(a) Prior to further flight after receipt of this message, unless already accomplished within the last 10 hours' time in service, accomplish the following:

(1) Remove the cowling to gain access to the transmission mount links, P/N 206-031-508.

(2) Visually inspect the exposed portion of the link forging around the top bearing for crack indications using a three power or higher magnifying glass and a mirror.

(3) If a crack is found replace the affected link prior to next flight, with a link having a bearing with the inner race flat surface less than 0.125 inch, in accordance with the pertinent model maintenance and overhaul manual.

(b) Prior to first flight of each day after the inspection in (a) is conducted, accomplish the following check:

(1) Open the cowling access doors.

(2) Visually check the exposed portion of the link forging around the top bearing for crack indications.

(3) If a crack is found replace the affected link prior to next flight, with a link having a bearing with the inner race flat surface less than 0.125 inch, in accordance with the pertinent model maintenance and overhaul manual.

(4) The checks in item (b)(2) may be performed by the pilot.

NOTE: For requirements regarding the listing of compliance and method of compliance with this message in the airplane's permanent maintenance record, see FAR 91.173.

(c) Within the next 10 hours' time in service after receipt of this message accomplish the following, unless already accomplished:

(1) Remove the transmission cowling and remove the cotter pin, nut, and washer from each transmission spindle, P/N 206-031-554, and expose the top link bearing face.

(2) Inspect the exposed portion of the link forging around the top bearing for crack indications using a three power or higher magnifying glass and a mirror.

(3) Measure the flat surface on the inner race of the bearing where it contacts the washer, P/N 206-030-505.

(4) If the flat surface of the inner race exceeds 0.125 inch or if a crack is found replace the affected link and bearing. Replace with a link having a bearing with the inner race flat surface less than 0.125 inch before further flight, in accordance with the pertinent model maintenance and overhaul manual.

NOTE: Fafnir bearing, P/N SBS 24ATC46, has an inner race flat surface less than 0.125 inch.

(5) If no cracks are found the repetitive checks in (b) are to be continued.

This amendment is effective on March 12, 1973, and was effective upon receipt for all recipients of the message dated February 28, 1973, which contained this amendment.

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

Issued in Fort Worth, Tex., on March 2, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-4522 Filed 3-8-73;8:45 am]

[Docket No. 73NW-1-AD, Amdt. 39-1604]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707 Airplanes

Amendment 39-1593 (38 FR 4333), AD-73NW-1-AD, provides for inspection and replacement of the main deck cargo door latch support fittings. After issuing Amendment 39-1593, the agency has determined that the extent of damage permitted for continued safe operation is less than originally determined and should be corrected. If cracks are found emanating from the barrel nut hole on any one of the two most forward or two most aft fittings, the cracked fittings must be replaced prior to further pressurized flight. Therefore, the AD is being amended to provide the correct criteria for fitting replacement.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and FR 4333), AD-73 NW-1-AD is amended ment effective on March 9, 1973.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1593 (38 FR 4333), AD-73 NW-1 AD is amended as follows:

Amend paragraph (a) to read as follows:

(a) Unless already inspected within the last 1,200 hours' time in service before the effective date of this AD, or unless inspected per Boeing Alert Service Bulletin 3124, dated January 29, 1973, or later FAA approved revisions, inspected per (d) below at the times specified in (b) or (c) below, as applicable.

Amend paragraph (d) to read as follows:

(d) Inspect in accordance with Boeing Alert Service Bulletin 3124 dated January 29, 1973, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, for cracks emanating from the barrel nut hole on each of the eight fittings using visual or dye penetrant or Eddy Current methods.

Amend paragraph (e) to read as follows:

(e) If cracks are found emanating from the barrel nut hole, replace with a serviceable fitting or a 7075-T73 replacement fitting prior to further flight. Except, if cracks are found emanating from the barrel nut hole on any one of the two most forward or two most aft fittings, replace the cracked fitting prior to further pressurized flight. Airplanes with not more than one of the four center fittings cracked at the barrel nut hole, may be continued in service at a reduced cabin operating pressure of not more than 6.0 p.s.i. cabin differential, provided: All fittings are reinspected at intervals not to exceed 200 hours' time in service in accordance with (d) above.

This amendment becomes effective on March 9, 1973.

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

Issued in Seattle, Wash., on March 1, 1973.

C. B. WALK Jr.,
Director, FAA Northwest Region.

[FR Doc.73-4521 Filed 3-8-73;8:45 am]

[Docket No. 12323, Amdt. 39-1605]

PART 39—AIRWORTHINESS DIRECTIVES

Handley Page HP-137 Mark I Airplanes

Pursuant to the authority delegated to me by the Administrator, Amendment 39-1548 (37 FR 22846), AD 72-23-1, as amended by Amendment 39-1585 (38 FR 1579), was further amended on January 23, 1973, and made effective immediately as to all known U.S. operators of Handley Page HP-137 Mark I airplanes. The Amendment extends the time for compliance with the AD until March 24, 1973.

After issuing Amendment 39-1585 (38 FR 1579), the FAA determined that a critical shortage of the modification kits required for compliance with AD 72-23-1 still exists. The kits are not available in sufficient quantities to permit compliance with the AD within the time specified and this would result in grounding of airplanes. AD 72-23-1 was issued as a result of reports of ruptures of the horizontal firewall under the engine hot section due to engine rotor failures or combustor torching flame penetrating the combustor case and firewall, in order to provide additional fire shielding to protect the aft nacelle, wing, and fuel tank in case the horizontal firewall is penetrated. Subsequent to the issuance of AD 72-23-1 the FAA has determined that only a single case of inservice rupture of the horizontal firewall has occurred, and that rupture was caused by an uncontained engine rotor disc failure, and that there have been no cases of rupture caused by combustor torching flames.

In view of the foregoing and based on further review of the service history of these airplanes the FAA has determined that the situation is not as severe as originally determined, that the compliance time specified in AD 72-23-1 is unnecessarily restrictive, and that extension of the compliance time for 60 days will not adversely affect safety.

Since it was found that the amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure thereon was unnecessary. These conditions still exist and the amendment is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated to

me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–1548 (37 FR 22846), AD 72–23–1 as amended by Amendment 39–1585 (38 FR 1579), is further amended by amending the compliance statement therein to read as follows:

Compliance is required on or before March 24, 1973, unless already accomplished.

This amendment is effective on March 9, 1973, as to all persons except those persons to whom it was made immediately effective by the telegram, dated January 23, 1973, which contained this amendment.

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

Issued in Washington, D.C., on March 2, 1973.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.73-4520 Filed 3-8-73;8:45 am]

[Airspace Docket No. 73-SO-12]

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

Redesignation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Greenville, Miss., control zone.

The Greenville control zone is described in § 71.171 (38 FR 351), and is effective "from 0700 to 2000 hours, local time, daily." Effective March 4, 1973, to provide the required air traffic control service at Greenville, the effective hours will be extended to "from 0700 to 2200 hours, local time, daily." It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 4, 1973, as hereinafter set forth.

In § 71.171 (38 FR 351) the Greenville, Miss., control zone is amended as follows:

"* * * 0700 to 2000 hours, local time, daily * * *" is deleted and "* * * 0700 to 2200 hours, local time, daily * * *" is substituted therefor.

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

Issued in East Point, Ga., on February 27, 1973.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.73-4519 Filed 3-8-73;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-66; Amdt. 2]

PART 372a—TRAVEL GROUP CHARTERS

Miscellaneous Interpretative and Technical Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of March 1973.

By SPR-61, adopted and effective September 27, 1972, the Board issued rules authorizing a new class of charter, called Travel Group Charters (TGC), which are applicable to all direct air carriers and foreign air carriers. This new type of charter enables any 40 or more persons to be formed into a charter group, regardless of any prior affinity among such persons, provided that certain prescribed conditions and limitations are met.

Questions which have arisen in the course of administering the rule have indicated that it would be desirable to issue various interpretative and technical amendments. They are as follows:

1. *Definition of "round-trip."* The term "round-trip" is used in defining a "travel group charter" (§ 372a.2), but is not itself defined. In the absence of a prescribed definition, the meaning of "round-trip" varies with the context in which it is used. For example, in some tariffs on file with the Board, it is defined narrowly as a trip in which the outbound leg stops at one or more points, and the inbound leg stops at the same points in reverse order and terminates at the point of origination. We did not intend to limit TGC's to such a narrow definition of "round-trip"; rather, we sought only to require that a TGC should be "round-trip" in the popular sense of the term, i.e., a trip involving a departure from a particular point and a return to the same point or to a point in the same general area, regardless of the number or sequence of intermediate points served. Thus, a round-the-world trip should clearly qualify for a TGC, as should a trip in which, for example, the outbound leg is from New York to London and the inbound leg is from Rome to New York. In order to remove any ambiguity as to the interpretation of the term "round-trip" in the TGC rule we are now prescribing a broad definition, to encompass "any round, open-jaw or circle trip which includes an outbound flight and an inbound flight returning to a point no more than 50 air miles from the point of origin."[1]

2. *Last day for individual participant's exercise of absolute right to cancel.* Paragraph (a) of § 372a.12 provides that the charter contract and the contract between the charter participants and the charter organizer shall become binding on the participants only upon the occurrence of specified conditions, culminating in the timely filing of the charter contract, i.e., no later than 3 months prior to departure. Paragraph (b) of the same section provides that at any time prior to the 4 months preceding the scheduled flight departure date, a participant may give to the organizer written notice of his cancellation and thereupon be entitled to a full refund of all moneys credited to his account. It has been noted that these two paragraphs appear to be somewhat inconsistent, since paragraph (b) implies that the individual participant has an absolute right to withdraw from the TGC only until four months before the scheduled date of flight departure, whereas paragraph (a) implies that he may do so even after that deadline, so long as all the enumerated conditions have not yet occurred.

We are therefore revising paragraph (a) of § 372a.12 so as to make it clear that although the TGC cannot be effectuated unless and until all the enumerated conditions precedent have occurred within the specified time limits, an individual participant may well be bound from the time he becomes a TGC participant, even if the enumerated conditions have not yet occurred.[2] In short, if the conditions prescribed in § 372.12 (a) are not timely met, the TGC is aborted and full refunds must be made to all participants; but, unless and until the entire TGC is so aborted, the individual participant has a right to withdraw and receive a full refund only pursuant to the provisions of §§ 372a.12(b), 372a.15(g) or of the particular contract with the organizer.[3]

3. *Requirement that terms of proposed charter contract conform to direct air*

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[1] We wish to emphasize that by amending the definition of the term "round-trip" here, so as to expressly negate any narrow or technical denotation, we do not mean to imply that, in the absence of such explicitly broad definition, the term "round-trip" as used in other parts of our regulations is necessarily to be construed narrowly. As noted above, the question of whether the term should be broadly or narrowly defined depends on the context and the purpose of the rule in which it is used. Thus, for example, in our rules against stranding (e.g., §§ 208.32(e) and 208.202b of Part 208), in which we have required prepayment for the returning flight as well as the departing flight, in order to curtail the stranding of passengers abroad, our reference to "round-trip" charter is to be construed—even in the absence of an explicit definition—as applying to all travel arrangements which involve departure-and-return flights, whether described in an applicable tariff as "round-trip," "open-jaw," "circle-trip" or otherwise.

[2] Paragraph C of the "truth-in-chartering" statement is also being revised, so as to reflect this clarification.

[3] For example, if the organizer has expressly undertaken, in his contract with participants, to file the charter contract at a specified date which is later than the earliest date permitted by the TGC rule, then an individual participant would have until that specified date to give written notice of his withdrawal for whatever reason.

carrier's tariff in effect at time TGC option filed. Consistent with the declaration of agreed principles, worked out jointly by representatives of the United States and various foreign governments,[4] we are amending the TGC rule so as to require that the price and other terms set forth in a filed TGC option must be consistent with the tariff of the direct carrier in effect at time of such filing.

Moreover, we are also taking this occasion to amend § 372a.26 so as to specifically preclude any subsequent tariff filing which would have the effect of changing the rates set forth in the option and proposed charter contract. These amendments will assure timely review by the Board of the lawfulness of TGC charter rates prior to public solicitation thereof.

4. *Expressing all time requirements in terms of days.* In the TGC rule the time for complying with various requirements is in some instances expressed in terms of months, and in other instances is expressed in terms of days. Thus, the final pre-departure filings with the Board are required to be made "[n]o earlier than 4 months but no later than 3 months" prior to the scheduled flight departure date (§ 372a.22(b)), whereas, for example, full payment of each participant's minimum pro rata charter price is required to be paid "[n]o later than 60 days prior to such departure" (§ 372a.15(a)). Upon further consideration, we have concluded that it would be desirable to have time requirements in the rule expressed uniformly in terms of days. This uniformity will facilitate computations of time[5] required to be made under the rule and will also be in conformity with the manner in which comparable time requirements are being expressed in rules adopted by various foreign authorities as counterparts of our TGC rule. We are therefore substituting "120 days" and "90 days" for "4 months" and "3 months," respectively, throughout the text of the rule, including the "truth-in-chartering" statement.

5. *Clarifying when "tentative adjusted" price may be computed.* The text of the present rule is not sufficiently clear as to when the tentative adjusted pro rata charter price may be computed. For example, § 372a.15(d) refers to the tentative adjusted pro rata charter price "as computed on the 45th day prior to the scheduled date of flight departure," thereby implying that the computation must be made on that date. On the other hand, § 372a.29(d) provides that the contract between organizer and participants must set forth various prescribed terms and conditions, including the specific date on which the tentative adjusted pro rata price shall be computed, "which date shall not be later than 45 days before the scheduled departure date," thereby indicating that the date prescribed in the rule is merely a deadline. It is the latter provision which expresses the Board's intention, and the rule is therefore being amended so as to refer to this adjustment date consistently as being "no later than 45 days" before the scheduled departure date.

6. *Explicit prohibition against receiving money for prospective TGC before lawfully advertised.* Section 372a.22(a) provides that no charter organizer shall sell, or offer to sell, solicit, or advertise a charter trip, until at least 15 days after he and the direct air carrier have jointly made a preliminary filing with the Board of certain prescribed documents, including evidence of appropriate arrangements made to secure customers' deposits. In view of some TGC advertisements which have come to our attention, we are amending the rule so as to provide, expressly and emphatically, that no money is to be received by the organizer from any person in connection with a prospective TGC before that TGC may lawfully be advertised, i.e., only after the Board's staff has had an opportunity to review the filed preliminary documents which, as aforesaid, include evidence of the arrangements made by the organizer to secure customers' deposits.

7. *Explicit prohibition of any additional charges by organizer.* Section 372a.27(a) provides that the charter organizer shall not make any charges to the charter participants other than his service charge for consummating the charter and such transfer fees as may be due from those participants for whom he has effected an assignment. In view of some TGC advertisements which have come to our attention, we have determined to amend the rule so as to underscore that this prohibition is to be read literally. We are therefore adding an appropriate clause, expressly prohibiting any additional charges, however characterized.

8. *Additional provisions related to interlocking relationships.* When the Board adopted SPR–61 (the TGC rule), we made final certain proposed exemptions for charter organizers (other than foreign charter organizers) which we have customarily provided for indirect air carriers, including a limited exemption from sections 408(a) and 409, and from section 412.[6] However, we had inadvertently omitted from our proposal, and thus did not make final, related customary provisions which (a) grant blanket approval of certain interlocking relationships of an indirect air carrier's officers and directors, and (b) provide that such exemptions and approval do not constitute orders under section 414 of the Act for the purpose of conferring "antitrust law" immunity.[7] We are therefore adding these technical provisions to the TGC rule, so as to cure their inadvertent omission.

9. *Additional provision to be specified in participant-charter organizer contract.* While the TGC rule-making proceeding was in progress, the Board had instituted a separate proceeding, by notice of proposed rule making SPDR–26,[8] in which we proposed miscellaneous amendments to the Board's special regulations with respect to study group charters[9] and inclusive tour charters.[10] That proceeding culminated in the issuance (subsequent to the issuance of the TGC rule) of SPR–62,[11] in which the Board made final a number of the proposed amendments. Among the proposed amendments which were thus made final was a change in Part 378, adding to the enumerated provisions required to be specifically covered in the contract between an inclusive tour charter operator and tour participants, a provision advising participants of any available "trip liability insurance," i.e., health and accident insurance related to the inclusive tour charter. This requirement, which was adapted from an existing requirement applicable to study group charterers' contracts (§ 373.18(b)), is designed to assure that tour participants are apprised of insurance which may be available for their benefit in connection with a tour. Thus, for the same reasons that we decided, following public rule making procedures, to require this provision to be specified in tour contracts in connection with study group charters and inclusive tour charters, we have now determined to add it to the provisions which the TGC rule requires to be specified in the contract so as to be brought specifically to the attention of TGC participants, although this particular requirement was not proposed in the instant proceeding.

10. *Contents of the "truth-in-chartering" statement.* In SPR–61, we prescribed as Appendix "A" to the TGC rule a "truth-in-chartering" statement to be distributed by the charter organizer to actual and prospective charter participants, in order to assure that they would be advised, in non-technical terms, of their rights and obligations under the various pertinent provisions of the rule. It is now necessary to revise various portions of that statement so as to reflect the revised text of the TGC rule

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[4] I.e., Canada and the 10 member states of the European Civil Aviation Conference (ECAC). Paragraph 7 thereof provides in pertinent part: "Not less than 4 months before the commencement of their first operation, carriers should file appropriate tariffs with concerned regulatory authorities. In the absence of a challenge to such tariffs, contracts incorporating them shall be regarded as valid in this respect." See Department of State Release No. 296, Dec. 1, 1972.

[5] We are also adding a new § 372a.6, to expressly provide how computations of time under the TGC rules are to be made, and the "truth-in-chartering" statement is also being amended accordingly to include appropriate illustrations.

[6] See, for example, § 378.3 of Part 378 (governing inclusive tour operators), and § 373.3 of Part 373 (governing study group charter operators).

[7] See, for example, §§ 378.4 and 378.5 of Part 378, and §§ 373.4 and 373.5 of Part 373, respectively.

[8] Dated October 26, 1971; 36 FR 20805, October 30, 1971.

[9] Part 373 of the Board's Special Regulations (14 CFR Part 373).

[10] Part 378 of the Board's Special Regulations (14 CFR Part 378).

[11] Dated October 10, 1972; 37 FR 22851, October 26, 1972.

resulting from the foregoing amendments

We are also taking this occasion to otherwise revise the statement, so as to include the following additional information which should be helpful to the traveling public in better understanding the salient provisions of the TGC rule:

(a) The statement presently summarizes the rule's requirement (§ 372a–11) that each main list participant must pay an initial deposit of at least 25 percent of the "minimum pro rata charter price" specified in the contract. The revised statement refers explicitly to the rule's additional provisions with respect to payment: (1) Any unpaid balance of the "minimum pro rata charter price" must be fully paid no later than 60 days prior to the scheduled date of flight departure; and (2) at the same time the organizer may also require (if the contract so provides) payment of a "pro rata reserve deposit," so long as the total payments do not exceed the "maximum pro rata charter price." (§ 372a.15(a).)

(b) The statement presently states (p. 2, fn. 2) that tour conductors may be carried on a TGC flight, if the contract so provides and the number of conductors is not more than one for each 40 participants. The revised statement makes explicit that tour conductors may be carried only if the TGC package includes ground arrangements.

11. *Time of delivery of the "truth-in-chartering" statement.* The present TGC rule requires (§ 372a.22(b)(4)) that, at the time the executed charter contract is filed, there shall also be filed a statement of the charter organizer affirming that each main list participant has been furnished with a copy of the "truth-in-chartering" statement discussed above, but the time for furnishing the statement is not prescribed. Yet, if the statement is to serve its purpose, the organizer should not be permitted to postpone its delivery until the last possible moment. We have therefore determined to amend the rule so as to require that a copy of the "truth-in-chartering" statement shall be furnished by the organizer to each main list participant no later than the time when the participant enters into a contract with the organizer.

12. *Statement of charges.* The present text of § 372a.28, prescribing the contents of statements of charges in connection with the marketing of TGC's, has given rise to various questions of interpretation. In particular, the present reference to "the total cost of the charter" has created some doubt as to whether or not a TGC advertisement is required to set forth the total price of the charter contract. We are therefore revising the entire text of this section, so as to remove such ambiguities.

13. *Effectiveness of these amendments.* Since the purpose of this rule is only to clarify and interpret various provisions of the TGC rule, as well as to make some minor technical revisions which, while imposing no substantial burden on anyone, should afford further protection to members of the public wishing to participate in charters operated hereunder, the Board finds that notice and public procedure are unnecessary and would not be in the public interest. For the same reasons, we find good cause to make all of the within revisions and amendments effective immediately, except as otherwise specified.

Recognizing that some organizers and direct air carriers have already filed with the Board options, proposed contracts and other documents in connection with proposed TGC programs, and may have already distributed "truth-in-chartering" statements, all drafted in conformity with the existing text of the rule, including Appendix "A" thereto, immediate effectiveness of all the amendments herein could impose a burden on such persons. We shall therefore permit them to execute, and otherwise continue to use, in connection with any TGC program pending at the time this rule becomes effective, any document conforming to the existing text of the rule, without requiring revisions to be made to reflect the within technical amendments. For this purpose, we shall regard a TGC program as pending on the effective date hereof if its preliminary filings, under § 372a.22(a), were made before said effective date or are submitted to the Board within 30 days after the within amendments are published in the FEDERAL REGISTER.

Similarly, we recognize that immediate application of the within amendment, insofar as it explicitly requires that the price and other terms set forth in a TGC option must be consistent with tariffs in effect at the time the TGC option is filed, would be disruptive of pending TGC programs, since no tariffs for TGC flights have as yet been filed and any tariff which could be immediately filed could not normally become effective except upon 30 days' notice. Thus, if the instant amendment were to become effective immediately, it would preclude the filing of any TGC option for a period of at least 30 days, and thus the marketing of any new TGC would be barred for a period of at least 45 days, since a TGC may not be offered for sale until 15 days after the option is filed. We shall therefore postpone the effectiveness of this amendment until 30 days after its publication in the FEDERAL REGISTER.

In consideration of the foregoing, the Civil Aeronautics Board amends Part 372a of its Special Regulations (14 CFR Part 372a), effective March 6, 1973, as follows:

1. Amend the Table of Contents to read in part as follows:

Sec.	
372a.5	Termination of part.
372a.6	Computation of time.
372a.20a	Jurisdiction over foreign charter organizers.
372a.20b	Approval of certain interlocking relationships.
372a.20c	Effect of exemption on antitrust laws.
372a.21	Suspension of exemption authority.

2. Amend § 372a.2 by adding a definition of "round-trip" as follows:

§ 372a.2 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

"Round-trip" refers to any round, open-jaw or circle trip which includes an outbound flight and an inbound flight returning to a point no more than 50 air miles from the point of origin.

* * * * *

3. Add a new § 372a.6 to read as follows:

§ 372a.6 Computation of time.

In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday for the Board, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday.

4. Amend § 372a.12 to read as follows:

§ 372a.12 Conditions precedent to contracts.

(a) The charter contract and the contract between the charter participants and the charter organizer shall become binding on each participant at the time he becomes a party thereto (subject to his right to receive a full refund if he cancels pursuant to paragraph (b) of this section, or defaults for cause pursuant to § 372a.15(g), or if he cancels pursuant to a right specifically granted in the contract with the organizer), but after the expiration date specified in the option of the direct air carrier, filed with the Board pursuant to § 372a.22(a)(1), no new contractual rights and obligations hereunder may be created, and any existing rights and obligations shall become null and void (other than the right of the participants to receive full refund of any payments already made) unless all of the following conditions have been met:

(1) The number of main list participants plus the number of tour conductors (which shall not exceed the maximum number permitted under this part) is equal to the number of seats specified in the charter contract;

(2) Each main list participant has paid at least an initial deposit of 25 percent of the minimum pro rata charter price specified in the charter contract; and

(3) The charter contract has been timely filed with the Board.

(b) At any time prior to 120 days preceding the scheduled flight date, a participant may submit to the organizer written notice of his cancellation, regardless of cause, and he shall thereupon be entitled to receive forthwith a refund of all moneys credited to his account, without deduction or penalty of any kind.

5. Amend the introductory paragraph to § 372a.13 to read as follows:

§ 372a.13 Assignments.

At any time during the 120-day period preceding the scheduled flight departure date, a charter participant may assign his interest in the charter, but only in accordance with the following:

* * * * *

6. Amend § 372a.15 (c), (d), (e), and (g) to read as follows:

§ 372a.15 Full payment of charter price; refunds.

* * * * *

(c) If the interest of any defaulting participants has not been assigned prior to the date specified in the contract for the computation of the tentative adjusted price, pursuant to § 372a.29(d), then the initial 25 percent deposit of each such defaulting participant (unless refunded to him pursuant to paragraph (g) of this section) shall be applied toward payment of the charter price, and the pro rata charter price for each remaining participant shall be increased by an amount equal to his pro rata share in the unpaid balance of the defaulting participant's charter price.

(d) If the tentative adjusted pro rata charter price, as computed on the date specified therefor in the contract, pursuant to § 372a.29(d), exceeds the specified maximum, then the charter shall be canceled and all moneys paid by the charter participants shall be refunded to them forthwith, without deduction or penalty of any kind: *Provided, however,* That the initial 25-percent deposit of each defaulting participant (unless refunded to him pursuant to paragraph (g) of this section), may be paid over as liquidated damages to the direct air carrier and the charter organizer pursuant to the terms of the charter contract and the contract between the organizer and participants.

(e) If the tentative adjusted pro rata charter price, as computed on the date specified therefor in the contract, pursuant to § 372a.29(d), does not exceed the specified maximum, then each participant shall forwith pay the balance, if any, due on such adjusted pro rata charter price and all moneys theretofore paid by charter participants shall be nonrefundable, except as provided in paragraph (f) of this section: *Provided, however,* That if the charter contract is subsequently canceled for any of the reasons set forth in § 372a.18, then all moneys paid by the charter participants shall be refunded to them forthwith, without deduction or penalty of any kind.

* * * * *

(g) If the charter organizer receives written notice, prior to the date specified in the contract for the computation of the tentative adjusted price, pursuant to § 372a.29(d), that a charter participant has died, or that, as a result of accident or illness, verified by a medical doctor, it appears probable that he will be unable to participate in the travel group charter, then the charter organizer shall refund the charter price payments already made by such participant.

7. Add new §§ 372a.20b and 372a.20c to read as follows:

§ 372a.20b Approval of certain interlocking relationships.

To the extent that any officer or director of a charter organizer would be in violation of any of the provisions of section 409(a) (3) and (6) of the Act by participating in interlocking relationships covered by the exemption granted by § 372a.20, such participation is hereby approved by the Board.

§ 372a.20c Effect of exemption on antitrust laws.

The relief granted by §§ 372a.20 and 372a.20b from sections 408, 409, and 412 of the Act shall not constitute an order under such sections within the meaning of section 414 of the Act, and shall not confer any immunity or relief from operation of the "antitrust laws" or any other statute (except the Act) with respect to any transaction, interlocking relationship, or agreement otherwise within the purview of such sections.

8. Amend § 372a.22 to read in part as follows:

§ 372a.22 Operating authorization of charter organizer.

A charter organizer * * *

(a) No charter organizer shall sell, or offer to sell, or solicit persons to participate in, or otherwise advertise, a charter trip, or receive any money from any prospective participant in connection therewith, until at least 15 days after he and the direct air carrier(s) have jointly filed with the Board (Supplementary Services Division, Bureau of Operating Rights) in duplicate:

(1) An option from the direct air carrier(s) under which the carrier(s) obligates itself for a specified period, which shall expire no later than 90 days prior to scheduled date of departure, to enter into a charter contract with the charter organizer as agent for the charter participants: *Provided, however,* That if the air transportation on the departing flight and the returning flight is to be performed by more than one direct air carrier, then there shall be a single option granted to the charter organizer by all such direct air carriers, acting jointly and severally;

(2) A copy of the proposed charter contract, setting forth specific terms and conditions upon which the carrier(s) will perform the charter, including the number of seats (specifically stating, where applicable, the number of seats to be occupied by tour conductors), the type of aircraft, the departure and return dates and points, and the minimum and maximum pro rata charter price, which terms and conditions shall conform to the currently effective tariff or tariffs of the direct air carrier(s), as identified by specific tariff citation;

* * * * *

(b) No earlier than 120 days, but no later than 90 days, prior to the scheduled date of departure, the charter organizer and the direct air carrier(s) shall jointly file with the Board (Supplementary Services Division, Bureau of Operating Rights) in duplicate:

* * * * *

(4) A statement of the charter organizer affirming that each main list participant (i) has entered into a contract with the organizer as provided in this part, (ii) has paid his initial 25-percent deposit, and (iii) has been furnished, no later than the time when he entered into such contract with the organizer, with an explanatory statement, in the form set forth in Appendix A; and

* * * * *

9. Amend § 372a.26 to read as follows:

§ 372a.26 Prohibition on operations unless tariffs are observed.

No charter organizer shall charter aircraft to provide air transportation to charter participants, and no direct air carrier shall operate such aircraft, except in accordance with the rates, fares, and charges and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier transporting charter participants; and no such organizer shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares, or charges so specified in the tariffs of such direct air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such air carrier: *Provided, however,* That no direct air carrier shall file a tariff which has the effect of changing the charter price specified in any option or proposed charter contract previously filed under § 372a.22.

10. Amend § 372a.27(a) to read as follows:

§ 372a.27 Charter costs.

(a) The charter organizer shall not make any additional charges to the charter participants, other than his service charge for consummating the charter (or liquidated damages, as permitted hereunder, if the charter is canceled upon default of participants), and such transfer fee as may be due him from an individual participant for effecting an assignment, whether or not such additional charge is only nominal or is characterized as a membership fee, registration fee, reimbursement for expenses, or otherwise.

* * * * *

11. Amend § 372a.28 to read as follows:

§ 372a.28 Statements of charges.

(a) Any announcement, statement, or solicitation material to prospective charter partcipants giving price per seat shall state that the price is dependent upon the number of seats sold, and shall also set forth the minimum and maximum pro rata charter price, as well

as the service charge. It shall also state that the minimum pro rata charter price is subject to an increase of no more than 20 percent as a result of defaults by participants, and that the charter will be canceled if the pro rata charter price increases by more than 20 percent over the minimum pro rata charter price. The cost of ground arrangements, if any, shall be stated separately.

(b) All such announcements, statements, or solicitation material shall also identify the carrier(s) and the type of aircraft to be used for the charter, and shall state that for a person to be eligible to be a passenger on a charter flight he must be included in the main list or the standby list to be filed no later than 90 days before flight departure.

(c) All billings to charter participants shall separately state the pro rata cost of air transportation, the service charge, the transfer fee, and the cost of land accommodations, if any.

12. Amend § 372a.29 by adding new paragraph (e-1) to read as follows:

§ 372a.29 Contract between charter organizer and charter participants.

* * * * *

(e) If applicable, the * * *

(e-1) Whether trip, health, and accident insurance is available and, if so, that upon request the charter organizer will furnish details thereof;

* * * * *

13. Amend Appendix A to read in part as follows:

DESCRIPTION OF TRAVEL GROUP CHARTERS

* * * * *

General Description of TGC. The basic idea of a TGC is that 40 or more persons may enter into a charter contract, by which they hire an aircraft (or part of an aircraft) to provide themselves with round trip air transportation for a trip which is to last a minimum of 7 days (10 days in some areas) on a pro rata basis, i.e., each charter participant shares equally in the cost of the charter. The charter contract must be filed with the Board several months before the scheduled date of departure.[1] At that time, the charter organizer must also file a "main list" identifying the people who have signed his contract and paid him an initial deposit of at least 25 percent of the "minimum pro rata charter price" (discussed below) specified in the contract. The number of persons on this "main list" must be equal to the number of seats which the contract specifies will be occupied by "charter participants."[2] At the same time, there may also be filed a "standby list" identifying any person who wants the opportunity to be substituted for a "main list" participant who might subsequently withdraw or default. The number of persons on the "standby list" may not exceed three times the number of "main list" participants, and a person on the "standby list" is under no obligation of any kind unless and until he actually becomes substituted for a "main list" participant. When the flight is performed, all the charter participants must be persons identified in either the "main list" or the "standby list" on file with the Board; and at least 80 percent of the charter participants must be from the "main list."

Pro rata charter price. The "minimum pro rata charter price," * * *

* * * * *

If all the seats intended for participants are sold,[3] fully paid for, and no refunds are made, then the minimum pro rata charter price will be the actual price which each charter participant will pay. However, if a participant defaults (or refund is made because of the death or illness of a participant) then the pro rata price of each remaining participant must be increased accordingly. In order to limit the liability of the remaining participants for an increase in the pro rata charter price, the Board has provided for a "maximum pro rata charter price," which is 20 percent more than the minimum. The minimum pro rata charter price must be paid in full by each charter participant no later than the 60th day before the scheduled date of flight departure. The charter organizer must determine, no later than 45 days before the scheduled departure date, whether defaults and refunds would result in increasing each remaining participant's share beyond the "maximum." If they would, then the charter must be canceled; otherwise each remaining participant must pay the increased "adjusted pro rata price."[4]

Cancellations and refunds. * * *

C. Until 120 days prior to the scheduled flight departure date (or until such later date as may be specified in the contract with the organizer for the filing of the final contracts), any participant may give written notice to the organizer that he wishes to withdraw from the group, regardless of his reasons, and he is then entitled to a full refund of all payments.

Example 3. On March 1, 1973, John Jones signs a contract with an organizer and pays a 25 percent deposit for a TGC scheduled to depart from New York to London on July 8, 1973. The 120th day prior to flight departure is March 10, 1973 (which is a Saturady). Until the next regular business day, March 12, 1973, Mr. Jones is entitled to give the organizer written notice of his decision to withdraw, without cause or explanation, and to receive a full refund.

* * * * *

14. *Effective dates of these amendments.* The foregoing amendments shall become effective upon adoption, except that: (a) The amendment requiring that the price and other terms set forth in a TGC option or in a proposed charter contract filed under § 372a.22(a) shall be consistent with the direct air carrier's applicable tariff in effect at the time of such filing, shall become effective April 9, 1973; and (b) to the extent that any option, contract, or other document, in connection with a pending TGC program (as hereinbelow defined) has been or will be prepared in conformity with the existing text of Part 372a, it may be executed or otherwise continue to be used in connection with such pending TGC program and need not be revised so as to conform with the text of Part 372a as amended hereby. A TGC program shall be regarded as pending, for the purposes hereof, if the preliminary filings in connection therewith, under § 372a.22(a) have been made before, or are submitted to the Board for such filing on or before April 9, 1973.

(Secs. 101(3), 204(a), 401, 402, 407, 416(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757, 766, 771, and 788; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1481)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.73-4621 Filed 3-8-73;8:45 am]

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[1] The charter contract and other documents are to be filed no earlier than 120 days, and no later than 90 days, before the scheduled date of departure. Thus, for example, if a TGC is scheduled to depart on July 6, 1973, this filing may be made no earlier than March 8, 1973 and no later than April 9, 1973. (Since the 90th day prior to the scheduled departure is April 7, 1973, a Saturday, the filing deadline is extended to the next business day, April 9th, which is only 88 days prior to departure.)

[2] The only other authorized passengers on the charter flight are tour conductors, whose seats are paid for by the charter participants, but these conductors may be carried only when ground arrangements are required as part of the TGC package. The number of tour conductors must be specified in the contract and may not exceed one for each 40 participants.

[3] If not all * * *

[4] Once this * * *

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Use of the Wallops Station Airstrip by Aircraft Not Operated for Federal Government

Secton 1204.1403(c) is revised in its entirety as follows:

§ 1204.1403 Available airport facilities.

* * * * *

(c) *Control tower.* The control tower is manned from 0730-1730 local time, Monday through Friday only, legal holidays excluded. When the tower is manned and in operation, the FAA regulations pertaining to the operation at airports with operating control towers (§ 91.87 of this title) will apply. The tower may be contacted on 394.3 MHz or 126.5 MHz. At all times when the tower is not manned, the Wallops Advisory Service (a 24-hour security service) may be contacted on the same frequencies for essential information. However, during such times the FAA rules pertaining to the operation at airports without control towers (§ 91.89 of this title) will apply.

Section 1204.1406(a) is revised in its entirety as follows:

§ 1204.1406 Procedures in the event of a declared in-flight emergency.

(a) Any aircraft involved in a declared in-flight emergency that endangers the safety of its passengers and aircraft may land at Wallops Station Airstrip. In such situations, the requirements of this Subpart 14 for advance authorizations, etc., need not be followed. However, should time and circumstances permit, the pilot should contact the Wallops Station Airstrip control tower or the Wallops Advisory Service on 394.3 MHz or 126.5 MHz before attempting to land.

* * * * *

ROBERT L. KRIEGER,
Director, Wallops Station, National Aeronautics and Space Administration.

[FR Doc.73-4560 Filed 3-8-73;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8869 o]

PART 13—PROHIBITED TRADE PRACTICES

Spiegel, Inc.

Correction

In FR Doc. 73-3414 appearing at page 4944 in the issue of Friday, February 23, 1973, the Docket Number should appear as set forth above.

PART 600—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

Civil Service Commission

Correction

In FR Doc. 73-3497 appearing at page 4945 in the issue for Friday, February 23, 1973, the following changes should be made in § 600.6 *Civil Service Commission:*

1. The material in the third column of page 4947, now designated as paragraphs (b), (c), and (d), should be designated as paragraphs (c), (d), and (e).

2. In the paragraph redesignated (d), in the 14th line the word "unlike" should read "unlikely".

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-469; Order 467-B]

PART 2—GENERAL POLICY AND INTERPRETATION

Order Modifying Statement of Policy, and Denying Motions for Reconsideration

MARCH 2, 1973.

On January 8, 1973, the Commission issued Order No. 467 in Docket No. R-469, statement of policy, adding § 2.78(a) to the Commission's rules of practice and procedure, as subsequently amended by Order No. 467-A, January 15, 1973.[1] Numerous applications or petitions for rehearing, reconsideration, modification or clarification of Orders Nos. 467 and 467-A have been filed. Those filing will be termed "applicants".

In Order No. 467 the Commission issued a policy statement setting forth initial priorities to be followed by jurisdictional pipeline companies during periods of curtailed deliveries. The priorities are based on end use of the gas whether by direct purchase from the pipeline or by indirect purchase through a distributing company. Order No. 467 stated:

> When applied in specific cases, opportunity will be afforded interested parties to challenge or support this policy through factual or legal presentation as may be appropriate in the circumstances presented.

And the statement of policy further provided that exceptions to the prescribed priority system would be permitted upon a finding of extraordinary circumstances after hearing initiated by a petition filed under § 1.7(b) of the Commission's rules of practice and procedure. Order No. 467-A provided that pipeline companies include provisions in their tariffs permitting them to respond to emergency situations.

The Applicants have made extensive arguments, both procedural and substantive. In a few cases the Applicants requested permission to intervene, and there was one separate Petition for Leave to Intervene (Rochester Gas & Electric Corp.). As discussed below, Order No. 467 is a policy statement and is not intended to initiate a proceeding or to provide a binding rule without further proceedings directed towards curtailment problems on specific pipelines. Therefore petitions to intervene are unnecessary, and petitions for rehearing do not lie. We treat the filings as petitions for reconsideration, and deny the same.

REASONS FOR ISSUANCE OF ORDERS 467 AND 467-A

Since the promulgation of Order 431, 45 FPC 570 (1971), the need for Commission guidance in curtailment planning has become apparent. The curtailment plans proposed by those pipelines which have filed pursuant to Order 431 reflect sharp differences in curtailment philosophy (e.g., curtailment based on end use versus curtailment based on pro rata reduction of contract entitlements) and curtailment implementation. As a consequence, the hearing records brought before us lack uniformity in the quantum of evidence relating to consumer impact and end use allocation patterns. The articulation and implementation of allocation policies on a uniform national basis are thereby constrained.

Of equal significance, because of the absence of general curtailment guidelines, we have been confronted with emergency situations where emergency action was necessary to prescribe curtailment plans. See Opinion 634 and 634-A, El Paso Natural Gas Co., 48 FPC ____, and order dated December 20, 1972, Mississippi River Transmission Co. In situations where the need to curtail arises suddenly and without anticipation, and where no curtailment plan has been approved, as was true for El Paso and Mississippi River Transmission, the pipeline is placed in the difficult position of undertaking service cutbacks at the risk of civil liability to direct and indirect customers if the curtailments are not required by Commission order, or if the pattern of curtailment is later adjudicated to be unjust or unreasonable. See International Paper Co. v. FPC, CA5, No. 71-3531, slip opinion issued February 7, 1973. Similarly, in such situations, pipeline customers and those dependent on pipeline service have no clear basis for conducting their operations.

Finally, our experience with curtailment litigation persuaded us that long-range advance planning by pipelines, distributors, and consumers has been rendered most difficult by the absence of a statement by the Commission of its general policy in curtailment cases.

Because of these considerations, we issued, as a policy statement, Orders 467 and 467-A. We recognized that some flexibility is essential as curtailments first occur, in order to ameliorate the economic dislocations which necessarily ensue, and for that reason we made clear in Order 467 that the policy therein stated could, and would, be adjusted in appropriate cases where the hearing record so required.

PROCEDURAL AND JURISDICTIONAL ARGUMENTS

A. *Nature of Order No. 467 and Conformity to the Administrative Procedure Act.* It is argued by a number of applicants that Order No. 467, despite its designation as a "Statement of Policy", is really rule making and section 553 of the Administrative Procedure Act requires notice, an opportunity to submit views and to participate. In some cases it is further argued that the action taken by the Commission is actually adjudication rather than rule making in that it abrogates or nullifies existing curtailment priorities in contracts and tariffs. On the other hand, Reynolds Metals Co. interprets Order No. 467 as not imputing to any pending curtailment case any controlling substantive effects; it asks that Order No. 467 be clarified to state that in each case the opportunity for evidentiary hearings will be afforded. Alabama Gas Corp. asks for clarification as to whether Order No. 467 is a flexible guideline against which curtailment would be judged.

Order No. 467 is designated "Statement of Policy." It specifically states that "When applied in specific cases, opportunity will be afforded interested parties to challenge or support this policy through factual or legal presentation * * *". It therefore falls whithin the exception for "general statements of policy" within section 553 of the APA. Our use of Orders 467 and 467-A as policy guidelines is exemplified in Texas Eastern Transmission Corp., et al., dockets Nos. RP71-130 et al., issued January 29,

[1] 38 FR 1504, 3171 (Jan. 15, 22, 1973).

1973, requiring Algonquin to show cause why it should not file an amendment to its tariff "to conform with Order 467–A".

Orders in Docket R–469 are not finally determinative of the rights and duties of a given pipeline, its customers or ultimate consumers; it expressly envisions further proceedings. As a statement of policy, it is excepted by section 553 from the requirements of the notice and hearing provisions of the Administrative Procedure Act, and, of course, it is not an adjudication within the meaning of that Act.

B. *Effect on Future Tariff Filings.* In orders in Docket R–469, we have set forth the form of curtailment plan preferred by the Commission. We have not attempted to impose this plan on all pipelines and their customers, nor have we attempted to delineate all details which should be embodied in proposed tariff changes which propose a curtailment plan. At this time, there is still a need for more flexibility than would be possible were we to insist upon one specific form for all curtailment tariffs.

Accordingly, those pipelines which do not yet have a curtailment plan approved by final order of the Commission are still free to file tariff changes under section 4 in whatever form they choose. Tariffs not in accord with the policies expressed in orders in Docket R–469 will be subject to suspension and hearing, and any curtailments made under nonconforming tariff sheets which have not received Commission approval may be found to be unjust and unreasonable, or preferential or discriminatory, dependent upon the facts proved in an evidentiary hearing. Proposed tariff sheets which conform to the policies expressed in orders in Docket R–469 will be accepted for filing, and permitted to become effective, subject to the rights of intervenors to hearing and adjudication of any claim of preference, discrimination, unjustness or unreasonableness of the provisions contained in the proposed tariff sheets, and subject to the further right of any one adversely affected to seek individualized special relief because of extraordinary circumstances. While our present intention is not to suspend tariff sheets which conform to the policies in orders in Docket R–469, we do not foreclose our discretionary powers to suspend such tariff sheets under section 4(e) under appropriate circumstances.

C. *Effect on Pending Cases.* Orders in Docket R–469 are not self-operative in pending cases. Initial decisions, and Commission decisions, will be reached on the record made, applying orders in Docket R–469 policies except where deviation therefrom is required by the evidence. Where insufficient end use data are not available, we will continue to make appropriate provision for the collection of such data. See, e.g., Opinion No. 634, El Paso Natural Gas Co., Opinion No. 643, Arkansas-Louisiana Gas Co.; Opinion No. 647, United Gas Pipe Line Co.

Many Applicants, particularly those representing California, argue that a general rule is inappropriate and that each pipeline system should be treated on an individual basis. With one extremely important exception, we are in general agreement with this thesis, at least at this time in the development of curtailment policies and practices. The one area where we believe uniformity to be essential is with respect to whether contract entitlements should form the basis for curtailment, or whether curtailment should be based on end use factors. As a matter of policy, we have determined that end use must be controlling. Our reasons for so concluding are articulated in Opinion 643, Arkla, supra, and Opinion 647, United Gas, supra.

As a statement of policy, orders in Docket R–469 will serve as a guide in other proceedings, specifically those arising under Order No. 431. By these orders, the parties are on notice that we consider the type of curtailment plan set forth in the Orders to be just and reasonable, nondiscriminatory and nonpreferential. This does not mean that the parties may not propose or the Commission may not adopt variations on the § 2.78 (a) plan, but there must be evidence in the record to support any such variations. Nor does it mean that adversely affected pipeline customers may not claim a right to special relief from the operation of a § 2.78(a) plan, but in such instances there must be evidence to support any such claim. In this way, § 2.78 (a) will assist the parties and the Administrative Law Judge in arriving at a curtailment plan which will meet the problems created by diverse needs for gas in the face of a nationwide gas shortage and at the same time be adapted to the peculiarities, if any, of the particular pipeline system involved.

D. *Control of End Use.* It is argued that in a curtailment proceeding under sections 4 and 5 of the Act, the FPC cannot control end use. The Applicants cite "Fuels Research Council v. FPC", 374 F. 2d 842 (CA 7, 1967), where it was argued that the Commission should have designed rates to discourage use of gas in power plants, and the Court held the Commission had no such authority. Furthermore, in the "Hope" case,[1] the Court said that it failed to find in the power to fix just and reasonable rates the power to fix rates which will disallow or discourage resales for industrial use.

The courts in those cases were not faced with a nationwide gas shortage, and rates were involved, not allocations or curtailments. "FPC v. Louisiana Power & Light Co.," 406 U.S. 621 (1972) confirms the Commission's broad powers to devise effective means of meeting its responsibilities. These include section 16, providing that the Commission "shall have power to perform any and all acts necessary or appropriate to carry out the provisions" of the Gas Act, and sections 4 and 5 dealing with rates, service, and contracts. Section 4 prohibits any "undue preference or advantage" or any "unreasonable difference" in service, and section 5 grants the Commission the power to determine "the just and reasonable * * * classification, rule, regulation, practice, or contract to be observed." The Gas Act says (section 1) "that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest." It is our conclusion that we have ample authority to require that curtailment plans be based on the end use of gas by the direct customers of the pipeline or the customers of the distributing companies.

E. *Requested Clarifications and Modifications.* Many applicants seek clarification of Order 467 by Commission definition of all terms used, or modification of the substance of Order 467 by a reordering of priorities. These applicants err in treating Orders 467 and 467–A as a rule of substance, which precisely defines the curtailment rights and obligations of all pipelines and all pipeline customers. We ascribe no such effect to Orders 467 and 467–A, for, as already stated, these orders are intended only to state initial guidelines as a means of facilitating curtailment planning and the adjudication of curtailment cases.

On the same date Order 467 was issued, we noticed a proposed policy statement in Docket No. R–467, 38 FR 1504. We therein seek comments on stated priorities of service, which priorities the Commission would implement "* * * in all matters arising under the Natural Gas Act." It is not mere coincidence that the priority system noticed in Docket No. R–467 is the same as that set forth in Order No. 467. The comment time has not expired in Docket No. R–467, and we will give due consideration to all comments therein received.

We find it appropriate, however, to modify § 2.78(a) of our regulations in one respect, in order to clarify our intent that while end usage of natural gas is controlling in curtailment situations, for the present the immediate impact of curtailment on small volume interruptible users should be lessened, and, for the present, the alternate fuel capabilities of interruptible users should be considered. As already noted, we will, after receipt and consideration of comments in Docket No. R–467, issue such definitions and clarifications of the terms used in determining priorities of service as may be necessary and desirable. One such area of concern will be a useful and workable demarcation between "interruptible" and "firm" service, bearing in mind that these terms are susceptible of differing interpretations. Pending resolution of this matter on the basis of a full record, we modify § 2.78(a) of our regulations in the particulars hereinafter stated.

The Commission finds:

(1) The notice and effective date provisions of 5 U.S.C. 553 do not apply with respect to the amendment to the policy statement here adopted.

(2) It is appropriate and in the public interest in administering the Natural

[1] F.P.C. v. Hope Natural Gas Co., 320 U.S. 591, 616 (1944).

Gas Act to adopt the amendment to the policy statement herein ordered.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 (52 Stat. 822, 824, 825; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, orders:

(A) Part 2 of the Commission's General Rules of Practice and Procedure, General Policy and Interpretations, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new subparagraph at the end of § 2.78(a) and, as amended, it will read as follows:

§ 2.78 Utilization and conservation of natural resources—natural gas.

(a) The national interests in the development and utilization of natural gas resources throughout the United States will be served by recognition and implementation of the following priority-of-service categories for use during periods of curtailed deliveries by jurisdictional pipeline companies:

(1) Residential, small commercial (less than 50 Mcf on a peak day).

(2) Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection requirements.

(3) All industrial requirements not specified in paragraph (a) (2), (4), (5), (6), (7), (8), or (9) of this section.

(4) Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(5) Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(6) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(7) Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

(8) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(9) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

* * * * *

The priorities-of-deliveries set forth above will be applied to the deliveries of all jurisdictional pipeline companies during periods of curtailment on each company's system; except, however, that, upon a finding of extraordinary circumstances after hearing initiated by a petition filed under § 1.7(b) of the Commission's rules of practice and procedure, exceptions to those priorities may be permitted.

The above list of priorities requires the full curtailment of the lower priority category volumes to be accomplished before curtailment of any higher priority volumes is commenced. Additionally, the above list requires both the direct and indirect customers of the pipeline that use gas for similar purposes to be placed in the same category of priority.

The tariffs filed with this Commission should contain provisions that will reflect sufficient flexibility to permit pipeline companies to respond to emergency situations (including environmental emergencies) during periods of curtailment where supplemental deliveries are required to forestall irreparable injury to life or property.

(B) The amendment provided for herein shall be effective as of March 2, 1973.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-4565 Filed 3-8-73;8:45 am]

CHAPTER VIII—SUSQUEHANNA RIVER BASIN COMMISSION

PART 801—GENERAL POLICIES

Correction

In FR Doc. 73-3155 appearing at page 4662 of the issue for Tuesday, February 20, 1973, the following changes should be made in § 801.7: Paragraph (d) should be deleted and paragraph (e), should be redesignated as paragraph (d).

Title 19—Customs Duties

CHAPTER I—BUREAU OF CUSTOMS, DEPARTMENT OF THE TREASURY

[T.D. 73-55]

PART 1—GENERAL PROVISIONS

Designation of New Port of Entry

Correction

In FR Doc. 73-3037 appearing at page 4507 in the issue for Thursday, February 15, 1973, the following should be inserted in the second line of the third paragraph, immediately before the word "Department": "all that area in the State of Nevada as laid out by the United States".

Title 20—Employees' Benefits

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

[Reg. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965 .....)

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians; Appeals by Provider

Subpart F—Agreements, Elections, Contracts, Nominations, and Notices

PROVIDER RECORDKEEPING CAPABILITY

On April 29, 1972, there was published in the FEDERAL REGISTER (37 FR 8677) a notice of proposed rule making with proposed amendments to Subparts D and F of Regulation No. 5 of the Social Security Administration. The proposed amendments provide that (1) an intermediary shall determine whether a newly certified provider has adequate recordkeeping capability sufficient for determining the cost of services furnished program beneficiaries before making payment to such provider; (2) an intermediary shall suspend Medicare payments at any time it ascertains that a provider's records are no longer adequate; and (3) the Secretary shall not enter into an agreement for participation in the Medicare program with an organization which has been adjudged insolvent or bankrupt under appropriate State or Federal law or with respect to which a court proceeding to make such a judgment is pending.

All comments submitted, with respect to the proposed amendments, were given due consideration. The following changes were made as a result of comments received:

1. A new paragraph (e) was added to § 405.406 requiring an intermediary, before suspending payments to a provider, to send written notice to the provider in accordance with § 405.371(a) notifying the provider that its recordkeeping capability is inadequate to determine the reasonable cost of services rendered to Medicare beneficiaries and identifying the specific recordkeeping deficiencies which are to be corrected before payment can be made. The provider will be given the opportunity in accordance with § 405.371(a) to submit a statement (including any pertinent evidence) as to why program payments should not be withheld or suspended.

2. Comment was also made on the costs that would be incurred by the intermediary in receiving, processing and monitoring copies of patient service charge schedules and changes thereto, as required by proposed § 405.406(d)(3). This subparagraph was revised to require the provider to furnish its charge schedules, along with any subsequent revisions, only when so requested by the intermediary. The change will virtually eliminate the administrative costs involved in continually monitoring provider charge schedules, but will permit the intermediary to acquire charge data when necessary to determine program payments.

3. Comments were received as to the various interpretations that could be given to the words "insolvent" and "insolvency" as used in § 405.454(k). This paragraph was rephrased to clarify their intent.

Accordingly, with these changes, the proposed amendments as set forth below are adopted.

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 49 Stat. 647, as amended, 79 Stat. 296–297, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

Effective date. These amendments shall be effective on March 9, 1973.

Dated: January 22, 1973.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: March 1, 1973.

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

1. Section 405.406 is amended by revising paragraph (a) and adding new paragraphs (c), (d), and (e) to read as follows:

§ 405.406 Financial data and reports.

(a) *General.* The principles of cost reimbursement will require that providers maintain sufficient financial records and statistical data for proper determination of costs payable under the program. Standardized definitions, accounting, statistics, and reporting practices which are widely accepted in the hospital and related fields are followed. Changes in these practices and systems will not be required in order to determine costs payable under the principles of reimbursement. Essentially the methods of determining costs payable under title XVIII involve making use of data available from the institution's basic accounts, as usually maintained, to arrive at equitable and proper payment for services to beneficiaries.

* * * * *

(c) *Recordkeeping requirements for new providers.* A newly participating provider of services (as defined in § 405.605) shall make available to its selected intermediary for examination its fiscal and other records for the purpose of determining such provider's ongoing recordkeeping capability and inform the intermediary of the date its initial health insurance cost reporting period will end. This examination is intended to assure that (1) the provider has an adequate ongoing system for furnishing the records needed to provide accurate cost data and other information capable of verification by qualified auditors and adequate for cost reporting purposes under section 1815 of the Act, and (2) that no financial arrangements exist that will thwart the commitment of the health insurance program to reimburse providers the reasonable cost of services furnished beneficiaries. The data and information to be examined includes cost, revenue, statistical, and other information pertinent to reimbursement including, but not limited to, that described in paragraph (d) of this section and § 405.453.

(d) *Continuing provider recordkeeping requirements.* (1) The provider shall furnish such information to the intermediary as may be necessary (i) to assure proper payment by the program, including the extent to which there is any common ownership or control (see § 405.427(b) (2) and (3)) between providers or other organizations, and as may be needed to identify the parties responsible for submitting program cost reports, (ii) to receive program payments, and (iii) to satisfy program overpayment determinations.

(2) The provider shall permit the intermediary to examine such records and documents as are necessary to ascertain information pertinent to the determination of the proper amount of program payments due. These records shall include, but not be limited to, matters of provider ownership, organization, and operation; fiscal, medical, and other recordkeeping systems; Federal income tax status; asset acquisition, lease, sale or other action; franchise or management arrangements; patient service charge schedules; matters pertaining to costs of operation; amounts of income received by source and purpose; and flow of funds and working capital.

(3) The provider, when requested, shall furnish the intermediary copies of patient service charge schedules and changes thereto as they are put into effect. The intermediary shall evaluate such charge schedules to determine the extent to which they may be used for determining program payment.

(e) *Suspension of program payments to a provider.* When an intermediary determines that a provider does not maintain or no longer maintains adequate records for the determination of reasonable cost under the health insurance program, payments to such provider shall be suspended until the intermediary is assured that adequate records are maintained. Before suspending payments to a provider, the intermediary shall, in accordance with the provisions of § 405.317(a), send written notice to such provider of its intent to suspend payments. The notice shall, explain the basis for the intermediary's determina- records and shall identify the provider's recordkeeping deficiencies. The provider will be given the opportunity, in accordance with § 405.371(a), to submit a statement (including any pertinent evidence) as to why the suspension should not be put into effect.

2. Section 405.454 is amended by adding thereto a new paragraph (k) to read as follows:

§ 405.454 Payment to providers.

* * * * *

(k) *Bankruptcy or insolvency of provider.* If, on the basis of reliable evidence, the intermediary has a valid basis for believing that, with respect to a provider, proceedings have been or will shortly be instituted in a State or Federal court for purposes of determining whether such provider is insolvent or bankrupt under an appropriate State or Federal law, any current financing payment or interim payments shall be adjusted by the intermediary, notwithstanding any other regulation or program instruction regarding the timing or manner of such adjustments, to a level necessary to insure that no overpayment to the provider is made.

3. Subpart F of Part 405 is amended by adding thereto a new § 405.603 to read as follows:

§ 405.603 Acceptance of agreement by Secretary; bankruptcy and insolvency.

(a) *General.* An agreement to participate as a provider under the program will not be accepted by the Secretary from an organization which has been adjudged insolvent or bankrupt under appropriate State or Federal law or with respect to which a court proceeding to make such a judgment is pending under such law.

(b) *Application.* Prior to the Secretary's acceptance of an agreement from an applicant organization, an owner or officer (if a corporation) must furnish a statement in writing indicating whether or not such organization has been adjudged insolvent or bankrupt in any State or Federal court or a court proceeding to make such a judgment is pending. An organization which has been adjudged insolvent or bankrupt under appropriate State or Federal law, or with respect to which a court proceeding to make such a judgment is pending under such law, is excluded from participation because such organization (as distinguished from the court having jurisdiction over the bankruptcy or insolvency proceeding) would be unable to give satisfactory assurances of compliance with the requirements of title XVIII of the Act. However, if a provider participating and receiving payments under the health insurance program subsequently is adjudged insolvent or bankrupt by a court of competent jurisdiction, such financial condition itself would not terminate the provider's participation in the program.

[FR Doc.73-4585 Filed 3-8-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7261]

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

Income Tax Treatment of Mineral Production Payments; Correction

On March 1, 1973, Treasury Decision 7261 was published in the FEDERAL REGISTER (38 FR 5462). Paragraph (b) of § 1.512(b)-1 of the Income Tax Regulations (26 CFR Part 1), as prescribed by T.D. 7261, is corrected by inserting the following sentence immediately after the first sentence thereof: "However, for taxable years beginning after December 31, 1969, certain royalties from and certain deductions in connection with either, debt-financed property (as defined in section 514(b)) or controlled organizations (as defined in paragraph (1) of this section) shall be included in computing unrelated business taxable income."

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

[FR Doc.73-4624 Filed 3-8-73;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 42—NONDISCRIMINATION: EQUAL OPPORTUNITY: POLICIES AND PROCEDURES

Subpart E—Equal Employment Opportunity Guidelines

By virtue of the authority vested in it by 5 U.S.C. 301, and Section 501 of the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, 82 Stat. 197, as amended, the Law Enforcement Assistance Administration hereby issues Title 28, Chapter I, Subpart E of Part 42 of the Code of Federal Regulations. In that the material contained herein is a matter relating to the grant program of the Law Enforcement Assistance Administration, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation, and delay in effective date are inapplicable.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data or arguments to the Administrator, Law Enforcement Assistant Administration, U.S. Department of Justice, Washington, D.C. 20530, Attention: Office of Civil Rights Compliance within 45 days of the publication of the guidelines contained in this part. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, however, Part 42, Subpart E as set forth herein shall remain in effect, thus permitting the public business to proceed more expeditiously.

Subpart E—Equal Employment Opportunity Guidelines

AUTHORITY: 5 U.S.C., sec. 501 of the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, 82 Stat. 197, as amended.

Subpart E—Equal Employment Opportunity Guidelines

§ 42.301 Purpose.

(a) The experience of the Law Enforcement Assistance Administration in implementing its responsibilities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Public Law 90-351, 82 Stat. 197; Public Law 91-644, 84 Stat. 1881), has demonstrated that the full and equal participation of women and minority individuals in employment opportunities in the criminal justice system is a necessary component to the Safe Streets Act's program to reduce crime and delinquency in the United States.

(b) Pursuant to the authority of the Safe Streets Act and the equal employment opportunity regulations of theDepartment of Justice relating to LEAA assisted programs and activities (28 CFR 42.201, et seq., Subpart D of this part), the following Equal Employment Opportunity Guidelines are established.

§ 42.302 Application.

(a) As used in these guidelines "Recipient" means any State, political subdivision of any State, combination of such States or subdivisions, or any department, agency, or instrumentality of any of the foregoing receiving Federal financial assistance from LEAA, directly or through another recipient, or with respect to whom an assurance of civil rights compliance given as a condition of the earlier receipt of assistance is still in effect.

(b) Each recipient of LEAA assistance within the criminal justice system which has 50 or more employees and which has received grants or subgrants of $25,000 or more pursuant to and since the enactment of the Safe Streets Act of 1968, as amended, and which is located in a geographic area where the available minority work force is 3 percent or more of the total work force, is required to formulate, implement, and maintain an Equal Employment Opportunity Program relating to employment practices affecting minority persons and women within 120 days after the promulgation of these guidelines, or the initial application for assistance is approved, whichever is sooner. For a definition of "employment practices" within the meaning of this paragraph, see § 42.202(b).

(c) "Minority persons" shall include persons who are Negro, Oriental, American-Indian, or Spanish - surnamed Americans. "Spanish-surnamed Americans" means those of Latin American, Cuban, Mexican, Puerto Rican, or Spanish origin. In Alaska, Eskimos and Aleuts should be included as "American Indians."

(d) For the purpose of these guidelines, the relevant "geographic area" will be considered to be the State for State agencies, institutions, and facilities; the Standard Metropolitan Statistical Area, as that area is defined by the U.S. Bureau of Census for those county and municipal agencies, institutions, and facilities within a Standard Metropolitan Statistical Area; and the county for county and municipal agencies, institutions, and facilities not located in a Standard Metropolitan Statistical Area.

(e) "Fiscal year" means the 12 calendar months beginning July 1, and ending June 30, of the following calendar year. A fiscal year is designated by the calendar year in which it ends.

§ 42.303 Evaluation of employment opportunities.

(a) A necessary prerequisite to the development and implementation of a satisfactory Equal Employment Opportunity Program is the identification and analysis of any problem areas inherent in the utilization or participation of minorities and women in all of the recipient's employment phases (e.g., recruitment, selection, and promotion) and the evaluation of employment opportunities for minorities and women.

(b) In many cases an effective Equal Employment Opportunity Program may only be accomplished where the program is coordinated by the recipient agency with the cognizant Civil Service Commission or similar agency responsible by law, in whole or in part, for the recruitment and selection of entrance candidates and selection of candidates for promotion.

(c) In making the evaluation of employment opportunities, the recipient shall conduct such analysis separately for minorities and women. The evaluation should include, but not necessarily be limited to, the following factors:

(1) An analysis of present representation of women and minority persons in all job categories;

(2) An analysis of all recruitment and employment selection procedures for the preceding fiscal year, including such things as position descriptions, application forms, recruitment methods and sources, interview procedures, test administration and test validity, educational prerequisites, referral procedures and final selection methods, to insure that equal employment opportunity is being afforded in all job categories;

(3) An analysis of seniority practices and provisions, upgrading and promotion procedures, transfer procedures (lateral or vertical), and formal and informal training programs during the preceding fiscal year, in order to insure that equal employment opportunity is being afforded;

(4) A reasonable assessment to determine whether minority employment is inhibited by external factors such as the lack of access to suitable housing in the geographical area served by a certain facility or the lack of suitable transportation (public or private) to the workplace.

§ 42.304 Written Equal Employment Opportunity Program.

Each recipient's Equal Employment Opportunity Program shall be in writing and shall include:

(a) A job classification table or chart which clearly indicates for each job classification or assignment the number of employees within each respective job category classified by race, sex, and national origin (include for example Spanish-surnamed, Oriental, and American Indian). Also, principal duties and rates of pay should be clearly indicated for each job classification. Where auxiliary duties are assigned or more than one rate of pay applies because of length of time in the job or other factors, a special notation should be made. Where the recipient operates more than one shift or assigns employees within each shift to varying locations, as in law enforcement agencies, the number by race, sex, and national origin on each shift and in each location should be identified. When relevant, the location assignments should characterize the racial/ethnic mix of the

geographic location by the inclusion of minority population and percentage statistics.

(b) The number of disciplinary actions taken against employees by race, sex, and national origin within the preceding fiscal year, the number and types of sanctions imposed (suspension indefinitely, suspension for a term, loss of pay, written reprimand, oral reprimand, other) against individuals by race, sex, and national origin.

(c) The number of individuals by race, sex, and national origin (if available) applying for employment within the preceding fiscal year and the number by race, sex, and national origin (if available) of those applicants who were offered employment and those who were actually hired. If such data is unavailable, the recipient should institute a system for the collection of such data.

(d) The number of employees in each job category by race, sex, and national origin who made application for promotion or transfer within the preceding fiscal year and the number in each job category by race, sex, and national origin who were promoted or transferred.

(e) The number of employees by race, sex, and national origin who were terminated within the preceding fiscal year identifying by race, sex, and national origin which were voluntary and involuntary terminations.

(f) Available community and area labor characteristics within the relevant geographical area including total population, workforce, and existing unemployment by race, sex, and national origin. Such data may be obtained from the Bureau of Labor Statistics, Washington, D.C., State and local employment services, or other reliable sources. Recipients should identify the sources of the data used.

(g) A detailed narrative statement setting forth the recipient's existing employment policies and practices as defined in § 42.202(b). Thus, for example, where testing is used in the employment selection process, it is not sufficient for the recipient to simply note the fact. The recipient should identify the test, describe the procedures followed in administering and scoring the test, state what weight is given to test scores, how a cut-off score is established and whether the test has been validated to predict job performance and, if so, a detailed description of the validation study. Similarly detailed responses are required with respect to other employment practices, procedures and practices used by the applicant.

(1) The statement should include the recipient's detailed analysis of existing employment policies, procedures and practices as they relate to minority employment (see § 42.303) and equal opportunities for women, and, where improvements are necessary, the statement should set forth in detail the specific steps the recipient will take for the achievement of full and equal employment opportunity. For example, The Equal Employment Opportunity Commission, in carrying out its responsibilities in insuring compliance with title VII has published "Guidelines on Employee Selection Procedures" (29 CFR, 1607) which, among other things, proscribes the use of employee selection practices, procedures and devices (such as tests, minimum educational levels, oral interviews and the like) which have not been shown by the user thereof to be statistically related to job performance and where the use of such an unvalidated selection device tends to disqualify a disproportionate number of minority individuals or women for employment. The EEOC "Guidelines" set out appropriate procedures to assist in establishing and maintaining equal employment opportunities. Recipients of LEAA assistance using selection procedures which are not in conformity with the EEOC "Guidelines" shall set forth the specific areas of nonconformity, the reasons which may explain any such nonconformity, and, if necessary, the steps the recipient agency will take to correct any existing deficiency.

(2) The recipient should also set forth a program for recruitment of minority persons based on an informed judgment of what is necessary to attract minority applications including, but not necessarily limited to, dissemination of posters, use of advertising media patronized by minorities, minority group contracts and community relations programs. As appropriate, recipients may wish to refer to recruitment techniques suggested in Order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 29 CFR 60–2.25(e).

(h) Plan for dissemination of the applicant's Equal Employment Opportunity Program to all personnel, applicants and the general public. As appropriate, recipients may wish to refer to the recommendations for dissemination of policy suggested in Order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 29 CFR 60–2.21.

(i) Designation of specified personnel to implement and maintain adherence to the Equal Employment Opportunity Program and a description of their specific responsibilities. As appropriate, recipients may wish to refer to the responsibilities suggested in Order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 29 CFR 60–2.22.

§ 42.305 Recordkeeping and certification.

The Equal Employment Opportunity Program and all records in its preparation shall be kept on file and retained by each recipient covered by these guidelines for subsequent audit or review by responsible personnel of the cognizant state planning agency or the LEAA. Applications to fund new or continuing programs under the Omnibus Crime Control and Safe Streets Act of 1968, shall be accompanied by a certificate stating that equal employment opportunity program is on file with the recipient. In the case of grants made at the discretion of LEAA in excess of $100,000 in amount, a copy of the certification required by this paragraph shall be mailed to the LEAA office in Washington, D.C., charged with responsibility for enforcement of civil rights compliance obligations of LEAA recipients. The form of the certification shall be as follows:

I, _____ (person filing the application) certify that the _____ (criminal justice agency) has formulated an equal employment opportunity program in accordance with 28 CFR 42.301, et seq., Subpart E, and that it is on file in the Office of _____ (name), _____ (address), _____ (title), for review or audit by officials of the cognizant state planning agency or the Law Enforcement Assistance Administration, as required by relevant laws and regulations.

The criminal justice agency created by the Governor to implement the Safe Streets Act within each State shall certify that it requires, as a condition of the receipt of block grant funds, that recipients from it have executed an Equal Employment Opportunity Program in accordance with this subpart, or that, in conformity with the terms and conditions of this regulation no equal employment opportunity programs are required to be filed by that jurisdiction.

§ 42.306 Guidelines.

(a) Recipient agencies are expected to conduct a continuing program of self-evaluation to ascertain whether any of their recruitment, employee selection or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunities to minority individuals and women.

(b) Postaward compliance reviews of recipient agencies will be scheduled by LEAA, giving priority to any recipient agencies which have a significant disparity between the percentage of minority persons in the relevant population workforce and the percentage of minority employees in the agency. Equal employment program modification may be suggested by LEAA whenever identifiable referral or selection procedures and policies suggest to LEAA the appropriateness of improved selection procedures and policies. Accordingly, any recipient agencies falling within this category are encouraged to develop recruitment, hiring or promotional guidelines under their equal employment opportunity program which will correct, in a timely manner, any identifiable employment impediments which may have contributed to the existing disparities.

(c) A significant disparity between minority workforce population in the relevant geographical area and the minority workforce of the agency may be deemed to exist if the percentage of a minority group in the employment of the agency is not at least seventy (70) percent of the percentage of that minority in the workforce population in the relevant geographical area.

§ 42.307 Obligations of recipients.

The obligation of those recipients subject to these guidelines for the mainte-

nance of an Equal Employment Opportunity Program shall continue for the period during which the LEAA assistance is extended. In the case of an application for Federal financial assistance to provide real property or structures thereon, or personal property or equipment of any kind, such assistance shall obligate the recipient for the period during which the property is used for a purpose for which the Federal financial assistance is extended.

§ 42.308 Noncompliance.

Failure to implement and maintain an Equal Employment Opportunity Program as required by these guidelines shall subject recipients of LEAA assistance to the sanctions prescribed by the Safe Streets Act and the equal employment opportunity regulations of the Department of Justice. (See 42 U.S.C. 3757 and §42.206.)

Effective date. This guideline shall become effective on March 9, 1973.

Dated: March 6, 1973.

JERRIS LEONARD,
Administrator, Law Enforcement Assistance Administration.

Dated: March 5, 1973.

CLARENCE M. COSTER,
Associate Administrator.

Dated: March 6, 1973.

RICHARD W. VELDE,
Associate Administrator.

[FR Doc.73-4554 Filed 3-8-73;8:45 am]

Title 32—National Defense

CHAPTER XIV—THE RENEGOTIATION BOARD

PART 1460—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

Contribution to the Defense Effort

The Renegotiation Board hereby adopts the proposed amendment to Part 1460 which was published on January 23, 1973 (38 FR 2219-2220), certain changes having been made therein. Said regulation, as adopted, reads as set forth below.

Dated: March 6, 1973.

RICHARD T. BURRESS,
Chairman.

This Part 1460 is amended by deleting § 1460.13 *Contribution to the defense effort* in its entirety and inserting in lieu thereof the following:

§ 1460.13 Contribution to the defense effort.

(a) *Statutory provision.* Section 103 (e) of the act provides that in determining excessive profits there shall be taken into consideration the following factor:

(4) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance.

(b) *Comment.* Every contractor contributes to the defense effort when he performs or assists others to perform a defense contract or subcontract, or when, in connection with such a contract or subcontract, he otherwise renders a service of value to a defense program or objective. Credit will be given under this factor, in such degree as as the facts may warrant, for (1) superior performance in excess of contract requirements, such as completion of urgent work ahead of schedule at the request of the procuring department, or exceeding specifications in a manner beneficial to the defense effort; (2) ingenuity in providing new uses for products or production machinery or equipment; (3) overcoming difficulties, which others have failed to overcome, in providing materials or services for the defense effort; (4) experimental and developmental work of high value to the defense effort; (5) new inventions, techniques, and processes of unusual merit; (6) performance under difficult environmental or geographical conditions or hazardous working conditions; (7) cooperation with the Government and with other contractors in contributing proprietary data or in developing and supplying technical assistance to alternative or competitive sources of supply; or (8) performance, assistance, or service considered otherwise exceptional.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A.; App. sec. 1219)

[FR Doc.73-4613 Filed 3-8-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 72-178R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Debbies Creek, Manasquan, N.J.

This amendment changes the regulations for the Monmouth County drawbridge across Debbies Creek at Brielle Road to permit closed periods from Memorial Day through Labor Day from 7 a.m. to 8 p.m. when the draw need open only on the hour and half hour if vessels are waiting to pass. This amendment was circulated as a public notice dated September 20, 1972, by the Commander, Third Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 72-178P) on September 14, 1972 (37 FR 18634). Twelve comments were received. Five favored the proposal and one had no objection. Six objections were received. Those opposing were concerned with safety of navigation, the increase in the number of vessels in the vicinity and the erosion of the free navigation of waterways by the imposition of restrictions of drawbridge operations. The Coast Guard has considered these objections and while they are valid, it is felt that the regulations, as proposed, are reasonable. This change will be closely monitored and if modifications of these regulations are indicated, action to accomplish this will be initiated.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new subparagraph (5) to paragraph (j) to § 117.215 to read as follows:

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

* * * * *

(j) * * *

(5) Debbies Creek, Manasquan, N.J. The draw shall open on signal except that from Memorial Day through Labor Day from 7 a.m. to 8 p.m. the draw need open only on the hour and half hour if any vessels are waiting to pass.

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

Effective date. This revision shall become effective on April 15, 1973.

Dated: March 2, 1973.

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

[FR Doc.73-4555 Filed 3-8-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

PART 35—STATE AND LOCAL ASSISTANCE

Grants for Construction of Treatment Works

Correction

In FR Doc. 73-3756 appearing at page 5329 for the issue for Wednesday, February 28, 1973, the phrase in the second line of § 35.930-1(a)(4) now reading "920(c); or" should be deleted. The first word in § 35.935-6 now reading "Generall" should read "Generally".

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-1—GENERAL

Debarred, Suspended, and Ineligible Bidders

Chapter 3, Title 41, Code of Federal Regulations, is hereby amended to take cognizance of (a) the revisions to Subpart 1-1.6, Chapter 1, Title 41, of the Code of Federal Regulations published in the FEDERAL REGISTER, November 2, 1972, Volume 37, No. 212, and (b) organizational changes within the Department.

It is the general policy of the Department of Health, Education, and Welfare, to allow time for interested parties to take part in the rule making process. However, since the amendment herein involves minor technical matters, the