that a common base plan should be adopted in each of the 11 orders to provide an incentive for producers under such orders to produce more milk in the fall. Proponents claimed that a sufficient supply of milk is not available in the 11 markets during the fall months to meet the Class I requirements of handlers. It contends that the proposed plan will increase production during the fall months, thereby assuring handlers of an adequate supply of milk during such period. Proponent contends also that the production leveling aspect of the plan will diminish the large reserve milk supplies during the spring and summer months.

The cooperative stated that because supplies are inadequate in the fall it has been necessary for it to acquire milk from outside the 11-market area in supplying the fluid milk needs of handlers. Proponent indicated, however, that it has not been able to procure sufficient milk from outside sources and thus has been forced to allocate its available supply among the handlers supplied by the cooperative.

Proponent contends that it has the primary burden of maintaining a reserve milk supply for the 11 markets and of allocating the available milk supplies to handlers for Class I and Class II uses. AMPI alleges that it bears a disproportionate share of the costs of maintaining a reserve milk supply. It pointed out that some producers in the 11 markets bear none of the expenses of maintaining the reserve milk supply because of the milk procurement practices of certain handlers. These handlers buy milk from producers who deliver all of their milk production to such handlers on six or seven days during the week. These same handlers then buy supplemental milk supplies from AMPI on only those days of the week when their plants bottle milk. The cooperative then has the responsibility of marketing on the remaining days of the week the milk production of the cooperative's members who deliver to such handlers.

Proponent indicated that because of the cooperative's role in handling the reserve milk supply its members have had their pay prices for milk reduced to cover the cost of such operations. During the fall months, the cooperative pointed out, its members have had to bear the costs of shifted milk from market to market to meet the fluid milk requirements of handlers. During the springs months the cooperative's members have had the expense of moving to manufacturing plants that milk which is surplus to the fluid milk requirements of handlers.

Proponent contended that the proposed plan should be adopted in each of the 11 orders because the procurement area of the handlers regulated by such orders constitutes one area of reserve milk supply for the 11 markets. Proponent indicated that most, if not all, of its member milk associated with its Southern Region Division is disposed of in the 11 markets and that 1,307 of its 4,895 members associated with the 11-market area were pooled during October 1976 under more than one of the 11 orders. Because of this intermingling of producers among the 11 markets, proponent contended that the plan should be adopted on a common basis under all 11 orders so that the milk delivered by a producer to one or more of the 11 markets is taken into account in the computation of his base and in the payment for base and excess milk.

A cooperative association opposed the adoption of a base-excess plan on the basis that such plans do not level production during the year. Opponent claimed instead that the plan would provide an incentive for producers to expand production annually. The cooperative argued that additional quantities of milk are not needed in these 11 markets because Class I utilization in 1976 ranged from a low of 58 percent in the Wichita market to a high of 88 percent in Central Arkansas. It contended that the plan would cause dairy farmers to participate in a "race for base," i.e., make an extra effort to increase milk production during the base-forming months. It alleged that such efforts would result in too much production in the fall months and add to the excess reserve milk supplies in other months.

The cooperative's representative contended that dairy farmers located on the fringe of the production areas might shift to another market if the base-excess payment plan resulted in a lower per hundredweight return than the blend price received by neighboring dairy farmers shipping to other Federal order markets. Thus, the cooperatives was concerned that the proposed payment plan might result in disorderly marketing conditions.

The cooperative contended further that the plan would restrict the movement of producers from one market to another. It indicated that a producer would not want his milk moved to a market outside the 11 markets during the base-forming period since he would not earn a base for that production. During the spring months it would not be feasible for producers to shift to the 11 markets from other markets since they would not have a base and, thus, would not be eligible to recieve the base price for their milk. The cooperative also stated that the plan would present administrative and enforcement problems for the market administrator. It suggested that, in order to obtain additional base, dairy farmers would add water to milk, borrow milk cows from a dairy farmer ship-

ping to a manufacturing plant, or exchange milk with another dairy farmer.

Several proprietary plant operators, cooperatives, and producers expressed opposition to a common base-excess plan on the basis that such plan would restrain outside milk supplies from entering the 11 markets. They contended that, because only dairy farmers who begin delivering milk to one of the 11 markets in either August or September would be able to earn a base reflecting their average daily production during the fall months, the proposed plan would preclude other dairy farmers from entering the markets during other months of the year. Several also were concerned that cooperatives that deliver to handlers regulated by an order other than the 11 under consideration could tend to keep their members from joining cooperative's supplying the 11 markets by having them sign membership contracts expiring in months other than August or September.

A large number of producers testified individually in opposition to a base-excess plan, indicating that the plan should not be adopted for various reasons, including the following:

a. The plan is sought by AMPI to increase milk production so that the cooperative can operate its manufacturing facilities throughout the year.

b. The plan is a means of restricting entry of new producers to the market, or forcing independent producers to join AMPI.

c. More producer milk is not needed during the fall months because producers currently receive the Class III price for a portion of their milk during the fall.

d. Cows calving in September and October will produce more milk in the spring months relative to the preceding fall months if good pasture is available for grazing during the spring.

e. It takes from 3 to 5 years to change the milk production pattern of a herd through breeding practices.

f. Moving a cow from one herd to another herd to build base would decrease the yearly milk production of that cow by 2,000 pounds.

g. The Dairy Herd Improvement Association claims that a cow calving in the fall will yield $110–114 more net return than a cow calving in the spring months, in which case such a return in itself provides sufficient incentive for fall production.

h. The base plan would be an extreme hardship on those producers whose dairy herd is or has been affected by Bang's or other diseases affecting milk production.

i. July and August are not good months for a cow to have a calf due to high daytime temperatures and an infestation of flies.

j. The blend price, which is usually higher in the fall months than in the spring months, provides sufficient incentive to produce additional milk in the fall months.

Several handlers opposed that adoption of a base-excess plan in the 11 markets. One handler stated that his seasonal pattern of Class I sales in the Corpus Christi area is contrary to that of other handlers in other markets. He indicated that his Class I sales are greater in the spring than in the fall because of the tourist trade and that the proposed base-excess plan would not be compatible wtih this sales pattern. The handler claimed that such a plan would discourage new dairy farmers from entering the market, that it would decrease the local producer milk supply and force a greater reliance on milk supplies from the northern part of the United States, and that consumers would be forced to pay a higher price for milk. The handler also argued that a base-excess plan would help the proponent cooperative gain additional market control.

Another handler opposed the adoption of a base-excess plan on the basis that the seasonal fluctuation in milk production in the 11 markets is not significant, pointing out that in the spring of 1975 and 1976 milk prouction was 110 and 114 percent, respectively, of production in the immediately following fall months. The handler also noted that a base-excess plan was terminated in the North Texas order in 1963 because milk production had increased 85 percent in a 10-year period of time while Class I sales had increased only 41 percent.

Several handlers with own-farm production opposed the application of the proposed base-excess plan to their own-farm production and suggested the following alternatives if such a plan is adopted: (1) delay the effective date of the plan for 2 years, (2) exempt own-farm production from the base-excess plan, and (3) exempt from the base plan that portion of own-farm production equivalent to the amount of packaged milk sold to consumers.

A common base-excess plan should be included in each of the 11 orders under consideration. The base plans are needed to encourage a more level seasonal production pattern in the 11 markets so that there will be a better coordination of milk supplies with the Class I demand.

Milk production in the 11-market area fluctuates seasonally, with supplies increasing in the spring and declining in the fall. Such changes are portrayed, for example, in the producer delivery data for 1975 and 1976 that were included in the record. In the spring of 1975, average daily deliveries of producer milk reached 109 percent of the average daily deliveries for 1975 and 1976 combined. For 1976, this figure was 108 percent. Similar downward swings occurred in the fall, with average daily deliveries dropping to 92 percent in 1975 and 95 percent in 1976 of the two-year daily average.

Although it was argued by some that such season fluctuations in production are not severe, such changes are much more meaningful when viewed in terms of the somewhat opposite swings in Class I sales. When supplies were lower in the fall, average daily Class I sales fluctuated upward to 107 percent in 1975 and 105 percent in 1976 of the average daily Class I sales for the two-year period. During the heavy production months, sales dropped off considerably. In 1975, average daily Class I sales in the 11-market area were only 90 percent of the two-year daily sales average. In 1976, the amount was 92 percent.

When the production and sales data are put together, it is quite evident that production is not in seasonal balance with the class I sales of regulated handlers. In 1975, the relationship of average daily producer deliveries to the two-year average of daily class I sales ranged from a low of 121 percent in October and November to a high of 144 percent in May. Similarly, in 1976, this relationship ranged from 125 percent in November to 142 percent in April.

It is recognized that the production-sales data do not portray the same seasonal relationship for each of the 11 markets individually. However, the producer delivery data for each market do not necessarily reflect the seasonal production patterns of individual producers. This is because producers are shifted extensively from market to market by the proponent cooperative in balancing the fluid milk needs of handlers throughout the entire 11-market region. For this reason, the only meaningful analysis of producer delivery data is that which is based on producer deliveries for all 11 markets combined.

Because of the seasonal changes in production and Class I sales, it has been necessary for the proponent cooperative to take various actions in response to the marketing problems that arise from such seasonal changes. Such actions have centered on obtaining adequate supplies of milk for handlers' fluid needs during the fall and disposing of excess supplies during the spring and early summer.

For example, in the fall of 1976 the cooperative found it necessary to acquire substantial quantities of milk from outside the 11-market area. About 22 million pounds of supplemental milk were obtained from the Central Arizona Federal order market, for instance. Most of this was needed to meet the fluid milk requirements of handlers in the Dallas/Fort Worth, Houston, and San Angelo areas of the Texas market. Also, supplemental milk was moved into the 11-market area from Missouri, primarily for use by handlers in the Memphis market. In most cases, the supplemental supplies moved into the 11-market area were not moved directly to the shortage areas but instead were used to supply handlers nearest the out-of-area source in order to minimize transportation costs. Supplies regularly associated with the 11-market area were then redirected (in what proponent referred to as a "stairstepping" arrangement) to the shortage areas. Even with the acquisition of out-of-area milk supplies, the proponent cooperative was not always able to fulfill the needs of handlers and was forced to allocate its limited supplies to its regular buyers.

Additional efforts by the proponent cooperative to balance the Class I needs of handlers include the shifting of producers from one market to another within

the 11-market area. Such efforts are directed primarily toward having sufficient supplies available for the Texas market. Relative to the number of producers on the Texas market in February 1977, the following numbers of additional producers were associated with the Texas market in the immediately preceding months: 551 in September, 539 in October, 458 in November, 669 in December and 492 in January. Such additional numbers resulted largely from the proponent cooperative's shifting of producers, which was done in part to implement the "stairstepping" arrangement referred to earlier in connection with the out-of-area supplies and also to redirect the movement of milk supplies within the 11-market area to the areas of greatest need.

In addition to its balancing activities necessitated by seasonal shortages in milk production, the proponent cooperative also handles much of the excess milk that results from the seasonal increases in milk production. The major outlets in the 11-market area for reserve milk supplies are manufacturing plants operated by proponent. Such plants are located at Sulphur Springs and Muenster, Tex.; Tulsa and Oklahoma City, Okla.; and Hillsboro, Kans. Milk supplies not needed at distributing plants are redirected to these plans for surplus disposal. At times, the proponent cooperative assumes the handling of a somewhat greater proportion of the surplus in the 11-market area than would normally be associated with its share of the area's total producer milk. It is not unusual for some handlers to buy milk on a regular basis from producers not belonging to a cooperative association and then obtain supplemental milk from the cooperative on heavy bottling days. Also, some handlers purchase milk from the cooperative only during the fall months when the supplies of milk are traditionally short in these 11 markets.

In carrying out the various balancing activities associated with the seasonal fluctuations in milk production, the proponent cooperative incurs operating costs that are passed on to its members through reduced returns from the sale of their milk. As a marketing organization attempting to obtain the highest possible returns for its members, the cooperative has sought to reduce such costs. For a number of years, the cooperative has operated a type of seasonal base plan among its own members for the purpose of encouraging a more level seasonal production pattern on the part of these producers. The effectiveness of the plan in reducing balancing costs has been limited, however, because the cooperative's balancing activities are affected also by the production pattern of other producers in the 11-market area. Also, there has been some reluctance on the part of the cooperative's members to impose an effective seasonal incentive plan on themselves when other producers in the 11 markets are not operating under a similar plan. As an aid to minimizing the costs of marketing the milk of its members, the cooperative is seeking the adoption of a common base-excess plan under the 11 orders.

It is in the interest of orderly marketing that a base-excess plan be applicable under each of the 11 orders under consideration. Such plans are specifically authorized by the Act as a marketing arrangement that producers may use under a Federal order. It is recognized that not all producers who would be affected by the adopted base plan favor its use. Nevertheless, considerable weight must be given to the fact that a very significant number of producers in each of the markets believe that such a plan can materially aid in the marketing of their milk. The proponent cooperative alone represents roughly three-fourths of the producer milk in the 11 markets combined, and about 85 percent or more of the producer milk in 8 of the 11 individual markets. In the other 3 markets—Wichita, Rio Grande Valley and Texas—the proponent cooperative markets at least two-thirds or more of the milk in each market. In view of the seasonal fluctuations in milk production and the attendant marketing problems for these producers, the adoption of a common base-excess plan for the 11 markets is appropriate.

Opposition to the proposed base plan was limited primarily to the Texas market, which has about half of the milk in the 11-market area. It is in the Texas market, however, where the proponent cooperative is heavily engaged in balancing activities associated with the seasonal swings in production, and where it is significantly affected by the fluctuating production of producers outside its membership. The fact that there was opposition to the base plan should not be an overriding consideration in this case in determining whether or not the proposal should be adopted.

The base plan for each order should permit the interchange of producers among all 11 markets without affecting their establishment of base or payments for base milk. Such an arrangement is now applicable under the Central Arkansas, Fort Smith, and Memphis orders. A similar arrangement is needed for the 11-market area because of the extensive and continuing shifting of producers among the individually regulated markets. Such shifts occur largely in connection with the proponent cooperative's balancing activities referred to earlier. Under the "stairstepping" arrangement, for example, producers associated with the Rio Grande Valley market may be redirected to the Texas Panhandle and Lubbock-Plainview markets. Producers associated with the latter two markets might then be redirected to the Texas market. Similarly, producers may be shifted from the Wichita market to the Oklahoma Metropolitan market, and then from the latter market to the Texas market. In October 1976, for example, 1,307 of the proponent cooperative's 4,895 member-producers on the 11 markets that month were producers under more than one of the 11 orders.

A producer representative and a handler regulated under the Memphis order, which permits deliveries by producers to Central Arkansas, Fort Smith, and Memphis markets to be used in the computation of a producer's base, opposed a comparable provision for the 11 markets. Both stated that such a provision is not authorized in the Act.

There is nothing in the Act stating that a base-excess plan in a market cannot include deliveries by producers to plants regulated under another Federal order in determining the quantities of base milk of an individual producer. As indicated, the Memphis, Central Arkansas and Fort Smith orders all presently contain such provisions.

The handler also opposed the inclusion of the Central Arkansas, Fort Smith and Memphis orders in the proposed 11-market base plan. He was not opposed, however, to the continuation of the present base plan in each of the three orders or in an order merging the three orders. It was his position that the three markets receive their milk supply from a common production area. Others testifying at the hearing argued that the Lubbock-Plainview market should not be included since that market is a growth area and additional Class I milk is needed from one year to the next.

These arguments are not persuasive. These markets are an integral part of the area being supplied by the proponent cooperative. For the reasons already set forth, recognition should be given to the cooperative's request that a base plan be adopted in these and nearby markets for the purpose of aiding it in the marketing of its members' milk.

Various parties suggested that it would not be appropriate to limit the computation of a producer's base to deliveries only within the 11 markets. They noted that one or more of the 11 markets draw milk from a production area that also serves markets outside of these 11 markets. They pointed out that a dairy farmer residing in such common production area would be disadvantaged unless his total production is used in computing his average daily base.

Producers in the 11 markets who are not members of a cooperative usually deliver their milk to the same handler throughout the month. Consequently, their total production for the month would be used in computing their base. Producers who are members of a cooperative association which markets the milk of its members under one of the 11 markets and a market outside of the 11 markets could be affected. Such producer would not be disadvantaged in the computation of his base if at least three-fourths of his production were delivered during the base-making period to one of the 11 markets. The plan provides that a producer who delivers milk at least 90 days out of the 122 days during September through December would receive a base equal to his average daily production. Such provision will permit a limited interchange of producers between the 11-markets and other Federal order markets.

Several parties noted that climatic conditions and production patterns vary

throughout the 11 markets. For that reason, they suggested that whatever months are used as the base-making and base-paying months for the 11-market area might not be appropriate for each of the individual orders.

The production area of each of the 11 orders is in reality a part of a common production area used to supply the needs of all 11 markets. It is for this reason that the 11 markets must be considered on a combined basis in establishing the base-making and base-paying months.

A number of those who testified were concerned that the adoption of a base plan would result in a "race for base." They contended that the adoption of the plan would result in excessive fall production, thereby reducing the level of the blend price in the fall months. They alleged also that the plan would increase milk production during the flush months and thus increase total milk production rather than level milk production throughout the year.

There is no means of foretelling how producers will react to a common base plan in the 11 markets. If a "race for base" occurs and results in excess fall production or in a large increase in milk production annually, marketing conditions can be reviewed at such time.

Several parties claimed that the proposed base-excess plans could result in only nonmember producers receiving base and excess prices. They contended that because a cooperative association has the privilege of reblending its proceeds, the association would not be required to pay its members upon the basis of their deliveries of base milk and excess milk.

Proponent cooperative indicated that it intends to pay its members using the base-excess payment plan. It was not revealed on the record what payment procedures other cooperatives would use. Irrespective of the payment procedures utilized by cooperatives during the months when base and excess prices are paid, the payment that the cooperative association receives from the producer-settlement fund for all of its member producer milk will reflect the respective quantities of its member producer milk that is base milk and excess milk. For that reason members of a cooperative association will find it advantageous to produce milk with the same seasonal pattern as other producers. Otherwise, the prices received by the cooperative's producers could decline relative to the prices received by other producers as a group during the months of March through July.

Opponents of the base plan argued that such a plan would restrict the entry of new producers into the 11-market area during certain times of the year since new producers would not have a base and would receive only the excess price for their milk. It was claimed that such restrictiveness was a restraint of trade in violation of § 608c(5)(G) of the Act.

It is recognized that any base-excess plan will tend to provide a disincentive at certain times of the year for producers to come onto the market, either as new producers who have just started dairying or as producers who have been shipping to other markets outside the 11-market area. This is why it is necessary to establish a common base plan for the 11 markets that permits the interchange of producers within this area. Nevertheless, the time when producers just coming onto the 11 markets would be adversely affected the most would be during the base-paying months. This is when supplies are customarily in excess of the Class I requirements of handlers and handlers normally would not be seeking new producers. The influx of new producers at this time would be expected to be minimal.

The use of a base-excess plan under the order is not in violation of § 608c(5)(G) of the Act. The latter provision specifies that an order shall not prohibit or in any manner limit the marketing in a Federal order area of milk produced in any production area in the United States. Congress, in providing specific authorization in the Act for base-excess plans, did not intend that their use be nullified by § 608c(5)(G) of the Act.

As outlined earlier, producers testifying against a base-excess plan raised numerous reasons as to why such a plan should not be adopted. Much of the opposition centered on the difficulties and additional expense that producers would experience in adjusting their production operations under a base plan.

It is recognized that producers may need to make some added expenditures and special adjustments in their operations under the adopted base-excess plan if they desire to maximize their returns under the plan. As indicated, the purpose of the plan is to encourage a more level seasonal pattern of production. Seasonal fluctuations in production occur because this production pattern is normally the least costly and most natural production pattern for farmers. Any change in this normal production pattern comes about only through the special efforts of farmers, which usually entails added costs and operating difficulties. Farmers are not inclined to change their production pattern in the absence of any special incentive. The purpose of the base plan is to provide this incentive.

Questions arose at the hearing concerning the application of an 11-market uniform base-excess plan under the Texas order in conjunction with that order's "dairy farmer for other markets" provision. The "dairy farmer for other markets" provision provides that a cooperative or pool plant operator may not pool milk of a dairy farmer on the Texas market during the months of February through July if the cooperative association or pool plant operator caused milk from the same dairy farmer to be associated with another market anytime during the immediately preceding months of September through November. The provision is intended to preclude the association of reserve supplies of surrounding Federal order markets with the Texas market during the months of February through July when the milk is not needed if the producers involved were not on the Texas market during the fall months when supplies are customarily short.

The application of the "dairy farmer for other markets" provision in conjunction with the base-excess plan could cause a dairy farmer who earned base during the months of September through December not to receive the base price on any of his milk delivered to the Texas market during the base-paying months of March through July. Under that provision a dairy farmer who is a "dairy farmer for other markets" could not qualify as a producer. As a consequence, the dairy farmer would not be eligible to have his milk priced under the order and thus would have no assurance of what price he would receive for his milk. If the order required such dairy farmer to be paid the base price on any of his deliveries to the Texas market, such payment would conflict with the "dairy farmer for other markets" provision and defeat the purpose of that provision.

The "dairy farmer for other markets" provision, however, would not preclude producers delivering to a plant which was a nonpool plant under the Texas order during the months of September-November but which is a pool plant during the next March-July period from benefiting under the base-excess plan. Also, an individual dairy farmer could shift to the Texas market from any of the other 10 markets during March-July and retain his earned base provided that he does not deliver milk to a plant operated by the same handler to whom he shipped milk during the preceding September-November period.

The operators of pool plants with own-farm production and dairy farmers whose herds consist solely of registered dairy animals should not be accorded an exemption, from the base-excess provisions of the orders. At the hearing, several individuals set forth varying reasons why their operations should be treated differently than those of other producers. However, if an exemption were granted, it would not comport with the purpose of the base-excess plan, which is to encourage all producers on the 11 markets to even out their production during the year.

Three producer representatives and a handler representative urged that a uniform base-excess plan not be adopted in the 11 markets because of the declining use of base-excess plans. They pointed out that the number of Federal order markets with base-excess plans has declined from 23 markets in 1967 to 5 in 1977. It was claimed that from 1963 to 1971-base-excess plans were discontinued in five orders because the plans had provided an incentive for excessive production relative to Class I needs, especially during the base-forming months.

Whether or not base-excess plans should be applicable in the 11 markets under consideration must be based on the record evidence of the current hearing as it relates to present marketing

conditions in these markets. As described previously in this decision, the record evidence in this proceeding justifies the use of a base-excess plan in each of the 11 markets.

A cooperative association and a handler opposed the adoption of a base-excess plan on the basis that proponent did not develop studies on the impact of the proposed plan on the markets involved and thus provided for the record only limited evidence regarding its proposal. The relevant point here is not the extent to which proponent studied the issue at hand but rather whether or not the evidence in the record adequately supports the adoption of the proposal. As already indicated, the record does justify the use of a common base-excess plan for the 11-market area.

One cooperative association maintained that the "economic incentive to obtain base creates a major administrative burden in policing the plan." Its representative alleged that many farmers would be tempted to expand their production during the fall months by adding water to milk, borrowing cows from dairymen shipping to Grade B manufacturers, and exchanging milk with someone who is not pooled in the market, for example. In support of his argument that the plan would be an administrative burden, the cooperative's representative indicated that the decline in the number of base plans under Federal orders was the best evidence of the deficiencies of such plans.

Speculation by the cooperative's representative that the base plan provisions would create an administrative burden is not sufficient reason for denying implementation of the proposed plan. Furthermore, none of the potential problems cited would be an administrative burden for the market administrator in computing bases. The market administrator would rely on the handlers who receive the producers' milk to report the amount of milk pooled by each producer during the month. Additionally, none of the reasons set forth by opponent for terminating base plans were related to the administration of such plans. The need for the base plan in the 11 markets as a means of leveling production throughout the year overrides any potential administrative problem noted at the hearing that might arise in the operation of the base plan.

Several cooperative associations alleged they would not be able to obtain as members dairy farmers who are members of other cooperatives operating outside the 11-market area unless the members' contracts expired in either August or September. They indicated that, if the members' contract expired at any other time, a dairy farmer would be reluctant to change cooperatives since he would be at a disadvantage in becoming a producer on one of the 11 markets. They noted that if the dairy farmer entered the market in October-December, he would not be able to obtain a base equal to his average daily deliveries in the base-making period. If he entered the market during March-July, he would receive the excess price for his milk during such period of time.

The manager of one cooperative was concerned that, if a base-excess plan were adopted, a cooperative which presently has a 30-day contract with its members to one-year contracts expiring in months other than August or September to discourage any shifting of members to other cooperatives.

It is recognized that the proposed base plan could be a disincentive for dairy farmers in other areas to become producers under one of the 11 orders, and that dairy cooperatives supplying the 11 markets could have some difficulty in obtaining new members. However, this presumably would be a limited problem since dairy farmers usually maintain their membership in a cooperative over a period of years and do not switch membership from one cooperative to another. In any event, the inability of a cooperative to obtain new members readily should not be an overriding consideration in deciding whether a base-excess plan should be adopted.

Counsel for 30 dairy farmers contended that the proposed base-excess plans should not be adopted because present marketing conditions in the markets are in conformity with § 602(4) of the Act. He contended that the proposed plans would result in conditions that are contrary to this.

Section 602(4) states that it is the declared policy of Congress for the Secretary to establish and maintain such orderly marketing conditions as will provide an orderly flow of the supply to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices. As one of the means of obtaining this objective, the Act specifically provides for the adoption of base-excess plans in Federal order markets. The record of this proceeding indicates that the use of base-excess plans in the 11 markets would, in fact, foster orderly marketing as contemplated under § 602(4) of the Act.

This representative for 30 dairy farmers also claimed that the hearing was improperly called. He contended that § 608c (3) and (17) of the Act permits hearings to be called only under two conditions: (1) The Secretary may call a hearing if he has reason to believe that the issuance of an order will tend to effectuate the declared policy of the Act; and (2) the Secretary is required to call a hearing under specified conditions when one-third or more of the producers as defined in an order apply as individuals and in writing for a hearing. The representative thus concluded that a hearing could not be called to consider a proposal submitted by a cooperative association on behalf of producers.

This is not the case. The Act does not preclude parties in the industry, such as a cooperative association, from petitioning for a hearing. The Secretary may call a hearing either on his own volition or at the request of other parties if he concludes that the proposed change would tend to effectuate the declared policy of the Act.

Moreover, the Department's "Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Marketing Orders" (7 CFR Part 900) specifically provide for the submission of proposals by persons other than the Secretary. Section 900.3 states that a "marketing agreement or a marketing order may be proposed by the Secretary or by any other person."

The motion by a cooperative association to render the entire hearing void and the motion by another cooperative association to reconvene the hearing at a later date because proponent altered provisions of its proposal at the hearing are denied. No statutory or administrative rules preclude appropriate devisions of a proposal at the hearing. Furthermore, the hearing notice stated that the purpose of the hearing was to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments and any appropriate modifications thereof. Thus, interested parties were given the opportunity to modify the proposed base-excess plan during the course of the hearing to the extent that no new issue outside the scope of the hearing was raised. In fact, as described elsewhere in this decision, several witnesses did propose certain modifications.

Two cooperative associations claimed that the Administrative law Judge erred in not dismissing the hearing on the proposed base-excess plans. These cooperatives maintained that because proponent had submitted a revision to its original proposal and the Department had issued a revised notice of hearing reflecting the revision, proponent and the Department were involved in an ex parte communication which is prohibited by the "Government in the Sunshine Act."

The communications which took place between proponent and Department officials in this instance involved the receipt of revisions from proponent to previously submitted proposals and the Department's acknowledgement of the receipt of such revisions. The initial proposals had been accepted by the Department for consideration at a hearing and had been set forth in a hearing notice. The revised proposals represented modifications of the initial proposals that could have been made during the course of the hearing. Because such changes were made available to the Department prior to the hearing, it was possible to provide the industry with advance notice of the modifications intended to be supported at the hearing. In the absence of the communications which took place, interested parties would have had to wait until the hearing to be made aware of the modifications. The communications involved were made a part of the record of this proceeding. Such communications provided no basis for dismissing the hearing and the Administrative Law Judge acted properly in not doing so. Interested parties were not disadvantaged through these communications but in fact were aided by virtue of having advance notice of the modifications that the proponent cooperative was making in

its initial proposals. This afforded all interested parties the opportunity to safeguard their interests through full participation in all aspects of the rulemaking proceeding, which is the very thrust or the regulations on ex parte communications.

Counsel for a cooperative association objected to the Department's failure to disclose the basis for its prehearing conclusion that the proposed uniform base-excess plans would tend to effectuate the purposes of the Act. Such disclosure, however, is not required.

Following a public hearing, the Secretary may adopt only those proposals considered at the hearing that, if supported by the record evidence, would tend to effectuate the purposes of the Act. It would be useless, then, to include in the hearing notice proposals that obviously would not be consistent with the Act and thus could not be adopted. For this reason, the Department must make a preliminary evaluation of all proposals submitted to it for consideration at a hearing to determine if the proposals would carry out the intent of the Act. The Department is not required to reveal publicly the various considerations involved in making an affirmative determination on the proposals. It should be emphasized, though that the inclusion of a proposal in a hearing notice in no way means that the proposal will be adopted. The adoption of a proposal by the Secretary must be based solely on the evidence presented at the hearing.

Counsel for the cooperative association alleged also that § 554(d) of the Administrative Procedure Act precludes an employee of the Department who investigated the initial proposal and participated in the hearing from being involved in the subsequent decisionmaking process. This is not the case. There is no requirement that those employees involved in the decisionmaking process in a rulemaking proceeding must not have participated in other activities related to the proceeding.

Two cooperative associations and a handler maintained that the base-excess plan did not have the support of producers and would not be approved if dairy farmers were to vote individually on the proposal. The record does not indicate how each producers feels about the proposal. Testimony at the hearing, however, indicated that the proposal was supported by the proponent cooperative, which represents a major portion of the producers that would be affected. The Act provides that a cooperative association may vote on behalf of its members. If a cooperative elects to vote in this manner, which is commonly referred to as "bloc voting," the Department is required to accept the cooperative's vote as the approval or disapproval of all its producer-members, even if some members do not support the vote. In this case, an affirmative vote by the proponent cooperative apparently would assure the approval of the proposed base-excess plan in all 11 markets because proponent represents more than two-thirds of the producers in the 9 marketwide pool orders and three-fourths of the producers in the 2 individual-handler pool orders.

2. *Order provisions implementing the base-excess plan.* The base-excess plan adopted in this decision would establish a base for each producer by adding the pounds of producer milk delivered by him under each of the 11 orders during September through December (the base-forming period) and dividing such amount by the number of days' production represented by producer milk or by 90, whichever is greater. Under usual conditions, a producer would deliver milk throughout the base-forming period (122 days). It is possible that a producer would not deliver milk to any of the 11 markets for a limited number of days during the base-forming period (perhaps because of a temporary suspension of a health permit, or shipments to a market other than the 11 markets). The 32-day grace period provided herein should accommodate most situations in which a producer's milk would be withheld from delivery to one of the 11 markets.

Requiring a producer to supply one or more of the 11 markets in the base-forming months in order to earn a full base provides an incentive for him to ship to these markets instead of other markets. This will tend to assure that sufficient milk is available to supply handlers in the 11 markets during the fall months when production is lowest relative to the demand for Class I milk. A producer who delivers at least 90 days' production during the four-month base-forming period to the 11 markets can be considered as being primarily associated with this 11-market area. A producer who delivers less than 90 days' production should have his base determined by dividing his total producer milk in the base-forming period by 90. This will assure that a producer who may have been supplying the Class I needs of a market other than the 11 markets for a substantial part of the base-forming period will receive a base that reflects his contribution as a producer supplying the needs of the 11 markets in such period.

Dairy farmers who deliver to a plant that becomes a pool plant under one of the 11 orders after the beginning of the base-forming period should be assigned bases in the same manner as if they had been producers under these orders during the base-forming period. Their bases would be calculated from their deliveries to that plant in the preceding September-December period.

It is expected that when such a plant acquires pool plant status it will add Class I sales to the market comparable to such sales in prior periods when it was not a pool plant. It is appropriate, therefore, that those dairymen who have been supplying the plant have bases computed for them according to their deliveries to the plant in the base-forming period.

As proposed by the cooperative advocating the base plan, the months of September through December should be used as the base-forming period. It is during these months that milk production tends to be at its lowest level throughout the year. The need for encouraging more level production during this period is accentuated by the tendency for Class I sales to swing upward during this same period.

In addition to these four months, January is also now being used as one of the base-making months under the Central Arkansas, Fort Smith, and Memphis orders. Data for the 11 markets for 1975 and 1976 indicate that milk production during January exceeded Class I disposition by approximately the same amount that milk production exceeded Class I disposition during the months of September through December. Thus, the use of January as a base-making month would not be inappropriate in the 11 markets. The production leveling effects of a base plan, however, can be sufficiently achieved through the use of the four-month base-making period advocated by the proponent cooperative. Moreover, the shorter time period will provide producers somewhat more flexibility in accommodating to the operation of the base plan.

The base-paying months should be the months of March through July. Presently, these months are used as the base-paying months under the Central Arkansas, Fort Smith, and Memphis orders. Proponent cooperative, however, supported the use of February through July as the base-paying months.

The period of March through July is when milk production tends to be at its highest level during the year and when the base plan should be encouraging a more level seasonal production pattern. This is particularly so since within this period there is usually a seasonal decline in Class I sales.

Data for 1975 and 1976 which the cooperative relied on in support of its proposal does not support the use of February as one of the base-paying months. Producer receipts for such month on a daily basis were less than the daily average for each calendar year. There is no need to be discouraging the production of milk during this month.

Producers would establish new bases each year. The bases would be computed by the market administrator of the respective orders to be effective in the following March through July (the base-paying period). By February 1 of each year, the market administrator would notify each producer and the handler receiving his milk of the producer's base. The market administrator would notify a cooperative, if so requested by the cooperative, of the base established by its member producers.

Base milk would mean the producer milk of a producer in each month of March through July that is not in excess of an amount equal to the producer's base multiplied by the number of days in the month. Excess milk would mean the producer milk of a producer in each month of March through July in excess of the producer's base milk for the month. Excess milk would also include all the producer milk in March through July of a producer who has no base.

Since the base a producer receives would be determined by the quantity of

milk shipped in the base-forming months, he would have an incentive to maximize his shipments in September through December. In these months production for the market is normally shortest relative to Class I needs. This would not be the case in the base-paying months when production for the market is substantially more than its fluid milk requirements. In these months a producer would receive, in effect, only the manufacturing milk value for his production in excess of his base milk for the month and thus would be encouraged to limit his production during such period.

The base-excess plan proposed herein provides that milk sold by a producer during March-July which is in excess of his base would be priced at the Class III price. The quantity of producer milk sold during the same months which does not exceed the producer's base would be priced at the base price. The base price for milk for each marketwide pool order would be determined by subtracting the value of the excess milk delivered by producers under such order from the total value of all milk delivered by producers and dividing such amount by the pounds of base milk delivered by producers. The precise level of the base price would depend upon the classified use of milk in the market and the percentage of base milk in the market.

The base price for producer milk received by individual handlers under the Memphis, Tennessee and Fort Smith, Arkansas orders would be determined by subtracting the total value of all excess milk received at the plant of each handler from the handler's total obligation to producers and dividing such amount by the pounds of base milk. The base price for milk received by individual handlers would vary according to the classified use value of the handler's producer milk and the percentage of base milk received by the handler.

The base and excess prices adopted herein were proposed by proponent cooperative. A handler regulated under the Memphis order objected in his brief to the proposed method of pricing and requested that the base and excess prices be patterned after those in the Central Arkansas, Fort Smith and Memphis orders. Under such orders the excess price is usually a blend of the Class III, Class II and Class I prices. Opponent noted that, if the excess price is the Class III price as proposed herein, the base price would exceed the Class I price. It was his position that such base price would be improper.

Under the base plan provisions adopted herein, the base price for the month would exceed the Class I price whenever the quantity of excess milk is greater than the amount of producer milk utilized for Class II and Class III uses. However, if the quantity of excess milk were less than the amount of producer milk utilized in Class II and Class III uses, the base price would be less than the Class I price but would exceed the weighted average price.

Those who opposed pricing excess milk at the Class III price level offered no basis for their conclusion that a base price higher than the Class I price would be improper. Furthermore, pricing of excess milk at the Class III price will provide a greater incentive for a producer to even out his production than by pricing excess milk at the higher level suggested by opponents of the proposed pricing method. It is concluded, therefore, that excess milk should be priced at the Class III price level.

Proponent requested that the location adjustment for producer milk apply only to the base milk delivered by a producer. The cooperative noted that the application of a location adjustment to the excess price would reduce such price (the Class III price) below the value of milk in manufacturing uses. Proponent contended that it would be inappropriate to pay producers less than the Class III price for milk.

Milk for manufacturing uses has practically the same value to milk processors wherever located. This is reflected under the order program through the use of a uniform surplus price in virtually all orders which is equal to the average price per hundredweight for the month of manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin. If a location adjustment were applied to the excess price, it would result in an excess price at various plant locations that is less than the value of manufacturing grade milk delivered to those same plant locations. Such pricing would not be consistent with the location value of milk for manufacturing uses. Consequently, the location adjustment for producer milk should apply only to the base milk delivered by a producer.

The Central Arkansas order presently provides for a 4-cent deduction in the computation of the excess price. The money accumulated from the 4-cent deduction is added to the producer-settlement fund reserve.

The producer-settlement fund is a necessary adjunct of the Central Arkansas order and all orders with marketwide pooling. It is maintained by the market administrator for the purpose of accumulating payments from pool handlers whose utilization of milk in Class I uses is in excess of the marketwide average. Disbursements from the fund are made to those pool handlers whose utilization of milk in Class I uses is less than the marketwide average. A portion of the funds accumulated (4 to 5 cents per hundredweight) is retained each month as a reserve. This reserve is maintained to provide funds for the market administrator to pay handlers in the event an adult adjustment, for example, results in money due a handler.

It is concluded that a reserve deduction of 4 to 5 cents should continue to apply to each hundredweight of base milk under the Central Arkansas order. The same deduction should apply to base milk under the other marketwide pool orders under consideration. There is no need, however, to apply a 4-cent deduction, as under the Central Arkansas order, in computing the excess price under such orders. In most instances excess milk will be classified as Class III milk. The 4-cent reduction could result in excess milk being priced to the producer, in effect, at less than the Class III price under the order. There is no justification on this record for pricing any milk at less than the Class III price.

Proponent proposed that the base transfer rules of the base-excess plan permit the transfer of all or any part of the base by a producer only in the event of death of the baseholder or upon termination of milk production and the complete dispersal of the herd. In the case of a jointly held base, it was proposed that, upon termination of the joint ownership, the base be apportioned among the joint holders.

Limitations on base transfers are necessary, according to proponent, to prevent circumvention of the purpose of the base plan and to insure that the plan will provide producers with the incentive to increase their production of milk during the base-forming months. Proponent indicated that the proposed base transfer rules are not intended to prevent a producer who transfers his base upon the complete dispersal of his herd from immediately resuming production in the same or another area. Such producer would be free to reenter production and earn a base during the next base-forming period. Proponent noted that if the producer should reenter production during any period other than the base-forming period, then all milk that he markets would be priced as excess milk.

One handler and a cooperative association proposed that producers be permitted to transfer any portion of their base to other producers at any time.

The base earned by a producer who supplies the 11 markets in the preceding base-forming period should be transferable in its entirety or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base). This will facilitate the transfer of property when a baseholder dies or when the farm of a baseholder is sold. The transfer of a partial base will facilitate adjustments by those producers desiring to expand or contract their operations.

A 100-pound minimum on transfers of base is provided herein (unless the transfer involves the remaining portion of a producer's base) as a means of limiting the administrative work that could be connected with the frequent transfer of only a few pounds of base for a producer. The transfer of such minimum amounts would provide only minimal benefit for the producers involved and increase the cost of administering the program. The 100-pound minimum herein provided will aid in reducing the administrative expense involved in the transfer of bases without limiting to any significant extent the practical transferability of bases among producers.

As provided herein, a base may be transferred to be effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application would be required to be on a form approved by the market administrator and signed by a baseholder

or his heirs and the person to be transferred. If a base is held jointly, it would be required that the application be signed by all joint holders or their heirs. These provisions will minimize the possibility of a misunderstanding between the parties involved concerning transfers.

The base established by a partnership may be divided between partners on any basis agreed on in writing by them if written notification of the agreed upon division, signed by each partner, is received by the market administrator prior to the first day of the month in which the division is to be effective. This will facilitate the division of the assets of a partnership that is dissolved during the base-paying period. The division of the base will in no way affect the total quantity of base milk in the pool, irrespective of the manner in which the division of the base is made between the partners.

Bases assigned to producers who supplied a plant which was not a pool plant under one of the 11 markets in the base-forming period but which becomes a pool plant prior to or during the following base-paying period should not be transferable. Such restriction is necessary to deal with those instances in which a plant regularly associated with another market becomes regulated under one of the 11 orders for only a single or several months before shifting back to the originating market or to another market outside the 11-market area under consideration. In those instances in which a plant becomes newly regulated and remains as a pool plant during all of the base-paying period, the producers delivering to that plant would want to retain their bases in order to receive a base price for such milk. If, however, the plant were to lose its pool plant status before the end of the base-paying period, producers delivering milk to such plant would have no need for the bases and would offer such bases for sale. It would not be appropriate to permit the transfer of bases in such instance since Class I sales in the market would be reduced by the amount of the plant's Class I sales in the month the plant lost its pool plant status while the aggregate producer bases for the month would remain inflated by the bases that had been assigned to the producers associated with such plant. If producers were permitted to purchase such bases, they would benefit by receiving a greater share of the value associated with the Class I sales in these 11 markets at the expense of other producers in these markets who did not choose to buy additional base.

It is necessary that the reporting sections of the orders be revised to require handlers under the 11 orders to submit reports to the market administrator of the amounts of producer milk and base milk received from each producer at each plant location. Cooperative associations in their role as handlers should report the quantities of producer milk and base milk delivered by their members to each pool plant and nonpool plant under the respective order as well as the producer milk deliveries of each member under the other 10 orders. The reporting by cooperatives under each of the orders of individual member deliveries in the 11 markets will facilitate the computation under the individual orders of the base milk of members delivering milk under more than one order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, 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 parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations are made for each of the orders in this proceeding. They supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(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 agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Texas and certain other marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1071—MILK IN THE NEOSHO VALLEY MARKETING AREA

1. In § 1071.31, paragraph (a) (2) and (4) is revised as follows:

§ 1071.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1071.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1071.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to paragraphs (a) and (c) of this section and §§ 1071.30 and 1071.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1071.92.

3. Section 1071.61 is revised as follows:

§ 1071.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1071.60 for all handlers who filed the reports prescribed by § 1071.30 for the month and who made the payments pursuant to §§ 1071.71 and 1071.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1071.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1071.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1071.62 is revised as follows:

§ 1071.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1071.71 [Amended]

5. Section 1071.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1071.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1071.73, the introductory text of paragraph (b) is revised as follows:

§ 1071.73 Payments to producers and to cooperative associations.

* * * * *

(b) On or before the 17th day after the end of each delivery period, for all milk (or base milk and excess milk) received during such delivery period from such producer at not less than the applicable uniform price(s) for such delivery period subject to the following adjustments:

* * * * *

§ 1071.74 [Amended]

8. Section 1071.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1071.75 is revised as follows:

§ 1071.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at a pool plant the uniform price and the uniform price for base milk shall be adjusted according to the location of the pool plant at the rates set forth in § 1071.52.

(b) The weighted average price applicable to other sources milk shall be adjusted at the rates set forth in § 1071.52, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1071.76 [Amended]

10. Section 1071.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1071.90 through 1071.94) are added immediately following § 1071.86 as follows:

BASE-EXCESS PLAN

§ 1071.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1071.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1071.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1071.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1071.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1071.92.

§ 1071.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1071.92.

§ 1071.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma-Fort Smith, Ark.; Central Arkansas; Fort Smith, Ark.; Cenetral Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1071.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1071.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1071.121 [Amended]

12. Section 1071.121(b) is amended by changing all references to "§ 1071.61(d)" to read "§ 1071.61(a)(4)."

PART 1073—MILK IN THE WICHITA, KANS., MARKETING AREA

1. In § 1073.31, paragraph (a) (2) and (4) is revised as follows:

§ 1073.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base

milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. Section 1073.32 is revised as follows:

§ 1073.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator on or before the 8th day after the end of each of the months of March through July the following information.

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1073.92.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1073.30 and 1073.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. Section 1073.61 is revised as follows:

§ 1073.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk of 3.5-percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(2) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1073.62 is revised as follows:

§ 1073.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1073.71 [Amended]

5. Section 1073.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1073.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1073.73 paragraphs (a) and (d)(2) are revised as follows:

§ 1073.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the second working day following the 12th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price(s) computed for such producer's deliveries of milk (or base milk and excess milk) adjusted by the butterfat differential and location adjustments computed pursuant to §§1073.74 and 1073.75, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1073.72, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

* * * * *

(d) * * *

(2) In making final settlement, the value of such milk at the appropriate uniform prices adjusted pursuant to §§ 1073.74 and 1073.75, less payment made pursuant to paragraph (d)(1) of this section.

§ 1073.74 [Amended]

8. Section 1073.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1073.75 is revised as follows:

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at plants located outside Zone 1 the uniform price and the uniform price for base milk shall be increased or decreased by an adjustment for each such plant at the rates specified in § 1073.52(a).

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72, the weighted average price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1073.76 [Amended]

10. Section 1073.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1073.90 through 1073.94) are added immediately following § 1073.86 as follows:

BASE-EXCESS PLAN

§ 1073.90 Base Milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1073.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1073.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1073.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1073.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1073.92.

§ 1073.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1073.92.

§ 1073.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant under such orders for the entire baseforming period. A base thus assigned shall not be transferable.

§ 1073.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1073.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1073.121 [Amended]

12. Section 1073.121(b) is amended by changing all references to "§ 1073.61(d)" to read "§ 1073.61(a)(4)."

PART 1097—MILK IN THE MEMPHIS, TENN., MARKETING AREA

1. In § 1097.31, paragraph (a)(3) is revised as follows:

§ 1097.31 Payroll reports.

(a) * * *

(3) The total pounds of milk received from such producer and for the months of March through July the total pounds of milk and the pounds of base milk of such producer delivered to each fluid milk (pool) plant (and diverted to each plant that is not a fluid milk [pool] plant) under any of the orders specified in § 1097.92;

* * * * *

2. Section 1097.61, paragraph (b) is revised as follows:

§ 1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

* * * * *

(b) For each month of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (4) of this section, subtract, for each handler, an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in § 1097.9(c); and

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk and deduct any fraction of a cent.

3. Section 1097.75 is revised as follows:

§ 1097.75 Plant location adjustments for producers.

In making payment pursuant to § 1097.73, for milk received the uniform price and the uniform price for base milk shall be adjusted according to the location of the fluid milk plant where such milk was received at the rate provided pursuant to § 1097.52.

4. Section 1097.90 is revised as follows:

§ 1097.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1097.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1097.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1097.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1097.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1097.92.

5. Section 1097.91 is revised as follows:

§ 1097.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1097.92.

6. Section 1097.92 is revised as follows:

§ 1097.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

7. Section 1097.93 is revised as follows:

§ 1097.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred.

If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders of any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

8. Section 1097.94 is revised as follows:

§ 1097.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1097.65 [Revoked]

9. Section 1097.95 is revoked.

PART 1102—MILK IN THE FORT SMITH, ARK., MARKETING AREA

1. In § 1102.31, paragraphs (b) and (d) are revised as follows:

§ 1102.32 Payroll reports.

* * * * *

(b) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(d) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

2. In § 1102.32, paragraph (a)(2) is revised as follows:

§ 1102.32 Other reports.

(a) * * *

(2) The total pounds of milk and butterfat and the pounds of base milk of such producer delivered to each approved (pool) plant (and diverted to each plant that is not an approved [pool] plant) under any of the orders specified in § 1102.92.

* * * * *

3. In § 1102.61, paragraph (b) is revised as follows:

§ 1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

* * * * *

(b) For each month of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (3) of this section, subtract, for each handler, an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of such handler's excess milk; and

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk, and deduct any fraction of a cent.

4. Section 1102.75 is revised as follows:

§ 1102.75 Plant location adjustments for producers.

For producer milk received at an approved plant the uniform price and the uniform price for base milk shall be reduced according to the location of the approved plant at the rates set forth in § 1102.52.

5. Section 1102.90 is revised as follows:

§ 1102.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1102.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk as defined under any order specified in § 1102.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1102.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1102.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1102.92.

6. Section 1102.91 is revised as follows:

§ 1102.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1102.92.

7. Section 1102.92 is revised as follows:

§ 1102.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn., Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1120, 1126, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

8. Section 1102.93 is revised as follows:

§ 1102.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

9. Section 1102.94 is revised as follows:

§ 1102.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1102.95 [Revoked]

10. Section 1102.95 is revoked.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AERA

1. In § 1104.31, paragraph (a) (2) and (4) is revised as follows:

§ 1104.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1104.32 paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1104.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to §§ 1104.30 and 1104.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1104.92.

3. Section 1104.61 is revised as follows:

§ 1104.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1104.60 for all handlers who filed the reports prescribed by § 1104.30 for the month and who made the payments pursuant to §§ 1104.71 and 1104.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1104.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) (1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1104.62 is revised as follows:

§ 1104.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1104.71 [Amended]

5. Section 1104.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1104.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1104.73, the introductory text of paragraph (a)(2) (immediately preceding subdivision (i)), and paragraphs (b)(1)(ii) and (3)(ii) are revised as follows:

§ 1104.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day of the following month, an amount equal to not less than the applicable uniform price(s), as adjusted pursuant to §§ 1104.74 and 1104.75, multiplied by the hundredweight of milk (or base milk and excess milk) received from such producer during the month, subject to the following adjustments:

* * * * *

(b) * * *

(1) * * *

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member-producer (*a*) the total pounds of milk received during the preceding month, (and for the months of March through July the pounds of base milk), (*b*) the total pounds of butterfat contained in such milk, (*c*) the number of days of production included in such receipts, and (*d*) the amounts withheld by the handler in payment for supplies sold; and

* * * * *

(3) * * *

(ii) In making final settlement, the value of such milk at the appropriate uniform price(s), as adjusted pursuant to §§ 1104.74 and 1104.75, less the amount of partial payment made for such milk.

§ 1104.74 [Amended]

8. Section 1104.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1104.75 is revised as follows:

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§ 1104.71 and 1104.72, the weighted average price plus 5 cents shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1104.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

§ 1104.76 [Amended]

10. Section 1104.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1104.90 through 1104.94) are added immediately following § 1104.86 as follows:

BASE-EXCESS PLAN

§ 1104.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1104.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1104.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1104.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1104.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1104.92.

§ 1104.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1104.92.

§ 1104.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosha Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1074, 1106, 1097, 1102, 1108, 1126, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of day's production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the baseforming period (September-December) shall be calculated as if the plant were a pool plant under such orders for the entire baseforming period. A base thus assigned shall not be transferable.

§ 1104.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1104.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

12. Section 1104.121(b) is amended by changing all references to "§ 1104.61(d)" to read "§ 1104.61(a)(4)."

§ 1104.121 [Amended]

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. In § 1106.31, paragraph (a) (2) and (4) is revised as follows:

§ 1106.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1106.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1106.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to §§ 1106.30 and 1106.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address of other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1106.92.

3. Section 1106.61 is revised as follows:

§ 1106.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1196.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(2) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(3) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents.

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1106.62 is revised as follows:

§ 1106.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1106.71 [Amended]

5. Section 1106.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1106.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1106.73, paragraphs (a) and (d)(1)(ii)(*a*) are revised as follows:

§ 1106.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the 15th day after the end of the month during which the milk (or base milk and excess milk) was received, to each producer to whom payment is not made pursuant to paragraph (d) of this section, at not less than the applicable uniform price(s) for

such month, as adjusted pursuant to §§ 1106.74 and 1106.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 1106.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(*a*) The total pounds of milk received during the preceding month and for the months of March through July the pounds of base milk;

* * * * *

§ 1106.74 [Amended]

8. Section 1106.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1106.75 is revised as follows:

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1106.52;

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1106.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rates set forth in § 1106.52.

§ 1106.76 [Amended]

10. Section 1106.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1106.90 through 1106.94) are added immediately followng § 1106.86 as follows:

BASE-EXCESS PLAN

§ 1106.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1106.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1106.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1106.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1106.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1106.92.

§ 1106.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1106.92.

§ 1106.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1106.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1106.94 Announcement of established bases.

On or before February 1, of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

12. Section 1106.121(b) is amended by changing all references to "§ 1106.61(d)" to read "§ 1106.61(a)(4)."

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.31, paragraph (a)(2) and (4) is revised as follows:

§ 1108.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net volume paid.

* * * * *

2. Section 1108.32(a)(1) is revised as follows:

§ 1108.32 Other reports.

(a) * * *

(1) On or before the seventh day of each month of April through August, for each producer for the preceding month:

(i) The name and address or other appropriate identification of each producer; and

(ii) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1108.92;

* * * * *

3. In § 1108.61, the introductory text of paragraph (a) (immediately preceding subparagraph (1)), and paragraph (a)(6) and (b) are revised as follows:

§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk containing 3.5 percent butterfat content as follows:

* * * * *

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a) (5) (ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1108.75(a) is revised as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk to be paid for producer milk received at a pool plant located 60 miles or more from the County Courthouse in Arkadelphia, Ark., the County Courthouse in Forrest City, Arkansas, or the State Capital in Little Rock, Ark., whichever is nearer by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from the respective buildings designated above at the rate of 1.5 cents for each 10 miles or residual fraction thereof.

* * * * *

5. Section 1108.90 is revised as follows.

§ 1108.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1108.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1108.31) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1108.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1108.92 by the percentage that his deliveries of producer milk under this order at each plant location is his total deliveries of producer milk under all orders specified in § 1108.92.

6. Section 1108.91 is revised as follows:

§ 1108.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1108.92.

7. Section 1108.92 is revised as follows:

§ 1108.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kans.; Red River Valley; Oklahoma Metropolitan; Memphis, Tenn.; Fort Smith, Ark.; Central Arkansas; Texas; Lubbock-Plainview, Tex.; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

8. Section 1108.93 is revised as follows:

§ 1108.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

9. Section 1108.94 is revised as follows:

§ 1108.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§§ 1108.95 and 1108.96 [Revoked]

10. Sections 1108.95 and 1108.96 are revoked.

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEX. MARKETING AREA

1. In § 1120.31, paragraph (a) (2) and (4) is revised as follows:

§ 1120.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1120.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1120.32 Other reports.

* * * * *

(b) In addition to the reports required paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 8th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1120.92.

3. Section 1120.61 is revised as follows:

§ 1120.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(3) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in such computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying he hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1120.62 is revised as follows:

§ 1120.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices for such month.

§ 1120.71 [Amended]

5. Section 1120.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1120.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1120.73, the introductory text of paragraph (a)(2) (immediately preceding subdivision (i)), and paragraph (d)(3) are revised as follows:

§ 1120.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day after the end of each month for milk (or base milk and excess milk) received during such month, an amount computed at not less than the uniform price(s) per hundredweight pursuant to § 1120.61 as adjusted pursuant to § 1120.74; and less

* * * * *

(d) * * *

(3) The daily and total pounds and the average butterfat content of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

§ 1120.74 [Amended]

8. Section 1120.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1120.75 is revised as follows:

§ 120.75 Pant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall of Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers; and

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1120.76 [Amended]

10. Section 1120.76(a)(4) is amended by changing the worls "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1120.90 through 1120.94) are added immediately following § 1120.86 as follows:

BASE-EXCESS PLAN

§ 1120.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1120.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1120.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1120.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1120.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1120.92.

§ 1120.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1120.92.

§ 1120.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kansas; Red River Valley; Oklahoma Metropolitan; Memphis, Tennessee; Fort Smith, Arkansas; Central Arkansas; Texas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106 1097, 1102, 1108, 1126, 1120, 1132 and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1120.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1120.94 Announcement of established bases.

On or before February 1 each year the market administrator shall notify each

producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1120.121 [Amended]

12. Section 1120.121(b) is amended by changing all references to "§ 1120.61(d)" to read "§ 1120.61(a)(4)."

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In § 1126.32 paragraph (b)(2) is revised as follows:

§ 1126.32 Other reports.

* * * * *

(b) * * *

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1126.92;

* * * * *

2. Section 1126.61 is revised as follows:

§ 1126.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(1) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed in § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(2) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(3) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk, each of 3.5 percent butterfat Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

3. Section 1126.62 is revised as follows:

§ 1126.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the applicable uniform prices for such month.

§ 1126.71 [Amended]

4. Section 1126.71(b)(4) is amended by changing the words "uniform price" to "weighted average price."

5. In § 1126.73 the introductory text of paragraph (b) (immediately preceding subparagraph (1)), and paragraph (d)(2) are revised as follows:

§ 1126.73 Payments to producers and to cooperative associations.

* * * * *

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 18th day after the end of each month for milk (or base milk and excess milk) for which payment pursuant to § 1126.71(b) has been received by the market administrator or offset pursuant to § 1126.71(d). Such payment shall be at the applicable uniform price(s) for the month, subject to the following adjustments:

* * * * *

(d) * * *

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made and for the months of March through July the pounds of base milk;

* * * * *

§ 1126.74 [Amended]

6. Section 1126.74 is amended by changing the words "uniform price" to "uniform prices."

7. Section 1126.75 is revised as follows:

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1126.73, the uniform price and the uniform price for base milk for the month shall be adjusted by the amounts set forth in § 1126.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1126.76 [Amended]

8. Section 1126.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

9. A new center head "Base-Excess Plan" and five new sections (§§ 1126.90 through 1126.94) are added immediately following § 1126.86 as follows:

BASE-EXCESS PLAN

§ 1126.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1126.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1126.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1126.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1126.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1126.92.

§ 1126.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1126.92.

§ 1126.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kansas; Red River Valley; Oklahoma Metropolitan; Memphis, Tennessee; Fort Smith, Arkansas; Central Arkansas; Texas; Lubbock-Plainview, Texas; Texas Pan-

handle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132 and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1126.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1126.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1126.121 [Amended]

10. Section 1126.121(b) is amended by changing all references to "§ 1126.61(d)" to read "§ 1126.61(a)(4)."

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. In § 1132.31, paragraph (a)(2) and (4) is revised as follows:

§ 1132.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. In § 1132.32, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1132.32 Other reports.

* * * * *

(b) In addition to the reports required pursuant to §§ 1132.30 and 1132.31 and paragraphs (a) and (c) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(c) Each handler who receives milk from producers shall report to the market administrator on or before the 7th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1132.92.

3. Section 1132.61 is revised as follows:

§ 1132.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the City Hall of Amarillo, Tex., as follows:

(1) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(2) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(3) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1132.60 (f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1132.62 is revised as follows:

§ 1132.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butter differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices for such month.

§ 1132.71 [Amended]

5. Section 1132.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1132.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In § 1132.73, the introductory text of paragraph (b) (immediately preceding subparagraph (1)), and paragraphs (c)(3), (4)(ii) and (d)(2) are revised as follows:

§ 1132.73 Payments to producers and to cooperative associations.

* * * * *

(b) On or before the 15th day after the end of each month, for milk (or base milk and excess milk) received during month, an amount computed at not less than the applicable uniform price(s) per hundredweight, subject to the butterfat differential computed pursuant to § 1132.74, and plus or minus adjustments for errors made in previous payments to such producer; and less

* * * * *

(c) * * *

(3) Each handler who receives milk from a cooperative association which collects payments for its members pursuant to paragraph (c)(1) of this section shall, on or before the 20th of each month, furnish such association information showing the daily and total pounds milk received from each of the association's member producers for the first 15 days of such month, on or before the fifth day the end of each month, such information for the 16th through the end of such month and, for the months of March through July, on or

before the 7th day after end end of each month, the pounds of base milk.

(4) * * *

(ii) On or before the 13th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price(s) as adjusted pursuant to §§ 1132.74 and 1132.75, less the amount of payment made pursuant to paragraph (c)(4)(i) of this section.

(d) * * *

(2) The daily and total pounds and the average butterfat content of milk received from such producer, and for each of the months of March through July, the pounds of base milk;

* * * * *

§ 1132.74 [Amended]

8. Section 1132.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1132.75 is revised as follows:

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment pursuant to § 1132.73 the uniform price and the uniform price for base milk to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the Amarillo City Hall (miles):	*Rate per hundredweight (cents)*
100 but less than 110	15.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price plus 5 cents shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the Class III price).

§ 1132.76 [Amended]

10. Section 1132.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1132.90 through 1132.94) are added immediately following § 1132.86 as follows:

BASE-EXCESS PLAN

§ 1132.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1132.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1139.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1132.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1132.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1132.92.

§ 1132.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1132.92.

§ 1132.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kansas; Red River Valley; Oklahoma Metropolitan; Memphis, Tennessee; Fort Smith, Arkansas; Central Arkansas; Texas, Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132 and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1132.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds (unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1132.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1132.121 [Amended]

12. Section 1132.121(b) is amended by changing all references to "§ 1132.61(d)" to read "§ 1132.61(a)(4)."

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. In § 1138.31, paragraph (a)(2) and (4) is revised as follows:

§ 1138.31 Payroll reports.

(a) * * *

(2) The total pounds of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(4) The price per hundredweight (during the months of March through July the price per hundredweight for base milk and for excess milk), the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

2. Section 1138.32 is revised to read as follows:

§ 1138.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator on or before the 8th day after the end of each of the months of March through July the following information:

(1) The name and address or other appropriate identification of each producer; and

(2) The total pounds of milk and the pounds of base milk of such producer delivered to each pool plant (and diverted to each plant that is not a pool plant) under any of the orders specified in § 1138.92.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1138.30 and 1138.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. Section 1138.61 is revised as follows:

§ 1132.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat, content as follows:

(1) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(2) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting 5 cents from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the uniform price for excess milk for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations; and

(iv) Subtract not less than 4 cents nor more than 5 cents.

4. Section 1138.62 is revised as follows:

§ 1132.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

§ 1138.71 [Amended]

5. Section 1138.71(a)(2)(i) is amended by changing the word "price" to "prices."

6. Section 1138.71(a)(2)(ii) is amended by changing the words "uniform price" to "weighted average price."

7. In 1138.73, the introductory text of paragraph (b) (immediately preceding subparagraph (1)), and paragraphs (d)(2), (e)(2) and (f)(1) are revised as follows:

§ 1138.73 Payments to producers and to cooperative associations.

* * * * *

(b) On or before the 16th day after the end of each month, for milk (or base milk and excess milk) received during such month, an amount computed at not less than the applicable uniform price(s) per hundredweight as adjusted pursuant to §§ 1138.74 and 1138.75, plus or minus adjustments for errors made in previous payments to such producers and less

* * * * *

(d) * * *

(2) The total pounds and the average butterfat content of milk received from such producer and during the months of March through July the pounds of base milk;

* * * * *

(e) * * *

(2) In making final settlement, the value of such milk at the applicable uniform price(s) as adjusted pursuant to §§ 1138.74 and 1138.75, less the amount of partial payment made on such milk.

(f) * * *

(1) The days of delivery, the total pounds of milk, and the average butterfat test of milk received from such producer during the month and during the months of March through July the pounds of base milk;

* * * * *

§ 1138.74 [Amended]

8. Section 1138.74 is amended by changing the words "uniform price" to "uniform prices."

9. Section 1138.75 is revised as follows:

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at pool plants located in Zones II and III or at pool plants located outside the marketing area and more than 100 miles, as determined by the market administrator, from the nearest of the county courthouses in El Paso County, Tex., or Bernalillo, or Santa Fe Counties, N. Mex., there shall be deducted from the uniform price and the uniform price for base milk an adjustment for each such plant for milk at the rates specified pursuant to § 1138.52.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the weighted average price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1138.76 [Amended]

10. Section 1138.76(a)(4) is amended by changing the words "uniform price" wherever they appear to "weighted average price."

11. A new center head "Base-Excess Plan" and five new sections (§§ 1138.90 through 1138.94) are added immediately following § 1138.86 as follows:

BASE-EXCESS PLAN

§ 1138.90 Base milk.

"Base milk" means the producer milk of a producer under all of the orders specified in § 1138.92 in each of the months of March through July that is not in excess of the producer's base multiplied by the number of days in the month. If milk is received as producer milk (as defined under any order specified in § 1138.92) from the same producer during the month by a handler regulated under this order and by a handler fully regulated under any other order specified in § 1138.92, the amount of such producer's base milk received by the handler under this order at each plant location shall be determined by multiplying the producer's total base milk under all orders specified in § 1138.92 by the percentage that his deliveries of producer milk under this order at each plant location is of his total deliveries of producer milk under all orders specified in § 1138.92.

§ 1138.91 Excess milk.

"Excess milk" means the producer milk of a producer in each of the months of March through July that is in excess of the producer's base milk under this order for the month, and shall include all the producer milk of a producer for whom no base can be computed pursuant to § 1138.92.

§ 1138.92 Computation of base for each producer.

(a) The base of each producer shall be determined by the market administrator by dividing the total pounds of producer milk (as defined under the respective orders) received from the producer by all handler's fully regulated under the terms of the respective orders regulating the handling of milk in the Neosho Valley; Wichita, Kansas; Red River Valley; Oklahoma Metropolitan; Memphis, Tennessee; Fort Smith, Arkansas; Texas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley marketing areas (Parts 1071, 1073, 1104, 1106, 1097, 1102, 1108, 1126, 1120, 1132, and 1138, respectively, of this chapter) during the immediately preceding period of September through December by the number of days' production represented by such producer milk or by 90, whichever is greater.

(b) The base for a producer whose milk is delivered to a plant that did not become a pool plant under any of the orders specified in paragraph (a) of this section until after the beginning of the base-forming period (September–December) shall be calculated as if the plant were a pool plant under such orders for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1138.93 Base rules.

(a) A base may be transferred in its entirety, or in amounts of not less than 100 pounds(unless the transfer involves the remaining portion of such base), effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) If a base is held jointly and such joint holding is terminated, the base may be apportioned among the joint holders on any basis agreed to in writing by them. Written notification of the agreed upon division of base signed by each of the joint holders must be received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1138.94 Announcement of established bases.

On or before February 1 of each year the market administrator shall notify each producer, the handler receiving milk from him and, if if requested, a cooperative association in behalf of each of its producer members of the base established by such producer.

§ 1138.121 [Amended]

12. Section 1138.121(b) is amended by changing all references to "§ 1138.61(d)" to read "§ 1138.61(a)(4)."

Signed at Washington, D.C., on: December 20, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-36816 Filed 12-28-77;8:45 am]

federal register

THURSDAY, DECEMBER 29, 1977

PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

MEDICARE AND MEDICAL ASSISTANCE PROGRAMS

Designation of Section Numbers; Correction of Agency Title and Cross References

[4110-35]

Title 42—Public Welfare

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

MEDICARE PROGRAM, MEDICAL ASSISTANCE PROGRAM

Designation of Section Numbers; Correction of Agency Title and Cross References

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule amends current regulations for the Medicare program (title XVIII, Social Security Act) and the Medicaid program (title XIX, Social Security Act) to reflect changes in agency responsibility for administration and recent coding changes in the CFR. The changes result from: (1) The Departmental Reorganization Order published on March 9, 1977 (42 FR 13262) and accompanying and subsequent delegations of authority. Responsibility for the Medicare Program was transferred from the Social Security Administration to the Health Care Financing Administration; for the Medicaid program, from the Social and Rehabilitation Service to the Health Care Financing Administration. (2) The transfer and recodification of regulations of the Health Care Financing Administration under a new Chapter IV of Title 42 of the Code of Federal Regulations (42 CFR 52826).

EFFECTIVE: October 1, 1977.

FOR FURTHER INFORMATION, CONTACT:

Medicare—Stanley Katz, 301-594-9319; Medicaid—Margaret O. Schnoor, 202-245-1960.

SUPPLEMENTARY INFORMATION: In addition to the Departmental Reorganization Order of March 9, 1977, which contained certain delegations of authority, the Department has issued two other notices of delegations of authority for the Health Care Financing Administration—one June 29, 1977 (42 FR 33071) and November 2, 1977 (42 FR 57351). On September 30, 1977, the Health Care Financing Administration published in the FEDERAL REGISTER (42 FR 52826) a final rule that transferred and recodified the regulations for the Medicare, Medicaid, and Professional Standards Review Organization Programs under a new chapter IV of Title 42 of the Code of Federal Regulations. Under this transfer and recodification, chapter and parts numbers were redesignated.

This rule amends the recodified regulations to designate new section numbers, to correct all cross references to redesignated sections, and to reflect changes in administrative jurisdiction and delegation of authorities from the Social Security Administration and the Social and Rehabilitation Service to the Health Care Financing Administration. (The Medicaid regulations have already been amended to reflect changes in the title of the official responsible for the Medicaid program in the regional offices of HCFA—42 FR 42977, September 1, 1977 and 42 FR 51582, September 29, 1977.)

The Department finds that there is good cause to dispense with notice of proposed rulemaking since these changes are required by the Departmental Reorganization Order, and reflect the transfer of the Medicare and Medicaid programs under the Health Care Financing Administration with corresponding changes in delegation of authority. Accordingly, Notice of Proposed Rulemaking and public comment would serve no useful purpose and would result in unnecessary delays in conducting the Department's business.

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: December 21, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: December 22, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

42 CFR Chapter IV, Parts 405, 445, 452, and 460 through 480 are revised as follows:

PART 405 - FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. All section numbers previously designated under 20 CFR Part 405 are unchanged under the new 42 CFR Part 405.

2. In Part 405, all references to "Social Security Administration" and "Administration" are changed to "Health Care Financing Administration" except as indicated below:

a. The word "Administration" is changed to read "Social Security Administration" in the following:

§405.156(a)(5)
§405.156(b)(2)
§405.214(a) Example 2
§405.217(e) & (f)
§405.224
§405.914(a)(2) Example B
§405.920(a) & (e)
§405.940(b)
§405.941(a),(c),(d), & (f)
§405.946(a)
§405.947(a) & (b)
§405.948(a),(b) &(c)
§405.949
§405.956(a) Example 2
§405.957(b)
§405.959(a)
§405.959(b)(1)(ii) & (2)(ii)
§405.959(c)
§405.1683(a)(2)(i),(iv) & (v)

b. The words "Social Security Administration" and "Administration" are changed to read "Social Security Administration or the Health Care Financing Administration" in the following:

§405.106(c)(2)(i)
§405.157(a) & (b)
§405.210(a)(1), & (c)
§405.215
§405.223(a), (a)(3), & (d)
§405.461(b)(2)
§405.711 (first reference)
§405.712 (first reference)
§405.714 (first reference)
§405.715(a) (second reference)
§405.717
§405.718a(a)(1)
§405.722
§405.803(c)
§405.807(b)
§405.820(c)
§405.871
§405.1692(a) & (b)
§405.1693 (first and third reference)
§405.1694

c.c. In section 405.195(b)(2) "Administration" is changed to "Health Care Financing Administration (HCFA)".

d. In the following, the word "Administration is change to read "HCFA":

§405.195(b)(3) & (4)
§405.195(c)(2) through (4)
§405.195(d)(2) through (4)

e. In section 405.2041(b) "Social Security Administration" (hereafter referred to as SSA)" is changed to "Health Care Financing Administration (hereafter referred to as HCFA)".

f. In the following, "SSA" is changed to "HCFA":

§405.2041(c) & (d)
§405.2042(h) & (i)(2)
§405.2043(a)
§405.2043(b)(2)(i) & (3)
§405.2043(c)(2)(i) & (3)
§405.2043(d)(1) & (2)
§405.2043(h)(1) & (2)
§405.2044(d) through (f)
§405.2045(a) through (d)
§405.2045(e)(1) & (2)
§405.2045(f)
§405.2046(a) & (b)
§405.2047(b)(1),(b)(1)(iii)&(2)
§405.2047(c)(1),(3)(i) & (4)
§405.2049(b)
§405.2050 introductory paragraph
§405.2051(a),(a)(1),(2), and (3) & (c) & (d)
§405.2052(a), (c)(8), & (d)(1) & (2)

f. (cont.)

§405.2053(a)(1), (a)(1)(iii), & (2), & (b)

§405.2054(b)(1), (b)(1)(iii), & (2)

§405.2054(c), (c)(1)(i), (2) & (3), & (d)

g. In section 405.217(c)(3), "Administration" is changed to "Secretary".

h. In section 405.901, "Administration's" is changed to "Health Care Financing Administration's and the Social Security Administration's".

i. In the following sections, all references to "Social Security Administration" or "SSA" remain unchanged:

§405.102(b)

§405.212(e)

§405.217(g)(4) & (5)

§405.223(c)(1) - all references except second

§405.226

§405.454(g) - first reference

§405.903(c)

§405.936 - Example

§405.940(b)

§405.946(a)

§405.956(b)

§405.2020(d)(2)

§405.2021(c)(1)

§405.2023(e)(5)

§405.2025(a)(1)(i)

§405.2025(a)(1)(ii) - second & third references

§405.2025(a)(2) - first & fourth references

§405.2025(a)(5) - first, third, & fourth references

§405.2025(b) - first reference

§405.2051(d)(2)

§405.2059(b)

§405.2060(c)

2. In Section 405.222(c) "45 CFR 248.1" is changed to "42 CFR 448.1".

3. In section 405.315b(d) "Regional Representative, Health Insurance" is changed to "Regional Medicare Director".

4. In sections 405.1532, and 405.1550, "Bureau of Health Insurance (as well as the Bureau of Quality Assurance" is changed to "Medicare Bureau (as well as the Health Standards and Quality Bureau".

5. In the following "Bureau of Health Insurance" is changed to "Medicaid Bureau":

§405.1560	§405.2070
§405.1563	§405.2077(b)
§405.1867	§405.2079(c)

6. In section 405.1563 "Bureau of Quality Assurance" is changed to "Health Standards and Quality Bureau".

7. In sections 405.1829(a) and 405.1867, "Commissioner of Social Security" is changed to "Commissioner of Social Security or the Administrator of the Health Care Financing Administration".

8. In section 405.2051(d)(1), "Office of the Acturary of SSA" remains unchanged.

9. In section 405.2051(d)(3), "Office of Research and Statistics of SSA" is changed to "Office of Program Policy of HCFA".

10. In Part 405 the following cross reference changes to regulation sections are made:

Location	Old Citation	New Citation
§§405.102(a)(1); 405.103(a)(f)(ii); 405.104(a)(2)(f) & (d)(2); 405.180; 405.701; 405.1121(k) & (k)(14); 405.2056(b); 405.2138	Part 404 of this chapter	20 CFR Part 404
§405.103(a)(4)	§404.2(c)(6) of of this chapter	20 CFR 404.2(c)(6)
§405.104(d)(2)	§404.1105 of this chapter	20 CFR 404.1105
§405.104(d)(3)	§404.323-404.327a of this chapter	20 CFR 404.323-404.327a
§405.104(d)(3)(ii)(C)	§404.323(a)(1)	20 CFR 404.323(a)(1)
§405.104(d)(3)(ii)(C)	§404.323-404.324	20 CFR 404.323-404.324
§405.104(d)(3)(ii)(C)	§404.327a	20 CFR 404.327a
§405.105(a)(1)(i)(A)	§404.306 of this chapter	20 CFR 404.306
§405.105(a)(1)(i)(B)	§404.320(a)(4)(iii) of this chapter	20 CFR 404.320(a)(4)(iii)
§405.105(a)(1)(i)(C)	§404.328(a)(3)(ii) of this chapter	20 CFR 404.328(a)(3)(ii)
§405.105(a)(1)(i)(D)	§404.331(a)(3)(ii) of this chapter	20 CFR 404.331(a)(3)(ii)
§405.105(a)(2)	§404.328(a)(3)(ii) and §404.328(e) of this chapter	20 CFR 404.328(a)(3)(ii)and 404.328(e)
§405.105(a)(3)	§404.331(a)(3)(ii) and404.331(c) of this chapter	20 CFR 404.331(a)(3)(ii) and 404.331(c)
§405.105(a)(5)	§404.335 of this chapter	20 CFR 404.335
§405.217(g)(1),(2)(ii), & (5); & §405.222(c)	45 CFR 248.1	42 CFR 448.1

Location	Old Citation	New Citation
§405.354	§404.502 of this chapter	20 CFR 404.502
§405.355(a)	§404.509 and §404.512 of this chapter	20 CFR 404.509 404.512
§405.356	§404.506-509, 404.510a, and 404.512 of this chapter	20 CFR 404.506-509 404.510a.and404.512
§405.705(a) & (b)	Part 404 - see §404.905 of this chapter	20 CFR Part 404-see 20 CFR 404.905
§§405.711 & 405.718a (a)(3)	§404.368 of this chapter	20 CFR 404.368
§405.718a(b)(1) & (3)	§404.612 or §404.954 of this chapter	20 CFR 404.612 or 404.954
§405.718a(b)(4)	§404.946 of this chapter	20 CFR 404.946
§405.722	§404.954(a) of Part 404 of this chapter	20 CFR 404.954(a)
§405.724	§404.942ff of Subpart J of Part 404 of this chapter	20 CFR 404.942ff
§405.730	§404.950 of this chapter	20 CFR 404.950
§§405.730 & 405.2062(b)	§422.210 of this chapter	20 CFR 422.210
§405.750	§§404.940, 404.951 of this chapter	20 CFR 404.940, 404.951
§405.750(b)	§404.958 of Part 404 of this chapter	20 CFR 404.958
§405.841(b)	§404.958 of Part 404	20 CFR 404.958
§405.1134(c, & (e)	§249.33(a)(1)(i) of this title	42 CFR 449.33(a)(1)(i)
§§405.1662; 405.1678 & 405.1693	§422.510 of Part 422 of this chapter	20 CFR 422.510
§405.1672(d)	§§404.1601-404.1610 of this chapter	20 CFR 404.1601-404.1610
§§405.1829(a) & 405.1867	§422.408 of this chapter	20 CFR 422.408
§405.2060(a)	of this chapter	of 20 CFR Part 404
§405.2060(d)	§404.954(a) of this chapter	20 CFR 404.954(a)
§405.2061	§404.942ff of this chapter	20 CFR 404.942ff

PART 446—STATE ORGANIZATION—MEDICAL ASSISTANCE PROGRAMS

11. Section 246.10 and 246.160 previously designated under 45 CFR are redesignated as 446.10 and 446.160 respectively

PART 448—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

12. In Part 448, the following cross reference changes are made:

Location in Newly Designated Section	Old Citation	New Citation
§448.1—Introductory sentence	The provisions of §§248.1 through 248.4 do not appy to Guam, Puerto Rico, and the Virgin Islands, with respect to which §248.10, 248.11 and 248.21 apply.	The provisions of §§448.1 through 448.4 do not apply to Guam Puerto Rico, and the Virgin Islands, with respect to which §§448.10, 448.11, and 448.21 apply.
§448.1(a)(1)(ii); (b)(2)(ii) & (iii); & (c)(1) & (ii)	§248.2(d)	§448.2(d)
§448.2(b)(2)	§248.1(b)(2)(iii)	§448.1(b)(2)(iii)
§§448.2(d)(4) & 448.3(a)(1)(ii)(B)	§248.1(b)(2)(vi)	§448.1(b)(2)(vi)
§448.3(a)(2)	§249.40 of this chapter	§449.40 of this chapter

Location in Newly Designated Section	Old Citation	New Citation
§448.3(b)(2)(iii) & (b)(3)(iv)	45 CFR 248.2(d)or(e)	§448.2(d) or (e)
§448.3(c)(1)(iii)	§248.4(b)(4)	§448.4(b)(4)
§§448.3(c)(2)(i); 448.21(a)(1)(ii) and (a)(3)(ii)(A) & (B)	§249.40	§449.40
§§448.3(c)(2)(ii) & 448.21(a)(3)(ii)(B)	§250.31	§450.31
§448.4(b)(1)	Part 250 of this chapter	Part 450 of this chapter
§§448.4(b)(1)(i); 448.10(d)(2)(i); 448.30(b)(1); & 448.60(a)(2) & (a)(3)(iv)	§249.10(b)(16)	§449.10(b)(16)
§448.4(b)(1)(ii)	§233.90(c)(1)(v)(a) of this chapter	45 CFR 233.90(c)(1)(v)(a)
§§448.4(b)(1)(ii) & 448.10(d)(2)(ii)	§237.50(b)(3) & (4) of this chapter	45 CFR 237.50(b)(3) and (4)
§§448.4(b)(2) & 448.10(d)(2)(vi)	§248.60	§448.60
§448.4(b)(3)	§248.1(b)(2)(v)	§448.1(b)(2)(v)
§448.4(b)(5)	§206.10(a)(6) of this chapter	45 CFR 206.10(a)(6)
§448.4(b)(8)	§248.1(b)(1)(iii); (2)(iv), (v), and (vi); and (3)(ii)	§448.1(b)(1)(iii); (2)(iv), (v), and (vi); and (3)(ii)
§448.4(b)(8)	§248.1(c)(1)	§448.1(c)(1)
§448.10-Note; §448.11-Note; & §448.21-Note	§§248.1 through 248.4	§§448.1 through 448.4
§448.10(a)(1)	§233.20 of this chapter	45 CFR 233.20
§448.10(d)(2)	Part 250	Part 450
§448.10(d)(2)(ii)	§233.90(c)(1)(v)(a) of this chapter	45 CFR 233.90(c)(1)(v)(a)

Location in Newly Designated Section	Old Citation	New Citation
§448.10(d)(2)(vi)	§248.11	§448.11
§448.21(b) & (c)(2)	§248.10(b)(3) and (4)	§448.10(b)(3) and /(4)
§448.60(b)(9)	§250.24 §249.10(d)(1)(v)	§450.24 §449.10(d)(1)(v)
§§448.70(a)(1) & 448.80(a)(1)	§§248.1(b)(2)(vi) and 248.1(d)(2)	§§448.1(b)(2)(vi) and 448.1(d)(2)
§448.70(a)(3)	§206.10(a)(9)(iii) of this chapter	45 CFR 206.10(a)(9)(iii)
§448.70(c)	§248.4(b)(7)	§448.4(b)(7)

PART 449--SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

13. In Part 449, the following cross reference changes are made:

Location in Newly Designated Section	Old Citation	New Citation
§449.10(a)(3)(iv)	§205.146(c) of this chapter	45 CFR 205.146(c)
§449.10(a)(10)	§248.70(a)(2)	§448.70(a)(2)

Location in Newly Designated Section	Old Citation	New Citation
§449.10(b)(4)(i)(A)	20 CFR 405.127	42 CFR 405.127
§449.10(b)(4)(i)(C)(1)	§249.33(a)(1)(i)	§449.33(a)(1)(i)
§449.10(b)(4)(i)(C)(2)	§249.33(a)(4)(i)	§449.33(a)(4)(i)
§449.10(b)(4)(i)(C)(3) & (b)(15)(vi)(C)	§249.33(a)(5)	§449.33(a)(5)
§449.10(b)(4)(i)(C)(5)	§249.33(a)(6), (9) and (10)	§449.33(a)(6), (9) and (10)
§449.10(b)(14)(i)(A)	20 CFR 405.1035(f)	§42 CFR 405.1035(f)
§449.10(b)(14)(iii)	§250.24	§450.24
§449.10(b)(15)(i)(D); 449.33(a)(2)(v) & (a)(4)(v)	§249.12	§449.12
§449.33(a)(8)(i) & (i)(A) & (B); & 449.10(b)(15)(i)(D)	§249.13	§449.13
§449.10(b)(15)(i)(E)	§249.33(b)(15)(i)	§449.33(b)(15)(i)
§449.10(b)(4)(i)(C); (b)(15)(ii)(A) & (B); (b)(15)(vi)	§249.33	§449.33
§449.10(b)(15)(ii)(A)	§249.12(a)(1)(iii)	§449.12(a)(1)(iii)
§449.10(b)(15)(ii)(B)	§249.12(a)(1)(ii)(A)(2) and (iii)	§449.12(a)(1)(ii)(A)(2) and (iii)
§449.10(b)(15)(v)	§249.12 and §249.13	§449.12 and §449.13
§449.10(b)(15)(vi)(A)	§249.33(a)(2)	§449.33(a)(2)
§449.10(b)(15)(vi)(B)	§249.33(a)(4)(ii)-(v)	§449.33(a)(4)(ii)-(v)
§449.10(b)(15)(vi)(D)	§250.100(c)(1)	§450.100(c)(1)
§449.10(b)(15)(vi)(E)	§249.33(a)(6),(7),(8) and (10)	§449.33(a)(6),(7), (8) and (10)
§449.10(b)(16)(iii)(a)	§250.23	§450.23
§449.10(b)(16)(iii)(e) & (b)(16)(iv)(b)	§250.18	§450.18
§449.10(b)(16)(iv)(b)	§250.23(a)(1)	§450.23(a)(1)
§449.82(c)(6)(xi)	§249.10(a)(6)(vii)	§449.10(a)(6)(vii)

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Location in Newly Designated Section	Old Citation	New Citation
§449.82(d)(1)	Part 74 of this title	45 CFR Part 74
§449.10(d)(1)(iv)	§250.24	§450.24
§449.10(d)(1)(v)	§248.60(b)	§448.60(b)
§449.10(d)(1)(v)(C) & (E)	§249.12(c)(3)	§449.12(c)(3)
§449.12(a)	§249.10(b)(15)	§449.10(b)(15)
§449.12(b)(3)(ii); (c)(3)(v); & (c)(4)(ii)	20 CFR 405.1101(n)	42 CFR 405.1101(n)
§449.12(c)(1)	§249.10(d)(1)(v)(c)	§449.10(d)(1)(v)(c)
§449.12(c)(3)(vi) & (c)(4)(v)	20 CFR 405.1101(t)	42 CFR 405.1101(t)
§449.12(c)(6)	§249.13	§449.13
§449.13-Introductory paragraph	§249.10(b)(15) §249.12(c)(6) §249.12	§449.10(b)(15) §449.12(c)(6) §449.12
§449.13(b)(6)(i)(C)	§249.12(c)(3)(i)	§449.12(c)(3)(i)
§449.13(c)(3)(vi)	§249.12(c)(3)	§449.12(c)(3)
§449.13(c)(4)(xiii); (c)(8)(v)(A) & (B); (c)(11)(vi)(A); & (c)(12)(v)(A)	20 CFR 405.1101	42 CFR 405.1101
§449.31(b)	§249.32	§449.32
§449.33(a)(1)(i)	20 CFR 405.1134(c) 20 CFR 405.1134(e)	42 CFR 405.1134(c) 42 CFR 405.1134(e)
§449.33(a)(1)(i),(ii)&(iii)	20 CFR 405.1137	42 CFR 405.1137
§449.33(a)(1)(i),(2),(4), and (5) and (b)(2)	§250.100(c)	§450.100(c)
§449.33(a)(2)	§249.10(b)(15)	§449.10(b)(15)
§449.33(a)(2)(i)	§249.12(a)(5)	§449.12(a)(5)
§449.33(a)(2)(i) and (v)	§249.12(a)(6)	§449.12(a)(6)
§449.33(a)(2)(i)(E)	§249.12(a)(5) §249.12(a)(6) §249.12	§449.12(a)(5) §449.12(a)(6) §449.12

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Location in Newly Designated Section	Old Citation	New Citation
§449.33(a)(2)(ii)	§249.13(b)(5) §249.12(a)(5) §249.13(b)(6)(i) §249.13(c)(4)(viii) §249.13(c)(8)(vi)	§449.13(b)(5) §449.12(a)(5) §449.13(b)(6)(i) §449.13(c)(4)(viii) §449.13(c)(8)(vi)
§449.33(a)(2)(ii)(A)(2)	§249.13(b)(5)	§449.13(b)(5)
§449.33(a)(2)(ii)(A)(3)	§249.12(a)(5) §249.13(b)(6)(i) §249.13(c)(4)(viii) §249.13(c)(8)(vi)	§449.12(a)(5) §449.12(b)(6)(i) §449.13(c)(4)(viii) §449.13(c)(8)(vi)
§449.33(a)(2)(ii)(D)	§249.13(b)(5) §249.12(a)(5) §249.13(b)(6)(i) §249.13(c)(4)(viii) §249.13(c)(8)(vi) §249.12(a)(5) §249.13(f)(1)(iv) §249.13(b)(6)(i)(C) and (D)	§449.13(b)(5) §449.12(a)(5) §449.13(b)(6)(i) §449.13(c)(4)((viii) §449.13(c)(8)(vi) §449.12(a)(5) §449.13(f)(1)(iv) §449.13(b)(6)(i)(C) and (D)
§449.40(a)(3)(vi) & (b)(1)	20 CFR 405.402	42 CFR 405.402
§§449.40(a)(3)(vi) & (s)(1); 449.82(c)(5)(xiv), (c)(2)(i), (c)(3)(iii),(c)(4)(i), & (c)(5)(vii)	§250.30	§450.30
§449.41(c)(1)	§248.1(b)(1)(ii)	§448.1(b)(1)(ii)
§449.41(c)(1)	§248.1(b)(3)(ii)	§448.1(b)(3)(ii)
§449.41(c)(2)	§206.10(a)(6)(ii) of this chapter	45 CFR 206.10(a)(6)(ii)
§449.82(c)(1)(viii)	§205.50 of this chapter	45 CFR 205.50
§449.82(c)(1)(ix)	§250.31	§450.31

14. In Part 449, in newly designated §449.10(c)(5)(ii)(F) "specified in regulations in this chapter and Social and Rehabilitation guidelines" is changed to "specified in 45 CFR Chapter II and Department guidelines".

15. In Part 449, in newly designated §449.12(a)(1)(i), "Social and Rehabilitation Service" is changed to "Administrator, Health Care Financing Administration".

PART 450--ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

16. In Part 450, the following cross reference changes are made:

Location in Newly Designated Section	Old Citation	New Citation
§450.18(a)(1)(iii)	§250.19	§450.19
	§250.19(b)	§450.19(b)
	§250.19(c)	§450.19(c)
§450.18(a)(1)(v)	§250.19	§450.19
	§250.19(b)	§450.19(b)
	§250.23(a)(1)	§450.23(a)(1)
	§250.24(a)(1)	§450.24(a)(1)

Location in Newly Designated Section	Old Citation	New Citation
§450.18(a)(3)(iv)	§250.23(a)(1)	§450.23(a)(1)
§450.18(a)(3)(iv)	§250.24(a)(1)	§450.24(a)(1)
§§450.18(a)(4) & 450.24(b)	§250.23	§450.23
§§450.18(a)(5) & 450.19(a)(4)(vi)	§250.24	§450.24
§450.18(c)	§250.19(a)(1),(2),(3)	§450.19(a)(1),(2),(3)
§450.18(d)	§205.100(a)(1)(i) §250.100(c)	45 CFR 205.100(a)(1)(i) §450.100(c)
§450.19(a)(1)(vii)(C); (a)(2)(vii)(C); (a)(3)(vii)(C); & (a)(4)(v)(C)	§250.18(a)(3)	§450.18(a)(3)
§450.19(a)(4)	§250.18	§450.18
§450.19(c)(8)	45 CFR 250.20	42 CFR 450.20
§450.20(b)(1), (3), & (5)	§250.18	§450.18
	§250.19	§450.19
	§250.23	§450.23
	§250.24	§450.24
§450.20(c)	§250.19	§450.19
§450.23(a)(1)	§249.10(b)(16)(iii)	§449.10(b)(16)(iii)
§450.23(a)(1)	§249.10(b)(16)(v)	§449.10(b)(16)(v)
§450.30(a)(2)(i); (a)(2)(iii); and (b)(1)	20 CFR 405.402	42 CFR 405.402
§450.30(b)(6)(ii)	20 CFR 405.460	42 CFR 405.460
§450.30(d)(2)(iii)	§249.13(a)(1)(xi)(E)	§449.13(a)(1)(xi)(E)
§450.70(a)(1)	20 CFR 405.1121(a) §249.33(a)(3)	42 CFR 405.1121(a) §449.33(a)(3)
§450.30(a)(3)(i)(C)	20 CFR 405.453(d)	42 CFR 405.453(d)

Location in Newly Designated Section	Old Citation	New Citation
§450.30(a)(3)(i)(F), & (a)(3)(ii)(F)	§205.60 of this chapter	45 CFR 205.60
§450.30(a)(3)(iii)(A)(1)	§249.10(b)(4) 20 CFR 405.127(a) §249.10(b)(15)	§449.10(b)(4) 42 CFR 405.127(a) §449.10(b)(15)
§450.30(a)(3)(iii)(A)(2)	§249.33(a)(1) §249.12 and §249.13	§449.33(a)(1), §449.12 and §449.13
§450.30(a)(3)(iii)(A)(3)	§250.100	§450.100
§450.120(b)	§250.90	§450.90

17. In Part 450, in newly designated §§450.18(e), 450.20(b)(1), 450.80(c), 450.100(a), (b), and (c)(1), and 452.10(b)(1), "Social and Rehabilitation Service" is changed to "Health Care Financing Administration".

18. In Part 450, in newly designated §450.90(b)(1)(ii)(C), "Service" is changed to "Department".

19. In Part 450, in newly designated §450.90(b)(1)(ii)(D), "regulations of the Service" is changed to "regulations of the Department".

20. In Part 450, in newly designated §450.90(b)(2), "approval by the Service" is changed to "approval by the Department".

21. In Part 450, in newly designated §450.90(b)(3), "deemed necessary by the Service" is changed to "deemed necessary by the Department".

22. In Part 450, in newly designated §450.90(b)(4), "approvals of systems by the Service" is changed to "approvals of systems by the Department".

23. In Part 450, in newly designated §450.25(a)(1), "prescribed by the Social and Rehabilitation Service (SRS)" is changed to "prescribed by the Department".

24. In Part 450, in newly designated §450.80(a)(4), "Social and Rehabilitation Service at intervals prescribed by the Service" is changed to "Health Care Financing Administration at intervals prescribed by the Administration".

25. In Part 450, in newly designated §450.90(b)(1), "which has received approval by the Social and Rehabilitation Service. Such approval shall be based upon a finding by the Service that:" is changed to "which has received approval by the Department. Such approval shall be based upon a finding by the Department that:"..

26. In Part 450, in newly designated §450.90(a)(1)(ii)(B), "Part 74 of this title and applicable Social and Rehabilitation Service program regulation guides" is changed to "45 CFR Part 74 and applicable Department program regulation guides".

PART 452—MEDICAL ASSISTANCE PROGRAMS: RELATED RESPONSIBILITIES

27. In Part 452, in newly designated §452.10(b)(1), "§249.10(b)(1) or (14)(iv)" is changed to "§449.10(b)(1) or (14)(iv)".

PART 460—PSRO AREA DESIGNATIONS

28. In Part 460, the section numbers are redesignated as follows:

Old Section	New Section
§101.1	§460.1
§101.2	§460.2
§101.2a	§460.2a
§101.3	§460.3
§101.4	§460.4
§101.5	§460.5
§101.6	§460.6
§101.7	§460.7
§101.8	§460.8
§101.9	§460.9
§101.10	§460.10
§101.11	§460.11
§101.12	§460.12
§101.13	§460.13
§101.14	§460.14
§101.15	§460.15
§101.16	§460.16
§101.17	§460.17
§101.18	§460.18
§101.19	§460.19
§101.20	§460.20
§101.21	§460.21
§101.22	§460.22
§101.23	§460.23
§101.24	§460.24
§101.25	§460.25
§101.26	§460.26

Old Section	New Section
§101.27	§460.27
§101.28	§460.28
§101.29	§460.29
§101.30	§460.30
§101.31	§460.31
§101.32	§460.32
§101.33	§460.33
§101.34	§460.34
§101.35	§460.35
§101.36	§460.36
§101.37	§460.37
§101.38	§460.38
§101.39	§460.39
§101.40	§460.40
§101.41	§460.41
§101.42	§460.42
§101.43	§460.43
§101.44	§460.44
§101.45	§460.45
§101.46	§460.46
§101.47	§460.47
§101.48	§460.48
§101.49	§460.49
§101.50	§460.50
§101.51	§460.51
§101.52	§460.52
§101.53	§460.53
§101.54	§460.54
§101.55	§460.55
§101.56	§460.56

29. In Part 460, in newly designated §460.2a(b), "Subpart" is changed to "part"; and in §460.2a(g)(2), "Subpart A" is changed to "Part 460".

PART 461--NOTIFICATION AND POLLING OF PHYSICIANS

30. In Part 461, the section numbers are redesignated as follows:

Old Section	New Section
§101.101	§461.1
§101.102	§461.2
§101.103	§461.3
§101.104	§461.4
§101.105	§461.5
§101.106	§461.6
§101.107	§461.7

31. In Part 461, the following cross reference changes are made:

Location in Newly Designated Section	Old Citation	New Citation
§§461.1(b), 461.2, & 461.3	Subpart	Part
§461.3	Subpart A of this part	Part 460 of this chapter
§461.4	§101.101	§461.1
§461.4(b)(5); §461.5(a), and (b); and §461.6(a)	§101.103	§461.3
§461.5	§101.104	§461.4
§§461.5, 461.5(a) & (b) & 461.6(a)	§101.104(b)(4)	§461.4(b)(4)
§§461.4(b)(5); 461.5(b); & 461.7	§101.106	§461.6
§461.6(c)	§101.107(c) §101.107	§461.7(c) §461.7

PART 473 -- HEARINGS AND APPEALS ON PSRO DETERMINATIONS

32. In Part 473, the section numbers are redesignated as follows:

Old Section	New Section
§101.1401	§473.1
§101.1402	§473.2
§101.1403	§473.3
§101.1404	§473.4
§101.1405	§473.5
§101.1406	§473.6

33. In Part 473, in newly designated §§473.1 and 473.4(b)(3) "subpart" is changed to "Part".

34. In Part 473, in newly designated §473.3 "specified in §405.722 (time and place of filing request for hearing) §405.740 through 405.747 (determining amount in controversy" is changed to "specified in §405.722 (time and place of filing request for hearing) and §§405.740 through 405.747 (determining amount in controversy) of this chapter, and".

35. In Part 473, in newly designated §473.4(b), "Social Security Administration" is changed to "Bureau of Hearings and Appeals of the Social Security Administration".

36. In Part 473, in newly designated §473.5 "§405.740 of 20 CFR" is changed to "405.740 of this chapter".

PART 480--ADVISORY GROUPS TO PSROs

37. In Part 480, the section numbers are redesignated as follows:

Old Section	New Section
§101.2101	§480.1
§101.2102	§480.2
§101.2103	§480.3
§101.2104	§480.4
§101.2105	§480.5
§101.2106	§480.6

38. In Part 480, in newly designated §§480.1, 480.2(a)(3)(i), 480.3(a), (e), and (f) and 480.6, "subpart" is changed to "part".

39. In Part 480, in newly designated §480.3(d) "part" is changed to "subchapter".

40. In Part 480 in newly designated §480.2(a)(iii), "45 CFR 249.10(b)(15)" is changed to 42 CFR 449.10(b)(15)".

41. In Part 480 in newly designated §480.4(a)(1), "§101.2102(b)(2)" is changed to "§480.2(b)(2)".

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

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Program; 13.800, Medicare-Hospital Insurance; 13.801 Medicare-Supplementary Medical Insurance.

[FR Doc.77-36997 Filed 12-28-77;8:45 am]

federal register

THURSDAY, DECEMBER 29, 1977

PART VI

POSTAL SERVICE

■

PRIVACY ACT OF 1974

Amendment to a System of Records

[7710-12]

POSTAL SERVICE

PRIVACY ACT OF 1974

System of Records Modification

Agency: U. S. Postal Service.

Action: Proposed modification to an existing system of records.

Summary: This document publishes certain proposed changes to the published description of the Postal Service system of records entitled, USPS 120.070, Personnel Record—General Personnel Folders (Official Personnel Folder and Records Related Thereto). The effect of the proposed changes from the standpoint of the Privacy Act would be to increase significantly the amount of information about an employee to which he would have access and which he would be able to correct or challenge.

Date: Comments must be received on or before January 26, 1978.

Address: Records Officer, U.S. Postal Service, Washington, D.C. 20260.

For further information contact: Mr. John E. Finlay, (202) 245-4142.

Supplementary Information: The published description of USPS 120.070 appears in the Federal Register on September 30, 1977 (42 FR 53500).

Modifications

The Postal Service believes that it is necessary to make certain modifications to its system of records entitled USPS 120.070, Personnel Records—General Personnel Folders (Official Personnel Folder and Records Related Thereto). These modifications are believed necessary because the Postal Service is changing to a new automated system, the Form 50, for preprocessing personnel actions. The revised system description appears immediately after the following changed items:

System location: Add, "Personnel Service Centers."

Storage: Add, "Magnetic tape and other computer storage devices."

Retrievability: Add, "and social security number."

Safeguards: Add, "also protected by computer passwords and tape or disc library physical security."

Retention and disposal: Change to read, "Paper records considered to be permanent are maintained until employee is separated, then they are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment. Paper records considered to be temporary are destroyed two years after creation. Computerized records are erased following separation of the employee."

The Postal Service invites public comments on the proposed modifications.

Roger P. Craig,
Deputy General Counsel.

USPS 120.070

System name. Personnel Records—General Personnel Folders (Official Personnel Folder and Records Related Thereto).

Security location: Personnel offices of all USPS facilities; St. Louis Personnel Records Center; Personnel Service Centers.

Categories of individuals covered by the system: USPS employees.

Categories of records in the system: Applications, resumes, promotion/salary changes and other personnel actions, letters of commendation, records of disciplinary action, health benefit and life insurance elections and other documents pertinent to preemployment, prior Federal employment and current service as prescribed by the Federal Personnel Manual and related USPS guidelines.

Authority for maintenance of the system: 39 USC 1001 and 39 USC 1005.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Used by administrators in Personnel Offices and by individual employee supervisors to perform routine personnel functions.

Use—

1. To provide information to a prospective employer of a USPS employee or former USPS employee.

2. To provide data for the automated Central Personnel Data File, CPDF, maintained by U.S. Civil Service Commission.

3. To provide statistical reports to Congress, agencies, and the public on characteristics of the USPS work force.

4. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary.

5. To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information or other pertinent information to a decision concerning the hiring of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or other issues pursuant thereto.

7. To provide data for the compilation of a local seniority list that is used by management to make decisions pertaining to appointment and assignments among craft personnel. The list is posted in local facilities where it may be reviewed by USPS employees.

8. Transfer to the CSC upon retirement of an employee for processing retirement benefits.

9. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

10. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

11. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

12. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

13. Disclosure of relevant and necessary information pertaining to an employee's participation in health, life insurance and retirement programs may be made to the Civil Service Commission and private carriers for the provision of related benefits to the participant (also see USPS 050.020).

14. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under CFR 713 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

15. Inactive folders are transferred to the GSA National Personnel Records Center for permanent storage.

Storage: Paper files, preprinted forms, Official Personnel Folders, magnetic tape and other computer storage devices.

Retrievability: Employee name, location of employment, and social security number.

Safeguards: Folders are maintained in locked cabinets to which only authorized personnel have access. Automated information is protected by computer passwords and tape or disk library physical security.

Retention and disposal: Paper records considered to be permanent are maintained until employee is separated, then they are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment. Paper records considered to be temporary are destroyed two years after creation. Computerized records are erased following separation of the employee.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Employees wishing to gain access to their Official Personnel Folder should write to the facility head where employed. Headquarters employees should submit requests to the System Manager, former employees should submit requests to any Postal Service personnel officer, giving name, date of birth, social security number.

Record access procedures: See Notification Procedure above.

Contesting record procedures: See Notification Procedure above.

Record source categories: Individual employee, personal references, former employers and USPS 050.020 (Finance Records—Payroll System).

[FR Doc.77-36908 Filed 12-28-77;8:45 am]

federal register

THURSDAY, DECEMBER 29, 1977

PART VII

FEDERAL MEDIATION AND CONCILIATION SERVICE

■

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

[6732-01]

FEDERAL MEDIATION AND CONCILIATION SERVICE

PRIVACY ACT OF 1974

Systems of Records: Annual Publication

Pursuant to 5 USC 552a(e)(4) of the Privacy Act of 1974 the Federal Mediation and Conciliation Service hereby publishes the systems of records as currently maintained by the Service. The systems of records identified in the notice published at 42 FR 55036 (December 17, 1976), continue in effect and are published in their entirety with changes only to addresses and reference points in other documents.

Wayne L. Horvitz,
Director.

INDEX OF SYSTEM NAMES

FMCS—I

System name: Agency Internal Personnel Records

System location: National Office

Federal Mediation and Conciliation Service
Washington, D.C. 20427
Region 1
Federal Mediation and Conciliation Service
2937 Federal Building
26 Federal Plaza
New York, NY 10007
Region 2
Federal Mediation and Conciliation Service
401 Mall Building
4th and Chestnut Streets
Philadelphia, PA 19106
Region 3
Federal Mediation and Conciliation Service
Suite 400
1422 W. Peachtree Street, NW.
Atlanta, GA 30309
Region 4
Federal Mediation and Conciliation Service
1525 Superior Building
815 Superior Avenue, N.E.
Cleveland, OH 44114
Region 5
Federal Mediation and Conciliation Service
175 West Jackson Street
16th Floor
Chicago, IL 60604
Region 6
Federal Mediation and Conciliation Service
Chromalloy Plaza—Fifth Floor
120 S. Central
St. Louis, MO 63105
Region 7
Federal Mediation and Conciliation Service
50 Francisco Street
Suite 235
San Francisco, CA 94133
Region 8
Federal Mediation and Conciliation Service
Fourth and Vine Building
2615 Fourth Avenue
Seattle, WA 98121

Categories of individuals covered by the system: Agency Employees

Categories of records in the system: The records in this system are Agency internal operating records used in the operation of the Agency's personnel management program. This record system contains the following files:

1. Personnel Folders—correspondence and other documents relating to employee debt, station transfer, employee evaluations, background information, and recommendations for promotion.

2. Station Transfer Requests—request forms and related documents.

3. Performance Evaluation Files—evaluations of new employees.

4. Applicant Files—where applicable, employment applications, personal resumes, correspondence relating to medical examination and conditions, qualifications or suitability for employment. documents related to verifying qualifications, rating sheet for years of qualifying experience, and interview reports of FMCS staff.

5. Employee Conduct Files—records relating to employee performance, code of conduct, and possible disciplinary/corrective action.

6. Employee Productivity Statistics—self explanatory.

Authority for maintenance of the system: Title II, Labor Management Relations Act, 1947, As Amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A. In the event that the above system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations or order issued pursuant thereto.

B. Information within this system of records is referred to appropriate sources from which information is requested in the course of an investigation as to suitability for initial or continued employment to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

C. Information within this system of records is referred to members of Congress to the extent necessary to answer routine letters of inquiry concerning employment applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are stored in both locked and unlocked file cabinets, depending upon the nature of the record and availability of filing equipment. Data may be retrieved by an individual's name. Access to these records is restricted to appropriate employees of the National Office and the Regional Office. Files are retained indefinitely, subject to periodic review.

System manager(s) and address:

Director of Administration
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries in writing to the Director of Administration, FMCS at the aforementioned address. All such inquiries should include the requestor's name and any other information that may be helpful in locating the files.

Record access procedures: See Notification

Record source categories: Information is obtained directly from the individual concerned, whenever possible. However, also included is information obtained from Agency personnel and occasionally from sources outside the Agency.

Systems exempted from certain provisions of the act: In order to preserve the accuracy of information necessary for determining suitability for employment, the identity of a confidential source is exempted from disclosure under 5 USC 552 (a) (k) (5). The exemption is published in 29 CFR Part 1410.

FMCS—II

System name: Agency Pay Records

System location:

Federal Mediation and Conciliation Service
Washington, D.C. 20427

Categories of individuals covered by the system: Agency Employees

Categories of records in the system: The records in this system are used to administer the agency pay system. The records in an employee's pay file may be copies of a personnel action form, tax withholding certificates, notification of check mailing address, allotment forms, health and life insurance forms, retirement forms, and the salary clearance form. The travel records consist of a request

for travel, travel authorization, travel vouchers, transportation requests, authorizations, and reimbursements for expenses incurred in connection with an official change of duty station. The system also contains computer listings reflecting pay data, leave records, and time and attendance records.

Authority for maintenance of the system: 5 USC Chapters 51, 53, and 57.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and filed by an individual's name. The files are contained in regular file cabinets, access to which is restricted to Budget and Finance Division personnel only. These records are maintained and disposed of in accordance with the Federal Property Management Regulation 101-11.4 (General Records Schedules 2, 6, and 9).

System manager(s) and address:

Director of Administration
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries to the Director of Administration, FMCS, at the aforementioned address. All such inquiries should indicate name, and any other information that may be helpful in locating the file.

Record access procedures: See above.

Record source categories: Information is obtained directly from the individual concerned.

FMCS—III

System name: Agency Personnel Security Records

System location:

Federal Mediation and Conciliation Service
Washington, D.C.

Categories of individuals covered by the system: Agency Employees

Categories of records in the system: Various information pertaining to the background investigation and issuance of clearances.

Authority for maintenance of the system: Executive Order 10450 and 10501, or other Statutory/Regulatory requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A. A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

B. The existence and date of security clearance are furnished to government agencies or private firms dealing in classified matters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and filed by an individual's name. They are used by agency management officials in determining suitability for employment and in issuing security clearances. The files are contained in locked security file cabinets, access to which is restricted. The Agency Personnel Security Officer determines personnel who are authorized to review these records. These records are maintained and disposed of in accordance with the Federal Personnel Manual and the Federal Property Management Regulation 101-11.4 (General Records Schedule 18).

System manager(s) and address:

Agency Personnel Security Officer
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries to the Agency Personnel Security Officer at the above address.

Record access procedures: All inquiries relating to the Civil Service Commission background reports or national agency checks should be addressed to Director, Bureau of Personnel Investigations, U.S. Civil Service Commission, 1900 E Street, Washington, D.C. All other requests for agency security records should be directed in writing to the Director of Administration at the address provided above. All such inquiries should indicate name and any other information that may be helpful in locating the file.

Record source categories: Information is obtained directly from the individual on an application for background investigation which is furnished to the Civil Service Commission.

FMCS—IV

System name: Arbitrator Personal Data File

System location:

Federal Mediation and Conciliation Service
Washington, D.C. 20427

Categories of individuals covered by the system: Arbitrator Applicants and Arbitrators

Categories of records in the system: The first category of records consists of arbitrator applicant records (those not accepted). These records contain personal resumes, the personal data questionnaire listing education, professional background and experience, confidential and other recommendations as to acceptability, and correspondence pertaining to rejection from placement on the panel. The second category of records consists of current arbitrator files (those currently on the roster), and contain the same information as in the applicant files. In addition, such files include correspondence with an arbitrator regarding standard fee, interest in only certain cases, complaints, and other correspondence related to case handling procedures, and biographical sketches summarizing information contained in the personal data questionnaire.

Authority for maintenance of the system: Title II Labor Management Relations Act, 1947, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographical sketches are furnished to the parties requesting the referral of a panel of arbitrators.

They are also furnished to persons conducting research on the arbitration process in a particular area.

Data furnished by the applicant or arbitrator and other sources listed above is routinely disclosed to appropriate persons or organizations outside the agency in the course of verification or evaluation for the purpose of admittance to or retention on the roster. Data furnished by any source in the nature of a complaint or inquiry about the arbitrator's performance or qualifications are routinely referred to the appropriate person outside the agency in the course of investigating an arbitrator's eligibility for retention on the roster.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and computer tape. In either case, they are retrieved by an individual name or identification number. Access is restricted to Office of Arbitration personnel, and Management Systems personnel on a limited basis only. These files are used for purposes of referring arbitration panels to labor/management. Presently, the files are stored in lateral file cabinets. Files on active arbitrators are maintained as long as the individual is utilized for referral of panels. Arbitrator applicant files are maintained for two years. After the two year retention period, a separate listing of rejected arbitrator applicants is prepared and the file is destroyed.

System manager(s) and address:

Director of Office of Arbitration Services
Federal Mediation and Conciliation Service
Washington, D.C. 20427

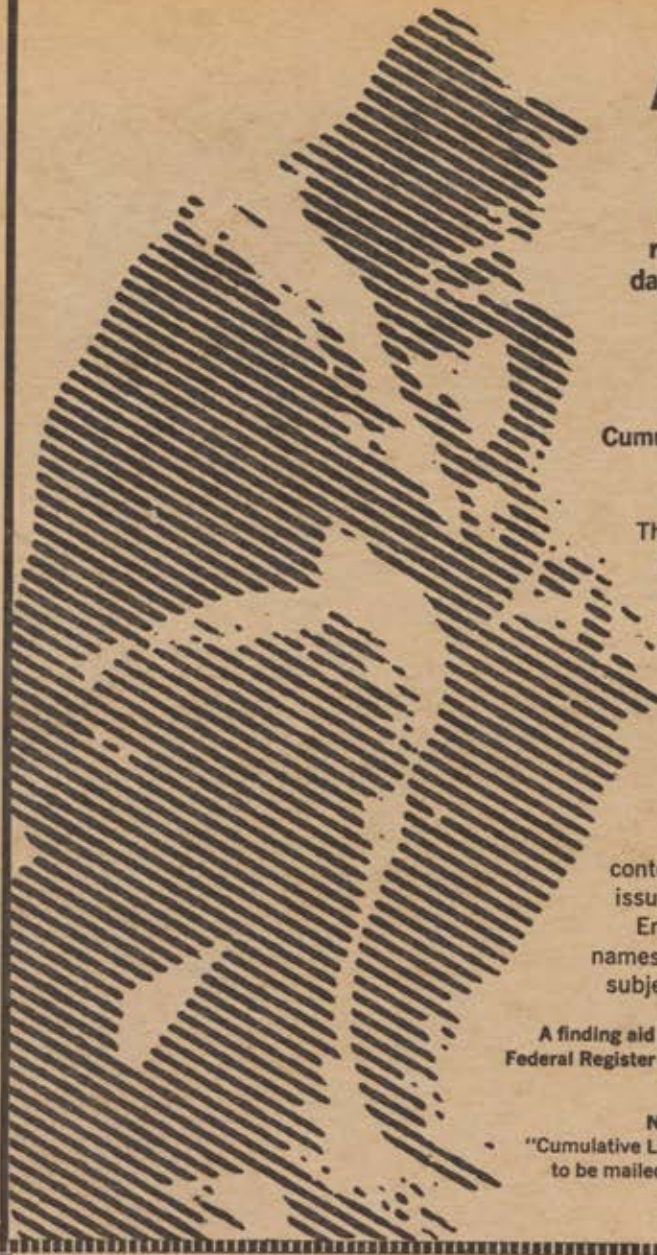
Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries in writing to the Director of Administration, FMCS, or Director of Arbitration Services, FMCS, at the aforementioned address. All such inquiries should indicate name and any other information that may be helpful in locating the file.

Record access procedures: See Notification.

Record source categories: Direct from the individual, sources furnished by the individual, or obtained by FMCS.

Systems exempted from certain provisions of the act: In order to preserve the accuracy of information necessary for determining appointment to the roster for arbitration records, the identity of a confidential source is exempted from disclosure under 5 USC 552(a)(k)(5). The exemption is published in 29 CFR Part 1410.

[FR Doc.77-37035 Filed 12-28-77;8:45 am]



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