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federal register

WEDNESDAY, NOVEMBER 24, 1976

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	HEW/FDA			HEW/FDA

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

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

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rules and regulations

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

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

Title 15—Commerce and Foreign Trade

CHAPTER II—NATIONAL BUREAU OF STANDARDS, DEPARTMENT OF COMMERCE

SUBCHAPTER F—REGULATIONS GOVERNING TRAFFIC AND CONDUCT

PART 265—REGULATIONS GOVERNING TRAFFIC AND CONDUCT ON THE GROUNDS OF THE NATIONAL BUREAU OF STANDARDS, GAITHERSBURG, MARYLAND, AND BOULDER AND FORT COLLINS, COLORADO

Traffic and Conduct on the Grounds of the National Bureau of Standards

As these regulations relate solely to conduct on public property, they are exempt from the requirements of the Administrative Procedure Act pertaining to public participation in rule making (5 U.S.C. 553). However, since such regulations apply to members of the public, as well as to Federal employees, this public notice is deemed appropriate.

In 15 CFR 265.1, paragraph (a) is revised to read as follows:

§ 265.1 Definitions.

* * * * *

(a) "Site" means those grounds and facilities of the National Bureau of Standards, Department of Commerce located in Montgomery County, Maryland, and in Boulder and Larimer Counties, Colorado, over which the Federal Government has acquired concurrent jurisdiction in accordance with appropriate authority.

* * * * *

(Sec. 9, 31 Stat. 1450, as amended (15 U.S.C. 277). Applies sec. 1, 72 Stat 1711, as amended (15 U.S.C. 278e(b)).

Dated: November 17, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc.76-34648 Filed 11-23-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2845]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

International Inventors Inc. and Siegfried Bart

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages, or connections; 13.15–5 Advertising and promotional services; 13.15–20 Business methods and policies; 13.15–35 Contracts and obligations; 13.15–195 Nature; 13.15–220 Patent or other rights; 13.15–225 Personnel or staff; 13.15–245 Prospects; 13.15–250 Qualifications and abilities; 13.15–265 Service; § 13.60 Earnings and profits; § 13.85 Government approval, action, connection or standards; 13.85–40 In general; § 13.120 Legality or legitimacy; § 13.145 Patent or other rights; § 13.160 Promotional sales plans; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.285 Value. Subpart—Contracting for sale in any form binding on buyer prior to end of specified time period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period.

Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–40 Furnishing information to media; 13.533–45 Maintain records.

Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 Delaying or withholding corrections, adjustments or action owed.

Subpart—Failing to maintain records: § 13.1051 Failing to maintain records.

Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1370 Business methods, policies and practices; § 13.1425 Government connection; § 13.1435 History; § 13.1495 Nature; § 13.1513 Operations generally; § 13.1520 Personnel or staff; § 13.1535 Qualifications; § 13.1533 Services—Goods: § 13.1615 Earnings and profits; § 13.1675 Law or legal requirements; § 13.1685 Nature; § 13.1697 Opportunities in product or service; § 13.1700 Patent rights; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1765 Undertakings, in general; § 13.1775 Value—Promotional sales plans: § 13.1830 Promotional sales plans.

Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1870 Nature; § 13.1889 Risk of loss; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts.

Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts; § 13.2090 Undertakings, in general.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

In the Matter of International Inventors Incorporated, a Corporation, and Siegfried Bart, Individually and as an Officer of Said Corporation.

Consent order requiring a Los Angeles, Calif., idea promotion firm, among other things to cease misrepresenting its ability to promote ideas, inventions or products that will or may result in financial gains for its clients; misrepresenting the nature or value of its services; failing to disclose relevant information including the fact it does not provide any legal protection recognized by the United States Patent Office, and that serious consequences could result from this lack of patent protection. Further, the order prohibits the firm's president from even engaging in the idea promotion business and prohibits the company from accepting any money from a client other than a percentage of royalties or other financial gain derived through its efforts.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

I. *Definitions.* For purposes of this order the following definitions shall apply:

A. "Idea" shall mean any idea, invention or product.

B. "Client" shall mean any party that has entered into an agreement with respondents for the "promotion" of an "idea".

C. "Financial gain" shall mean an amount of money derived by a "client", from a respondent's "promotion" of the client's "idea".

D. "Promotion" shall mean the evaluation, development, manufacturing, marketing or otherwise contributing to the success or growth of an "idea".

E. "Future services" shall include any arrangement whereby one party pays or contracts to pay a sum of money in the belief that he may receive, as a result of such arrangement, the delivery or performance, at least partly in the future, of any service, benefit, promotion, sum of money, or similar thing of value; the term shall include, but shall not be limited to, any arrangement whereby one party pays or contracts to pay a sum of money in the belief that he may receive a financial gain as a result of such arrangement.

II. *It is ordered,* That respondent, International Investors Incorporated, a corporation, its successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale and sale of contracts for future services in the promotion of ideas, or any other future services, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

[1] Copies of the Complaint and Decision and Order filed with the original document.

1. Representing, directly or indirectly, by any means, that:

A. Respondent possesses ability in the field of engineering unless it retains a licensed engineer who shall provide a written evaluation of each client's idea. Respondent shall provide a copy of said evaluation which the client may retain.

B. Respondent can or will provide legal protection for a client's idea unless respondent retains an attorney or agent licensed by the United States Patent Office who renders a written opinion on such client's idea. Respondent shall provide a copy of said opinion which the client may retain.

C. Any party may or will receive a financial gain as a result of contracting with respondent except as allowed by Subparagraphs A and B of Paragraph 4 of this order.

2. Misrepresenting, directly or indirectly, by any means, that respondent possesses the ability to promote ideas that will or may result in financial gains for its clients.

3. Failing to prominently display the following notice in two or more locations in those portions of respondent's business premises most frequented by prospective clients and in each location where clients sign contracts or other binding instruments. Such notice shall be considered prominently displayed only if so positioned as to be easily observed and read by respondent's clients and prospective clients:

NOTICE

BY PROCEEDING WITHOUT THE ADVICE OF AN INDEPENDENT PATENT ATTORNEY, YOU MAY LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA, INVENTION OR PRODUCT OR EXPOSE YOURSELF TO A COSTLY PATENT INFRINGEMENT LAWSUIT. THEREFORE, PRIOR TO SIGNING ANY AGREEMENT WITH US YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY.

4. Failing to make the following disclosures on the contract or other binding instrument to be executed by prospective clients. Said disclosures shall be in more conspicuous print than all other language in said instrument, but in no case shall they be smaller than 12 point upper case type. Said disclosures and instrument shall be delivered to prospective clients at least 10 days prior to the time prospective clients execute said instrument. The disclosures shall be in the following form set off from the text of the instrument by a black border and immediately above the line for the prospective clients' signatures:

NOTICE

(A) SINCE WE BEGAN DOING BUSINESS, WE HAVE CONTRACTED TO PROMOTE IDEAS, INVENTIONS, OR PRODUCTS FOR (Number) CLIENTS. AS A RESULT OF OUR SERVICES:

1. (Number) OF OUR CLIENTS EARNED NOTHING.
2. (Number) OF OUR CLIENTS EARNED $100–$499.
3. (Number) OF OUR CLIENTS EARNED $500–$1,000.
4. (Number) OF OUR CLIENTS EARNED OVER $1,000.

(B) WITHOUT PATENT PROTECTION RECOGNIZED BY THE UNITED STATES PATENT OFFICE, YOU MAY LOSE THE OPPORTUNITY TO OBTAIN FINANCIAL BENEFIT FROM YOUR IDEA. WE DO NOT PROVIDE ANY LEGAL PROTECTION RECOGNIZED BY THE UNITED STATES PATENT OFFICE.

(C) BECAUSE THERE WILL BE NO PATENT PROTECTION FOR YOUR IDEA, SERIOUS CONSEQUENCES COULD RESULT FROM YOUR CONTRACTING WITH US, INCLUDING:

(1) When we disclose information concerning your idea to persons/manufacturers/marketers outside our company, such disclosure may be interpreted by the United States Patent Office as a "publication" of your idea.

(2) "Publication" for a period of one year or more of an idea which has no legal protection recognized by the United States Patent Office will result in the loss of any patentable rights you may have.

(D) YOU SHOULD TREAT YOUR IDEA AS A CONFIDENTIAL SUBJECT IN ORDER TO AVOID LOSING ANY PATENT RIGHTS YOU MAY HAVE.

(E) BY PROCEEDING WITHOUT THE ADVICE OF AN INDEPENDENT PATENT ATTORNEY YOU MAY LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA, INVENTION OR PRODUCT OR EXPOSE YOURSELF TO A COSTLY PATENT INFRINGEMENT LAWSUIT. YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY BEFORE YOU SIGN THIS AGREEMENT.

(F) TODAY IS (date). WE CANNOT ASK YOU TO SIGN AN AGREEMENT UNTIL 10 BUSINESS DAYS HAVE ELAPSED WHICH WILL BE ON (month/day/year).

I, (name of customer), hereby acknowledge receipt of a copy of this agreement on the date specified below.

Customer's Signature

Date

5. Executing contracts or other agreements with a client prior to expiration of the 10-day period disclosed in accordance with Paragraph 4 herein.

6. Failing to retain executed copies of all disclosures required by Paragraph 4 of this order for a period of three (3) years after such disclosure is made regardless of whether prospective clients ultimately execute contracts. Respondent shall make accurate statistical disclosures required by this paragraph and maintain records for a period of five (5) years sufficient to verify the accuracy of each disclosure. Accurate disclosures, given without comment, as required by Paragraph 4 of this order, shall not be deemed a violation of Paragraph 1 of this order.

7. Failing, in all pamphlets, brochures and other promotional materials to make the following disclosures in the manner and form provided for herein:

A. In all printed advertisements, the notice shall be conspicuously placed in print at least as large as the largest print in the advertising material other than respondent's name and shall state:

(Number)
% of our clients have earned at least $100 as a result of our efforts to promote their ideas.

B. In all advertisements broadcast by radio, or television, the above-required notice shall be read at the end of the advertisement at a rate of speed at least as slow as the slowest part of the advertisement.

C. At the time respondent submits advertising to any newspaper or other written medium, it shall provide a copy of the following notice to each such medium:

NOTICE

The Federal Trade Commission has entered into a consent agreement with (name of respondent). A copy of the Commission's News Release is available from (name of respondent) upon request.

D. At the time respondent submits advertising to any radio or television station, it shall provide a copy of the following notice to each such station:

NOTICE

The Federal Trade Commission has entered into a consent agreement with (name of respondent). A copy of the Commission's news release is available from (name of respondent) upon request. Your attention is directed to an agreement between the Federal Trade Commission and the Federal Communications Commission dated April 27, 1972.

8. Failing to maintain for a period of three (3) years after any of their advertisements are disseminated:

(A) Records disclosing the date or dates each such advertisement was published;

(B) Records disclosing the name and address of the newspapers, other publications or broadcast media disseminating said advertisement; and

(C) Copies or scripts of all of their advertisements published or disseminated by any media.

9. Failing to utilize one written contract or other binding instrument which shall constitute the entire agreement between the parties. In addition to the disclosures required under Paragraph 4 herein, each such instrument shall contain the following provision:

(Name of respondent) agrees to present to the client all materials due to the client pertaining to the promotion of said client's idea within 180 days of the date this agreement is executed, and it is hereby further agreed that time is of the essence. If such materials are not presented to the client within the 180 day period, it is hereby mutually agreed between (name of respondent) and the client whose signature appears below that this agreement is rescinded in its entirety.

It is further ordered, That respondent cease and desist from:

A. Including in any contract or other document any waiver, limitation or condition on the right of a client to rescind an agreement under any provision of this order.

B. Misrepresenting the right of a client to rescind an agreement under any provision of this order or any applicable statute or regulation.

C. Making any representations or taking any action which is inconsistent with or detracts from the effectiveness of this order.

It is further ordered, That respondent shall make all disclosures required by this order accurately, making such disclo-

sures or copies thereof available to the Federal Trade Commission on request, and comply with all contract provisions required by this order.

It is further ordered, That the corporate respondent shall not engage in any course of conduct which contravenes the rights of clients or prospective clients provided by this order.

It is further ordered, That respondent, upon receipt of a complaint from a client alleging facts that indicate this order may have been violated, rescind the contract where respondent determines, after a good faith investigation, that one or more of the paragraphs of this order may have been violated in connection with such client's transaction with respondent.

It is further ordered:

A. That respondent delivers, by hand or by certified mail, a copy of this order to each of its present or future salesmen, independent brokers, employees or any other person who sells or promotes the sale of respondent's contracts;

B. That respondent provide each person so described in sub-paragraph A above with a form returnable to respondent, clearly stating an intention to conform sales practices to the requirements of this order and retain such form for a period of three (3) years after it is executed by said persons;

C. That respondent inform each person described in sub-paragraph A above that respondent shall not use any such person; or the services of any such person, until such person agrees to and files notice with respondent to be bound by the provisions contained in this order;

D. That in the event such person will not agree to file such notice with respondent and be bound by the provisions of this order, respondent shall not use such person, or the services of such person;

E. That respondent institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in sub-paragraph A conform to the requirements of this order; and

F. That respondent discontinue dealing with any person described in sub-paragraph A of this order who engages in the acts or practices prohibited by this order.

It is further ordered, That respondent may accept compensation from a client for the promotion of the client's idea only as a percentage of royalties or other financial gain derived through respondent's efforts. Respondent may not accept any other fee or monetary consideration from a client.

It is further ordered, That respondent shall not sell, lease, exchange or otherwise alienate a client's idea or disclose a client's name, address, telephone number or other personal data to any party which will or may request such client to pay a fee or other monetary consideration for the promotion of that client's idea.

It is further ordered, That in the event the Federal Trade Commission promulgates a Trade Regulation Rule applicable to respondent's business that this order shall be deemed modified to the extent it contravenes said Rule.

It is further ordered, That in the event that corporate respondent merges with another corporation or transfers all or a substantial part of its business, respondent shall require said successor or transferee to file within thirty (30) days with the Commission a written agreement to be bound by the terms of this order. *Provided,* That if respondent wishes to present to the Commission any reason why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the succession or transfer.

It is further ordered, That the corporate respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

III. *It is ordered,* That Siegfried Bart, individually and as an officer of the corporate respondent, directly or through any corporation, subsidiary, division or other device, does forthwith cease and desist from offering to engage or engaging in contractual relationships with consumers for monetary consideration, in connection with the evaluation, development, marketing or promotion of ideas or inventions, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act.

It is provided, however, That nothing in this paragraph shall be construed to limit respondent Siegfried Bart's right to participate or share in the royalty payments, licensing fee or other proceeds resulting from the sale of an idea or invention or to limit respondent's right to manufacture or market products.

It is further ordered, That the individual respondent named herein promptly notify the Commission the event of both (1) the discontinuance of his employment with the corporate respondent and (2) of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission September 30, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-34669 Filed 11-23-76;8:45 am]

[Docket No. C-2344]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

United States Marketing Institute and Louis Lindstrom

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleading; § 13.15 Business status, advantages, or connections; § 13.15–5 Advertising and promotional services; § 13.15–20 Business methods and policies; § 13.15–35 Contracts and obligations; § 13.15–100 History; § 13.15–195 Nature; § 13.15–220 Patent or other rights; § 13.15–225 Personnel or staff; § 13.15–245 Prospects; § 13.15–255 Reputation, success or standing; § 13.15–265 Service; § 13.60 Earnings and profits; § 13.85 Government approval, action, connection or standards; § 13.85–40 In general; § 13.90 History of product or offering; § 13.145 Patent or other rights; § 13.160 Promotional sales plans; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.275 Undertakings, in general; § 13.285 Value.

Subpart—Contracting for sale in any form binding on buyer prior to specified time period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period.

Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–25 Displays, in-house; § 13.533–45 Maintain records.

Subpart—Delaying or withholding corrections, adjustments or actions owed: § 13.675 Delaying or withholding corrections, adjustments or actions owed.

Subpart—Failing to maintain records: § 13.1051 Failing to maintain records.

Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1370 Business methods, policies and practices; § 13.1425 Government connection; § 13.1435 History; § 13.1495 Nature; § 13.1513 Operations generally; § 13.1520 Personnel or staff; § 13.1535 Qualifications; § 13.1553 Services—Goods: § 13.1615 Earnings and profits; § 13.1675 Law or legal requirements; § 13.1685 Nature; § 13.1697 Opportunities in product or service; § 13.1700 Patent rights; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1765 Undertakings, in general; § 13.1775 Value—Promotional Sales Plans: § 13.1830 Promotional sales plans.

Subpart—Neglecting, unfairly or deceptively, to make material disclosures: § 13.1870 Nature; § 13.1885 Qualities or properties; § 13.1889 Risk of loss; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts.

Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts; § 13.2090 Undertakings, in general.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45)

In the Matter of United States Marketing Institute, a corporation, and Louis Lindstrom, individually and as an officer of said corporation.

Consent order requiring a Los Angeles, Calif., idea promotion firm, among other things, to cease misrepresenting its ability to promote ideas, inventions or products that will or may result in financial gains for its clients; misrepresenting the nature or value of its services; failing to disclose relevant information including the fact it does not provide any legal protection recognized by the United States Patent Office, and that serious consequences could result from this lack of patent protection. Further, the order prohibits the company from accepting any money from a client other than a percentage of royalties or other financial gain derived through its efforts.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

I. *Definitions.* For purposes of this order the following definitions shall apply:

A. "Idea" shall mean any idea, invention or product;

B. "Client" shall mean any party that has entered into an agreement with respondents for the "promotion" of an "idea";

C. "Financial gain" shall mean an amount of money derived by a "client", from a respondent's "promotion" of the client's "idea";

D. "Promotion" shall mean the evaluation, development, manufacturing, marketing or otherwise contributing to the success or growth of an "idea";

E. "Future services" shall include any arrangement whereby one party pays or contracts to pay a sum of money in the belief that he may receive, as a result of such arrangement, the delivery or performance, at least partly in the future, of any service, benefit, promotion, sum of money, or similar thing of value; the term shall include, but shall not be limited to, any arrangement whereby one party pays or contracts to pay a sum of money in the belief that he may receive a financial gain as a result of such arrangement.

II. *It is ordered,* That respondents, United States Marketing Institute, a corporation, and its officer Louis Lindstrom, individually and as an officer of said corporation, their successors and assigns, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale and sale of contracts for future services in the promotion of ideas, or any other future services, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, by any means, that:

A. Respondents possess ability in the field of engineering unless they retain a licensed engineer who shall provide a written evaluation of each client's idea. Respondents shall provide a copy of said evaluation which the client may retain.

B. Respondents can or will provide legal protection for a client's idea unless respondents retain an attorney or agent licensed by the United States Patent Office who renders a written opinion on such client's idea. Respondents shall provide a copy of said opinion which the client may retain.

C. Any party may or will receive a financial gain as a result of contracting with respondents except as allowed by Subparagraphs A and B of Paragraph 4 of this order.

2. Misrepresenting, directly or indirectly, by many means, that respondents possess the ability to promote ideas that will or may result in financial gains for their clients.

3. Failing to prominently display the following notice in two or more locations in those portions of respondents' business premises most frequented by prospective clients and in each location where clients sign contracts or other binding instruments. Such notice shall be considered prominently displayed only if so positioned as to be easily observed and read by respondents' clients and prospective clients:

NOTICE

BY PROCEEDING WITHOUT THE ADVICE OF AN INDEPENDENT PATENT ATTORNEY, YOU MAY LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA, INVENTION OR PRODUCT OR EXPOSE YOURSELF TO A COSTLY PATENT INFRINGEMENT LAWSUIT. THEREFORE, PRIOR TO SIGNING ANY AGREEMENT WITH US YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY.

4. Failing to make the following disclosures on the contract or other binding instrument to be executed by prospective clients. Said disclosures shall be in more conspicuous print than all other language in said instrument, but in no case shall they be smaller than 12 point upper case type. Said disclosures and instrument shall be delivered to prospective clients at least 10 days prior to the time prospective clients execute said instrument. The disclosures shall be in the following form set off from the text of the instrument by a black border and immediately above the line for the prospective clients' signatures:

NOTICE

(A) SINCE WE BEGAN DOING BUSINESS, WE HAVE CONTRACTED TO PROMOTE IDEAS, INVENTIONS, OR PRODUCTS FOR (*Number*) CLIENTS. AS A RESULT OF OUR SERVICES:

1. (*Number*) OF OUR CLIENTS EARNED NOTHING.

2. (*Number*) OF OUR CLIENTS EARNED $100–$499.

3. (*Number*) OF OUR CLIENTS EARNED $500–$1,000.

4. (*Number*) OF OUR CLIENTS EARNED OVER $1,000.

(B) WITHOUT PATENT PROTECTION RECOGNIZED BY THE UNITED STATES PATENT OFFICE, YOU MAYY LOSE THE OPPORTUNITY TO OBTAIN FINANCIAL BENEFIT FROM YOUR IDEA. WE DO NOT PROVIDE ANY LEGAL PROTECTION RECOGNIZED BY THE UNITED STATES PATENT OFFICE.

(C) BECAUSE THERE WILL BE NO PATENT PROTECTION FOR YOUR IDEA, SERIOUS CONSEQUENCES COULD RESULT FROM YOUR CONTRACTING WITH US, INCLUDING:

(1) When we disclose information concerning your idea to persons/manufacturers/marketers outside our company, such disclosure may be interpreted by the United States Patent Office as a "publication" of your idea.

(2) "Publication" for a period of one year or more of an idea which has no legal protection recognized by the United States Patent Office may result in the loss of any patentable rights you may have.

(D) YOU SHOULD TREAT YOUR IDEA AS A CONFIDENTIAL SUBJECT IN ORDER TO AVOID LOSING ANY PATENT RIGHTS YOU MAY HAVE.

(E) BY PROCEEDING WITHOUT THE ADVICE OF AN INDEPENDENT PATENT ATTORNEY YOU MAY LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA, INVENTION OR PRODUCT OR EXPOSE YOURSELF TO A COSTLY PATENT INFRINGEMENT LAWSUIT. YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY BEFORE YOU SIGN THIS AGREEMENT.

(F) TODAY IS (DATE). WE CANNOT ASK YOU TO SIGN AN AGREEMENT UNTIL 10 BUSINESS DAYS HAVE ELAPSED WHICH WILL BE ON (MONTH/DAY/YEAR).

I, (Name of Customer), hereby acknowledge receipt of a copy of this agreement on the date specified below.

(Customer's signature)

(Date)

5. Executing contracts or other agreements with aclient prior to expiration of the 10-day period disclosed in accordance with Paragraph 4 therein.

6. Failing to retain executed copies of all disclosures required by Paragraph 4 of this order for a period of three (3) years after such disclosure is made regardless of whether prospective clients ultimately execute contracts. Respondents shall make accurate statistical disclosures required by this paragraph and maintain records for a period of five (5) years sufficient to verify the accuracy of each disclosure. Accurate disclosures, given without comment, as required by Paragraph 4 of this order, shall not be deemed a violation of Paragraph 1 of this order.

7. Failing, in all pamphlets, brochures and other promotional materials to make the following disclosures in the manner and form provided for herein:

A. In all printed advertisements, the notice shall be conspicuously placed in print at least as large as the largest print in the advertisting material other than respondents' name and shall state:

(*Number*) % of our clients have earned at least $100 as a result of our efforts to promote their ideas.

B. In all advertisements broadcast by radio, or television, the above-required notice shall be read at the end of the ad-

[1] Copies of the Complaint and Decision and Order filed with the original document.

vertisement at a rate of speed at least as slow as the slowest part of the advertisement.

C. At the time respondents submit advertising to any newspaper or other written medium, they shall provide a copy of the following notice to each such medium:

NOTICE

The Federal Trade Commission has entered into a consent agreement with (Name of Respondent). A copy of the Commission's News Release is available from (Name of Respondent) upon request.

D. At the time respondents submit advertising to any radio or television station, they shall provide a copy of the following notice to each such station:

NOTICE

The Federal Trade Commission has entered into a consent agreement with (Name of Respondent). A copy of the Commission's news release is available from (Name of Respondent) upon request. Your attention is directed to an agreement between the Federal Trade Commission and the Federal Communications Commission dated April 27, 1972.

8. Failing to maintain for a period of three (3) years after any of their advertisements are disseminated:

(A) Records disclosing the date or dates each such advertisement was published;

(B) Records disclosing the name and address of the newspapers, other publications or broadcast media disseminating said advertisement; and

(C) Copies or scripts of all of their advertisements published or disseminated by any media.

9. Failing to utilize one written contract or other binding instrument which shall constitute the entire agreement between the parties. In addition to the disclosures required under Paragraph 4 herein, each such instrument shall contain the following provision:

(*Name of Respondent*) agrees to present to the client all materials due to the client pertaining to the promotion of said client's idea within 180 days of the date this agreement is executed, and it is hereby further agreed that time is of the essence. If such materials are not presented to the client within the 180 day period, it is hereby mutually agreed between (*Name of Respondent*) and the client whose signature appears below that this agreement is rescinded in its entirety.

It is further ordered, That respondents cease and desist from:

A. Including in any contract or other document any waiver, limitation or condition on the right of a client to rescind an agreement under any provision of this order.

B. Misrepresenting the right of a client to rescind an agreement under any provision of this order or any applicable statute or regulation.

C. Making any representations or taking any action which is inconsistent with or detracts from the effectiveness of this order.

It is further ordered, That respondents shall make all disclosures required by this order accurately, making such disclosures or copies thereof available to the Federal Trade Commission on request, and comply with all contract provisions required by this order.

It is further ordered, That neither the corporate respondent nor the individual respondent engage in any course of conduct which contravenes the rights of clients or prospective clients provided by this order.

It is further ordered, That respondents, upon receipt of a complaint from a client alleging facts that indicate this order may have been violated, rescind the contract where respondents determine, after a good faith investigation, that one or more of the paragraphs of this order may have been violated in connection with such client's transaction with respondent.

It is further ordered: A. That respondents deliver, by hand or by certified mail, a copy of this order to each of their present or future salesmen, independent brokers, employees or any other person who sells or promotes the sale of respondents' contracts;

B. That respondents provide each person so described in sub-paragraph A above with a form returnable to respondents, clearly stating an intention to conform sales practices to the requirements of this order and retain such form for a period of three (3) years after it is executed by said persons;

C. That respondents inform each person described in subparagraph A above that respondents shall not use any such person, or the services of any such person, until such person agrees to and files notice with respondents to be bound by the provisions contained in this order;

D. That in the event such person will not agree to file such notice with respondents and be bound by the provisions of this order, respondents shall not use such person, or the services of such person;

E. That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in subparagraph A conform to the requirements of this order; and

F. That respondents discontinue dealing with any person described in subparagraph A of this order who engages in the acts or practices prohibited by this order.

It is further ordered, That respondents may accept compensation from a client for the promotion of the client's idea only as a percentage of royalties or other financial gain derived through respondents' efforts. Respondents may not accept any other fee or monetary consideration from a client.

It is further ordered, That respondents shall not sell, lease, exchange or otherwise alienate a client's idea or disclose a client's name, address, telephone number or other personal data to any party which will or may request such client to pay a fee or other monetary consideration for the promotion of that client's idea.

It is further ordered, That in the event the Federal Trade Commission promulgates a Trade Regulation Rule applicable to respondent's business that this order shall be deemed modified to the extent it contravenes said Rule.

It is further ordered, That in the event that corporate respondent merges with another corporation or transfers all or a substantial part of its business, respondent shall require said successor or transferee to file within thirty (30) days with the Commission a written agreement to be bound by the terms of this order: *Provided,* That if respondent wishes to present to the Commission any reason why said order should not apply in its present form to said success or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the succession or transfer.

It is further ordered, That the individual respondent named herein promptly notify the Commission of discontinuance of any business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission September 30, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-34670 Filed 11-23-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

[Docket No. R-76-210]

PART 300—GENERAL

List of Attorneys-in-Fact

Section 300.11 is amended to add additional names to the list of attorneys-in-fact authorized to act on behalf of the Association and to remove names from the current list.

Notice and public procedure on this amendment are unnecessary and impracticable because of a large volume of legal documents that must be executed on behalf of the Association in connection with its recent auctions of mortgages.

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name and region
Fred O. Carlton, Dallas, Tex.
Boyd A. Jackman, Los Angeles, Calif.
Vern Simmons, Los Angeles, Calif.
Audrey E. Toliver, Los Angeles, Calif.

2. Paragraph (c) of § 300.11 is further amended by adding the following names in alphabetical sequence to the current list of attorneys-in-fact:

Name and region
Audrey E. Anderson, Los Angeles, Calif.
E. N. Biggerstaff, Los Angeles, Calif.
James R. Blakeley, Los Angeles, Calif.
W. R. Bowen, Los Angeles, Calif.
Joseph E. Brody, Chicago, Ill.
Julieta England, Los Angeles, Calif.
David L. Floyd, Atlanta, Ga.
Ronald W. Harwig, Chicago, Ill.
R. R. Holst, Los Angeles, Calif.
Diedre F. O'Donoghue, Chicago, Ill.
Max D. Robinson, Dallas, Tex.
H. P. Saulsberry, Dallas, Tex.
Patricia L. Shaw, Chicago, Ill.
W. G. Smith, Jr., Dallas, Tex.
J. L. Thomas, Dallas, Tex.
Ada P. Tilford, Chicago, Ill.

(It is hereby certified that economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.)

Effective date: This amendment shall be effective on November 24, 1976.

DAVID M. DEWILDE,
President, Government National Mortgage Association.

[FR Doc.76-34689 Filed 11-23-76;8:45 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2431]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Clifton Heights, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Clifton Heights, Delaware County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Council Room, Borough Building, 7 South Springfield Road, Clifton Heights.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Darby Creek	Conrail tracks	59	(1)	50
	Broadway Ave. (extended)	61	(1)	180
	Baltimore Pike (upstream side)	71	(1)	330
	Jackson Ave. (extended)	71	(1)	450
	Bridge St. (extended)	81	(1)	30
	Upstream of dam	94	(1)	170
	SEPTA	96	(1)	150
	North corporate limit	102	(1)	70

[1] Corporate limits.

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

Issued: October 26, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-34547 Filed 11-23-76;8:45 am]

[Docket No. FI-2430]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of Collins, Erie County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Town of Collins, Erie County, New York under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain mangement in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain mangement measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Main Entrance in Town Hall, 14093 Mill Street, Collins.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Clear Creek	West corporate limits	743	0	230
	Bagdad Rd. (north)	798	30	0
	Bagdad Rd. (central)	812	5	10
	Conrail	829	240	50
	Bagdad Rd. (south)	862	10	30
	Jennings Rd.	971	20	40
	North Division Rd. (extended)	1,060	5	170
	School St.	1,080	230	50
	Collins Center Zoar Rd.	1,094	200	30

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

Issued: October 26, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-34546 Filed 11-23-76;8:45 am]

[Docket No. FI-2432]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Hanover, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.-10)), hereby gives notice of his final determinations of flood elevations for the Township of Hanover, Luzerne County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Hanover Municipal Building, 1267 Sans Souci Parkway, Wilkes-Barre.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Upstream corporate limits	545	50	(1)
	Conrail bridge	542	120	(1)
	Downstream corporate limits	542	2,010	(1)
Solomon Creek	Conrail bridge	534	50	120
	Middle Rd	543	70	70
	Upstream corporate limits	553	1,220	600
	Fellows St	534	150	1,320
	Conrail bridge	529	10	10
Spring Creek	Upstream corporate limits	594	15	30
	Conrail bridge	591	60	20

[1] Corporate limits.

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

Issued: October 26, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-34548 Filed 11-23-76;8:45 am]

[Docket No. FI-2429]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Middle, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Township of Middle, New Jersey under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base

flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at 55 Mechanic Street, Cape May Courthouse, Middle, New Jersey 08210.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Atlantic Ocean	Avalon Blvd	9	(1)	(1)
	Stone Harbor Blvd	9	(1)	(1)
	Ocean Dr	9	(2)	(2)
	North Wildwood Blvd	9	(3)	(3)
	Route 47	9	(1)	(1)
Delaware Bay	Beach Ave	9	(3)	(3)
	Reeds Beach Rd	9	(4)	(4)
	Kimbles Beach Rd	9	(5)	(5)
	Millman Rd	9	(2)	(2)
	Bucknell Ave	9	(2)	(2)
	Geneva Ave	9	(3)	(3)
	Lehigh Ave	9	(2)	(2)
	Eldredge Ave	9	(3)	(3)

[1] To intersection with Garden State Parkway.
[2] Entire road.
[3] To 1,500 ft east of intersection with Garden State Parkway.
[4] To 2,100 ft west of intersection with Beach Ave.
[5] To 2,600 ft west of end of road.

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

Issued: October 22, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-34545 Filed 11-23-76;8:45 am]

Title 35—Panama Canal

CHAPTER 1—CANAL ZONE REGULATIONS

PART 133—TOLLS FOR USE OF CANAL

Increase in Panama Canal Tolls

On October 8, 1976, the Panama Canal Company published in the FEDERAL REGISTER (41 FR 44394) a notice of adoption of changes in the rates of tolls for use of the Panama Canal prescribed by 35 CFR 133.1, effective on approval by the President but no earlier than November 15, 1976. The amended regulation was approved by the President on November 18, 1976. The basis for the action changing the rates of tolls is authority vested in the Panama Canal Company and in the President by sections 411 and 412 of title 2 of the Canal Zone Code (76A Stat. 27).

The full text of 35 CFR 133.1 as amended, is as follows:

§ 133.1 Rates of toll.

The following rates of toll shall be paid by vessels using the Panama Canal:

(a) On merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, $1.29 per net-vessel ton of 100 cubic feet each of actual earning capacity—that is, the net tonnage determined in accordance with Part 135 of this chapter.

(b) On vessels in ballast without passengers or cargo, $1.03 per net-vessel ton.

(c) On other floating craft including warships, other than transports, colliers, hospital ships, and supply ships, $.72 per ton of displacement.

Effective date: November 18, 1976.

Dated: November 19, 1976.

THOMAS M. CONSTANT,
Secretary.

[FR Doc.76-34779 Filed 11-23-76;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

[Circular No. 2413]

PART 28—FIRE PROTECTION EMERGENCY ASSISTANCE

Fire Protection

On February 23, 1976, there was published in the FEDERAL REGISTER (41 FR 7950) a notice of proposed rulemaking setting forth criteria for agencies in the Department to enter into reciprocal fire protection agreements with fire organizations not within the Department and to render fire protection emergency assistance to fire organizations not within the Department. Interested parties were given the opportunity to submit, not later than March 20, 1976, comments, suggestions or objections on the proposed rulemaking. One nonsubstantive comment, suggesting correction of a typographical error, was received.

Upon further analysis of the proposal it has been decided to remove the provisions dealing with reciprocal fire protection agreements since the subject is covered in sufficient detail in the Act of May 27, 1955 (42 U.S.C. 1856). This regulatory action therefore covers only fire protection emergency assistance.

Because this is basically an internal administrative action, the rulemaking is not being issued again as a proposal, but is adopted as set forth below and shall become effective December 22, 1976.

JACK O. HORTON,
Assistant Secretary of the Interior.

NOVEMBER 17, 1976.

Secs.
28.1 Purpose.
28.2 Definitions.
28.3 Emergency assistance.

AUTHORITY: Act of May 27, 1955 (42 U.S.C. 1856, 1856b).

§ 28.1 Purpose.

The purpose of this part is to provide criteria for agencies in the Department to render fire protection emergency assistance to fire organizations not within the Department.

§ 28.2 Definitions.

As used in this part:

(a) The term "agency head" means the Secretary of the Interior or an official of the Department of the Interior who exercises authority delegated by the Secretary of the Interior.

(b) The term "fire protection" includes personnel services and equipment required for fire prevention, the protection of life and property, and firefighting; and

§ 28.3 Emergency assistance.

In the absence of a reciprocal fire protection agreement, each agency head may provide emergency fire protection if said emergency fire protection will not jeopardize the property of the United States by making it impossible for the agency head to protect the property of the United States and such assistance is determined to be in the best interest of the United States. The providing of emergency assistance shall not be in the best interest of the United States and may not be granted by an agency head if:

(a) Persons other than those currently employed by the agency at the time of the emergency and trained in the type of emergency assistance being provided would be used in the providing of the emergency assistance.

(b) Assistance is provided to a place more than an hour's travel from where the agency maintains fire protection facilities. Assistance which requires more than an hour's travel may be given for those fire emergencies threatening to last more than 12 hours, or endangering human life.

[FR Doc.76-34675 Filed 11-23-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Erie National Wildlife Refuge, Pennsylvania

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Entry on foot or by motor vehicle is permitted on designated travel routes for the purpose of nature study, photography, and wildland observation during daylight hours. Pets are permitted if on a leash not over 10 feet in length. Use of the picnic area is permitted on Saturdays and Sundays from 6:00 a.m. to 9:30 p.m. from May 15 through October 15, and on weekdays by reservation.

The refuge area, comprising 7,994 acres, is delineated on maps available from the Refuge Manager, Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pennsylvania 16327 and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

Dated: November 19, 1976.

WILLIAM ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.76-34799 Filed 11-23-76;8:45 am]

PART 32—HUNTING

PART 33—SPORT FISHING

Mingo National Wildlife Refuge, Missouri

The following special regulations are issued and are effective on November 24, 1976.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

The public hunting of squirrels on the Mingo NW Refuge, Missouri is permitted only on the area designated by signs as open to hunting. This open area, comprising 6,500-acres, is delineated on maps available at refuge headquarters, one mile north of Puxico, Missouri, and the Area Manager, U.S. Fish and Wildlife Service, 601 East 12th, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State regulations governing the hunting of squirrels subject to the following special conditions:

(1) The open season for hunting squirrels on the refuge extends from opening date of the statewide season, May 28, 1977 through September 30, 1977 inclusive.

(2) Hunters must register when entering the refuge and record kill when leaving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, CFR, Part 32, and are effective through September 30, 1977.

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

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Mingo NW refuge, Puxico, Missouri is permitted only on the area designated by signs as open to hunting. This open area, comprising 6,500 acres, is delineated on maps available at refuge headquarters located at Puxico, Missouri, and from the office of Area Manager, Fish & Wildlife Service, 601 East 12th Street, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State regulations covering hunting of deer and subject to the following special regulations during the period October 1, 1977 through December 31, 1977:

(1) Hunting with bows and arrows only is permitted.

(2) Hunters must register when entering and leaving the area.

(3) Hunting from permanent tree stands (one that is connected to the tree by nails, screws, etc.) is prohibited.

The provisions of this regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, CFR, Part 32, and are effective through December 31, 1977.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Sport fishing on the Mingo National Wildlife Refuge, Missouri is permitted in all waters as designated on the refuge during daylight hours only. The waters comprise about 4,300 acres. Maps and information are available at refuge headquarters and from the office of the Area Manager, Fish and Wildlife Service, 601 East 12th, Kansas City, Missouri 64106. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Open Season: January 1, 1977 through March 14, 1977 in designated waters.

(2) Open Season: March 15, through September 30 in all waters.

(3) Open Season: October 1, through December 31 in designated waters.

(4) Use of all motors is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, CFR, Part 33, and are effective through December 31, 1977.

GERALD L. CLAWSON,
Refuge Manager, Mingo National Wildlife Refuge, Puxico, Missouri.

NOVEMBER 8, 1976.

[FR Doc.76-34729 Filed 11-23-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING TAKING AND IMPORTING OF MARINE MAMMALS

Cape Fur Seals; Waiver of Moratorium

On September 9, 1976, the Director, National Marine Fisheries Service, received from the Fouke Company, Greenville, South Carolina, a petition for Amendment of Rule of 50 CFR § 216.32 (a), (a) (1), (b) and (f) (5) to adjust the number of Cape fur sealskins which may be imported from the 1975 harvest from 19,180 to 23,170 sealskins.

Notice of receipt of this petition was published in the FEDERAL REGISTER (41 FR 40167) on September 17, 1976. The public was invited to review and comment on the petition.

The Fouke Company alleges that the National Marine Fisheries Service (NMFS) erroneously failed to consider four islands as part of South Africa, namely: Long Island, Albatross Rock, Sinclair Island, and Hollam's Bird Island, and thereby understated that portion of the total yearly harvests which occurred in South Africa. The effect of including these four islands as part of South Africa would, according to petitioner, result in adjusting the percentage of the total harvest which could be imported, from 27.4 percent to 33.1 percent. When applied to the maximum harvest level of 70,000 seals as permitted in the waiver, this new percentage would result in an increase in the importation level to 23,170 sealskins.

The National Marine Fisheries Service requested and has received the Department of State's views on the territorial status of the four islands.

The Department of State, in a Memorandum of Law, concluded that Long Island, Albatross Rock, Sinclair Island, and Hollam's Bird Island are part of the territory of the Republic of South Africa.

Having considered the Fouke Company Petition for Amendment of Rule, the comments received from the public, and the Memorandum of Law prepared by the Department of State, the Director has decided to amend § 216.32 (a), (a) (1), (b) and (f) (5), to adjust the percentage of the total harvest to be imported into the United States, from 27.4 percent to 33.1 percent. This will result in an amendment of the waiver, increasing the maximum number of skins which

may be imported to 23,170 sealskins annually, beginning with the 1976 harvest and from subsequent harvests subject to annual review by the Director.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

NOVEMBER 19, 1976.

§ 216.32 [Amended]

Section 216.32 is amended by deleting the number 19,180 from paragraphs (a), (a) (1), (b), and (f) (5) and subsequently therefor, in each case, the number 23,170.

[FR Doc.76-34754 Filed 11-23-76; 8:45 am].

PART 260—INSPECTION AND CERTIFICATION

Fees and Charges

On October 1, 1976, the President, by Executive Order 11941, adjusted the rates of basic pay of General Schedule employees. Section 260.51(a) requires that the hourly rates for inspection fees be automatically increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. The Presidential basic pay adjustment resulted in a 4.55 percent increase in the basic pay of fishery product inspectors.

Notice is hereby given that pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (35 FR 15627), § 260.70 of Part 260, Inspection and Certification of Title 50 CFR is hereby amended by adjusting the rates for fees and charges to provide for the recovery of increased costs attributable to the upward adjustment of the rates of basic pay of fishery products inspectors. The amended rates became effective October 1, 1976.

ROBERT M. WHITE,
Administrator.

NOVEMBER 16, 1976.

In § 260.70 paragraphs (b) (1), (2), and (3) are revised as follows:

§ 260.70 Schedule of fees.

* * * * *

(b) * * *

(1) *Type I—Official establishment and product inspection-contract basis.*

	Per hour
Regular time	$16.55
Overtime	22.10
Sunday and legal holidays (2 hr minimum)	26.65

The contracting party shall be charged at an hourly rate of $16.55 per hour for regular time; $22.10 per hours for overtime in excess of 8 hours per shift per day; and $26.65 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. At an official establishment designated in a contract, products also designated therein will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this section.

(2) *Type II—Lot inspection—Officially and unofficially drawn samples.*

	Per hour
Regular time	$24.85
Overtime	32.30
Sunday and legal holidays (2 hr minimum)	41.10
Minimum Fee	18.65

For lot inspection services performed between the hours of 7 a.m. and 5 p.m.; Monday through Friday—$24.85 per hour;

For lot inspection services performed at times Monday through Friday other than 7 a.m. to 5 p.m., and on Saturdays (2-hour *minimum*)—$32.30 *per hour*;

For lot inspection services performed on Sunday and national legal holidays (2-hour minimum)—$41.10 per hour.

The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $18.65.

(3) *Type III—Miscellaneous inspection and consultative services.* When any inspection or related service, such as, but not limited to, initial and final establishment surveys, appeal inspection, sanitation evaluation, SIFE inspections, sampling, product evaluation, and label and product specification review, rendered is such that charges based on the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$20.70
Overtime	26.20
Sunday and legal holidays (2 hr minimum)	$33.30
Minimum fee	15.60

For miscellaneous inspection and consultative services performed between the hours of 7 a.m. and 5 p.m., Monday through Friday: $20.70 per hour;

For miscellaneous inspection and consultative services performed at times Monday through Friday other than 7 a.m. to 5 p.m., and on Saturdays (2 hr minimum): $26.20 *per hour*;

For miscellaneous inspection and consultative services performed on Sunday and national legal holidays (2 hr minimum): $33.30 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $15.60.

[FR Doc.76-34668 Filed 11-23-76;8:45 am]

Title 7—Agriculture

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

[Tangerine Reg. 48, Amdt. 3]

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

Size Requirements

This amendment of Tangerine Regulation 48, is issued pursuant to the marketing agreement, as amended, and Order No. 905, as amended, (7 CFR Part 905). Effective November 22, 1976, the amendment would retain the current minimum diameter requirement of 2$^{9}/_{10}$ inches (size 176) applicable to domestic fresh shipments of Florida tangerines, except that (1) during the period November 22 through November 28, 1976, each handler may ship a quantity of tangerines not smaller than 2$^{4}/_{10}$ inches in diameter (size 210) equal to 25 percent of the volume of tangerines he shipped in the most recent previous week of the current fiscal period and (2) during the period November 29 through December 5, 1976, each handler may ship a quantity of tangerines not smaller than 2$^{4}/_{10}$ inches in diameter (size 210) equal to 50 percent of the volume of tangerines he shipped in the most recent previous week of the current fiscal period. The specification of such minimum size requirements for Florida tangerines is necessary to satisfy current and prospective demand for such fruit and maintain orderly marketing conditions.

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

(2) The amendment reflects the Department's appraisal of the current and prospective market demand conditions for Florida tangerines. This amendment relaxes current minimum size requirements applicable to fresh shipments of tangerines. It is designed to insure an ample supply of fruit to consumers and prevent an excessive buildup of smaller size tangerines in marketing channels. The action is consistent with the available supply of tangerines in the production area and recognizes that smaller fruit will attain higher levels of maturity and increase to more desirable sizes as the season progresses. For the season through November 14, 1976, fresh shipments of Florida tangerines totaled 1,392 carlots, and there were an estimated 3,208 carlots remaining for fresh shipment. This amendment is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to

effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

Order. In § 905.566 (Tangerine Regulation 48; 41 FR 42177, 49801, 51029) the provisions of paragraph (a)(2) are revised to read as follows:

§ 905.566 Tangerine Regulation 48.

(a) * * *

(1) * * *

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$\frac{6}{16}$ inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines: *Provided,* That during the period November 22, 1976, through November 28, 1976, any handler may ship a quantity of tangerines which are of a size smaller than 2$\frac{6}{16}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 25 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than 2$\frac{5}{16}$ inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted, as specified in § 51.1818 of said United States Standards for Grades of Florida Tangerines: *Provided further,* That during the period November 29, 1976, through December 5, 1976, any handler may ship a quantity of tangerines which are of a size smaller than 2$\frac{6}{16}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 50 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than 2$\frac{5}{16}$ inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted, as specified in § 51.1818 of said United State Standards for Grades of Florida Tangerines.

* * * * *

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

Dated, November 19, 1976, to become effective November 22, 1976.

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

[FR Doc.76-34680 Filed 11-23-76;8:45 am]

[Amdt. 2]

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Handling Requirements

This amendment imposes minimum quality requirements on unbraided red onions.

Notice of rulemaking with respect to a proposed amendment of the handling regulation to be effective under Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958; 41 FR 36195) regulating the handling of onions grown in the production area defined therein was published in the October 29, 1976, issue of the FEDERAL REGISTER (41 FR 47489). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than November 12, 1976. None was filed.

Findings. After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, which was unanimously recommended by the Idaho-Eastern Oregon Onion Committee, established pursuant to the said marketing agreement and order, it is hereby found that this amendment to the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This season the volume and quality of red onions in the Idaho-Oregon production area are such that their unregulated handling is having a depressing effect on producer returns for all onions. Poorer quality unbraided red onions are being placed on the market to the detriment of the industry. Also, the 220 car estimated volume of red onions in the area is more than twice that of previous seasons and is now a significant factor in the onion market. The committee believes these unbraided red onions are competing with all other varieties and therefore also should meet quality, pack, inspection and assessment requirements. However, braided red onions would continue to be exempt. Such types are readily identifiable by their distinctive quality and appearance, they comprise a relatively small proportion of the crop and are shipped to specialized outlets.

It is hereby further found that good cause exists for not postponing the effective date of this amended regulation until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) to maximize benefits to producers, this amendment should apply to as many shipments as possible during the shipping season, (2) compliance with this regulation will not require any special preparation by handlers, and (3) notice of the proposed amendment was published in the FEDERAL REGISTER of October 29, 1976.

Section 958.321 *Handling regulation* (41 FR 30013; 45997) is amended as follows: the introductory paragraph preceding paragraph (a) is revised; paragraph (a)(2) is renumbered as (a)(3) and a new (a)(2) is added:

The amendment is as follows:

§ 958.321 Handling regulation.

During the effective period herein through April 30, 1977, no handler may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraph (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c), (d), or (e) of this section.

(a) * * *

(2) *Red varieties.* U.S. No. 2 or better grade, 1½ inches minimum diameter.

* * * * *

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

Dated November 18, 1976, to become effective November 26, 1976.

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

[FR Doc.76-34683 Filed 11-23-76;8:45 am]

[Amdt. 1]

PART 980—VEGETABLES; IMPORT REGULATIONS; ONIONS

Unbraided Red Onions; Minimum Quality Requirements

This amendment to the import regulation imposes minimum quality requirements on unbraided red onions.

Notice of rulemaking regarding a proposed amendment of § 980.115 Onion import regulation was published in the October 29, 1976, FEDERAL REGISTER (41 FR 47490). This regulation is effective under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1).

The notice afforded interested persons an opportunity to file data, views, or arguments in regard thereto not later than November 12, 1976. None was filed.

Section 8e of the act provides that whenever a Federal marketing order is in effect for onions, the importation of onions shall be prohibited unless they comply with the grade, size, quality and maturity provisions of such order. The provisions hereinafter set forth comply with amended provisions to become effective under Marketing Order No. 958 for onions grown in Idaho and Malheur County, Oregon. It is not contemplated that any other marketing order will have concurrent grade, size, quality and maturity provisions in effect regulating onions until the spring of 1977.

Findings. (a) After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the proposal as published in the notice should be issued and that imported onions comply with the grade, size, quality and maturity requirements, as hereinafter provided, applicable to onions produced in the United States, and effective under Marketing Order No. 958, as amended (7 CFR Part 958; 41 FR 36195) regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. This regulation is subject to further amendment with adequate notice as domestic regulations are changed.

(b) It is hereby further found that good cause exists for not postponing the effective date of this amended regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements es-

tablished by this regulation are mandatory under Section 8e of the act; (2) all known onion importers were notified of the proposed amended regulation; and (3) notice hereof was published in the October 29, 1976, FEDERAL REGISTER (41 FR 47490), and such notice is determined to be reasonable.

Section 980.115 *Onion import regulation* (41 FR 30014) is amended as follows: The introductory paragraph preceding paragraph (a) is revised; paragraph (a)(2) is renumbered as (a)(3) and a new (a)(2) is added; and the first sentence of paragraph (h) is revised.

The amendments read as follows:

§ 980.115 **Onion import regulation.**

Except as otherwise provided herein, during the effective period herein through April 30, 1977, no person may import any lot of onions, except braided red varieties, unless such onions are inspected, are at least "moderately cured" and meet the other requirements of this section.

(a) * * *

(2) *Red varieties.* U.S. No. 2 or better grade, 1½ inches minimum diameter.

* * * * * *

(h) *Definitions.* For the purpose of this section "onions" means all varieties of *Allium cepa* marketed dry, except dehydrated, canned or frozen onions, pickling onions in brine, onion sets, green onions, or braided red onions. * * *

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

Dated: November 18, 1976, to become effective November 29, 1976.

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

[FR Doc.76-34684 Filed 11-23-76;8:45 am]

PART 984—WALNUTS GROWN IN CALIFORNIA

Expenses of Walnut Marketing Board, and Rate of Assessment, for 1976–77 Marketing Year

Notice was published in the October 29, 1976, issue of the FEDERAL REGISTER (41 FR 47491), regarding proposed expenses of $258,315 for the Walnut Marketing Board, and rate of assessment of 0.25 cent per kernelweight pound for all walnuts certified as merchantable during the 1976–77 marketing year. The proposal was pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984; 41 FR 31541). The amended marketing agreement and order regulate the handling of walnuts grown in California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

This action approves expenses of $258,315 for the Board and fixes an assessment rate of 0.25 cent per kernelweight pound for certified merchantable walnuts. The expenses are reasonable and likely to be incurred by the Board during the 1976–77 marketing year for its maintenance and functioning, and for such other purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate. The assessment rate is to be applied to all walnuts certified as merchantable during the 1976–77 marketing year, and is expected to provide sufficient funds to meet the estimated expenses of the Board.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that the expenses of the Board, and rate of assessment, for the 1976–77 marketing year (which began August 1, 1976, and ends July 31, 1977), shall be as hereinafter set forth.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the 1976–77 marketing year began August 1, 1976, and the rate of assessment hereinafter fixed will automatically apply to all such assessable walnuts beginning with that date.

The expenses and assessment rate are as follows:

§ 984.328 **Expenses of the Walnut Marketing Board and rate of assessment for the 1976–77 marketing year.**

(a) *Expenses.* Expenses in the amount of $258,315 are reasonable and likely to be incurred by the Walnut Marketing Board during the marketing year beginning August 1, 1976, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 984.69, is fixed at 0.25 cent per kernelweight pound for certified merchantable walnuts.

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

Dated: November 19, 1976.

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

[FR Doc.76-34682 Filed 11-23-76;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instruction 455.1]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATION

PART 1871—CHATTEL SECURITY

Subpart B—Liquidation of Chattel Property and Related Actions

AUCTIONEER LIABILITY

On page 18518 of the FEDERAL REGISTER dated May 5, 1976, there was published a notice of proposed rulemaking to revise § 1871.22 of Subpart B of Part 1871, Title 7, Code of Federal Regulations (36 FR 1118) by adding a new paragraph (b)(4)(v). This amendment states that the liability of an auctioneer for conversion of personal property mortgaged to FmHA shall be determined and enforced in accordance with the applicable Federal law.

Interested persons were invited to submit written comments, suggestions, data or arguments. A written comment was received and given careful consideration; however, it was determined by FmHA that no change in the proposed amendment was necessary. Accordingly, the proposed revision is hereby adopted without change and is set forth below:

§ 1871.22 **Policy.**

* * * * * *

(b) * * *

(4) * * *

(v) The loan programs administered by the FmHA are authorized by law of Congress to carry out national purposes and policies throughout the entire United States and its territories and possessions. Therefore, the liability of an auctioneer for conversion of personal property mortgaged to the FmHA shall be determined and enforced in accordance with the applicable Federal law. "Auctioneer" for the purposes of this Subpart includes a commission merchant, market agency, factor, or agent. In all cases in which there has been a disposition without authorization by the FmHA of personal property mortgaged to that Agency, any auctioneer involved in said disposition shall be liable to the Government for conversion—notwithstanding any State statute or decisional rule to the contrary.

* * * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 3942; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.)

Effective date: This amendment is effective November 24, 1976.

Dated: November 12, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76-34811 Filed 11-23-76;8:45 am]

[FmHA Instruction 471.1]

PART 1873—CERTIFICATES OF BENEFICIAL OWNERSHIP AND INSURED LOANS

Deletion of Part

Part 1873, "Certificates of Beneficial Ownership and Insured Notes," issued by the Farmers Home Administration and contained in Subchapter A through E, published at 38 FR 33586; 39 FR 3948 as amended at 39 FR 41735; 39 FR 41831; 39 FR 3950; 39 FR 3951, respectively, is deleted from this Chapter XVIII, Title 7, Code of Federal Regulations. The provisions of this Part have been revised and redesignated as new Subpart K of Part 1901, Subchapter H of this Chapter. (7 USC 1898; 42 USC 1480); delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Effective date: This deletion shall become effective November 24, 1976.

Dated: November 4, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-34812 Filed 11-23-76;8:45 am]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart K—Certificates of Beneficial Ownership and Insured Notes

REVISION—REDESIGNATION

There is hereby established under Chapter XVIII, Title 7, Subchapter H, "General, Part 1901, Program-Related Instruction," a new Subpart K, "Certificates of Beneficial Ownership and Insured Notes." Present regulations pertaining to "Certificates of Beneficial Ownership and Insured Notes," Subparts A through E of Part 1873, Chapter XVIII, 7 CFR (38 FR 33586; 39 FR 3948 as amended at 39 FR 41735; 39 FR 3950; 39 FR 3951) are revised and redesignated as new Subpart K (§ 1901-501—1901.550) of Part 1901 without change in title. This revision and redesignation is being made for clarification of the regulations for uniformity in citation to the regulations.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553. However, inasmuch as the revision is editorial in nature and makes no substantive changes in the regulation pertaining to the issuance, transfer, and redemption of Certificates of Beneficial Ownership and the servicing of insured notes, notice and public procedure thereon are unnecessary. Accordingly, as revised and redesignated, Subpart K of Part 1901 is set forth below.

Subpart K—Certificates of Beneficial Ownership and Insured Notes

Sec.
1901.501 Purpose.
1901.502 Policy.
1901.503 Definitions.
1901.504 Authorities and responsibilities.
1901.505 Certificates of beneficial ownership in FmHA loans.
1901.506 Book-entry procedure for FmHA securities—issuance and redemp of certification by reserve bank.
1901.507 Certificates of beneficial ownership issued by the FmHA Finance Office.
1901.508 Servicing of insured notes outstanding with investors.
1901.509 Loss, theft, destruction, mutilation, or defacement of insured notes, insurance contracts, and certificates of beneficial ownership.
1901.510-1901.550 [Reserved].

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart K—Certificates of Beneficial Ownership and Insured Notes

§ 1901.501 Purpose.

This subpart prescribes policies and procedures for Farmers Home Administration (FmHA) certificates of beneficial ownership and insured notes.

§ 1901.502 Policy.

Current policy for FmHA financing is to sell all certificates of beneficial ownership to the Federal Financing Bank. In addition to sales to the bank, this subpart provides policy for the servicing of outstanding certificates of beneficial ownership, insurance contracts, and insured notes held by investors.

§ 1901.503 Definitions.

(a) As used in §§ 1901.505, 1901.507, 1901.508 and 1901.509 the following definitions will apply:

(1) *Announcement of sale.* Any notice of terms and conditions respecting a sale of certificates.

(2) *Certificate.* A certificate of beneficial ownership issued by Farmers Home Administration (FmHA) under this subpart.

(3) *Director, Finance Office.* The Director or the Insured Loan Officer of the Finance Office of FmHA.

(4) *FmHA.* The United States acting through the Farmers Home Administration.

(5) *Finance Office.* The office which maintains the FmHA finance records. It is located at 1520 Market Street, St. Louis, Missouri 63103. (Phone: 314-425-4400)

(6) *Fixed period.* Any time interval (preceding an option period) during which the insured holder is not entitled to require FmHA to purchase the insured note, as specified in the insurance agreement.

(7) *Insurance agreement.* The entire contract evidencing and setting forth the terms and conditions of FmHA insurance of the payment for the insured note. The insurance agreement with respect to any particular loan may be evidenced by Form FmHA 440-5, "Insurance Endorsement (Insured Loan)," FmHA 440-30, "Insurance Endorsement (Insured Loans)," or any other form or forms prescribed by the National Office and executed by an authorized official of FmHA. It may include such provisions as, for example, an agreement of FmHA to purchase or repurchase the loan, or to make supplementary payments from the insurance fund.

(8) *Insurance fund.* The Agricultural Credit Insurance Fund authorized by section 309 of the Consolidated Farm and Rural Development Act, the Rural Development Insurance Fund authorized by section 309A of the Consolidated Farm and Rural Development Act, or the Rural Housing Insurance Fund authorized by section 517 of Title V of the Housing Act of 1949.

(9) *Insured holder.* The current owner of an insured note other than FmHA, according to the records of FmHA is insurer of the note.

(10) *Insured note.* Any promissory note or bond evidencing an insured loan regardless of whether it is held by FmHA in the insurance fund, by a private holder, or by FmHA as trustee.

(11) *Loan.* Loans made and held in the Agricultural Credit Insurance Fund, Rural Development Insurance Fund, or the Rural Housing Insurance Fund.

(12) *National Office.* The Administrator or other authorized officer of the FmHA in Washington, D.C.

(13) *Option period.* Any period during which the insured holder has the optional right to require the FmHA to purchase the insured note, as specified in the insurance agreement.

(14) *Par value.* The total amount to which the insured holder is entitled under the terms of the insurance agreement.

(15) *Private buyer.* A buyer of an insured note other than FmHA.

(16) *Private holder.* An insured holder other than FmHA.

(17) *Repurchase agreement.* A provision in the insurance agreement obligating FmHA to buy the insured note at the option of the holders.

(18) *Sale, or seller, and buyer.* The transfer of ownership (including possession or the right of possession), the transferor, and the transferee respectively.

(19) *State Director.* The State Director of FmHA for the State in which is located the real estate improved, purchased, or refinanced with the loan evidenced by the insured note.

(b) As used in § 1901.506 the following definitions will apply:

(1) *Reserve bank.* The Federal Reserve Bank of New York (and any other Federal Reserve Bank which agrees to issue securities in book-entry form) as fiscal agent of the United States acting on behalf of FmHA and, when indicated, acting in its individual capacity.

(2) *FmHA security.* A certificate representing beneficial ownership of notes, bonds, debentures, or other similar obligations held by FmHA under the Consolidated Farm and Rural Development Act and Title V of the Housing Act of 1949, issued in the form of a definitive FmHA security or a book-entry FmHA security.

(3) *Definitive FmHA security.* An FmHA security in engraved on printed form.

(4) *Book-entry FmHA security.* An FmHA security in the form of an entry made as prescribed in this subpart on the records of a Reserve bank.

(5) *Pledge.* A pledge of, or any other security interest in, FmHA securities as collateral for loans or advances, or to secure deposits of public moneys or the performance of an obligation.

(6) *Date of call.* The date fixed in the official notice of call published in the FEDERAL REGISTER on which FmHA will make payment of the security before maturity in accordance with its terms.

(7) *Member bank.* Any national bank, state bank, or bank or trust company which is a member of a Reserve bank.

§ 1901.504 Authorities and responsibilities.

The Administrator will approve all methods of FmHA financing and major changes in existing methods. The Director, Finance Office, is responsible for servicing of all certificates of beneficial ownership and insured notes issued by the Finance Office, the Federal Reserve Bank of New York for the servicing of insurance contracts, and the Federal Reserve banks for certificates of beneficial ownership for which the Reserve banks are FmHA's fiscal agents.

§ 1901.505 Certificates of Beneficial Ownership in FmHA loans.

(a) *Special trust of loans*—(1) *Establishment of special trusts.* From time to time FmHA will place in special trusts unmature loans evidenced by notes or other instruments. Loans may be placed into or removed from a special trust, but there will always be maintained in such trusts loans on which the unpaid amount is at least equal to the face value of the outstanding unmature certificates evidencing beneficial ownership in such special trust as provided in paragraph (a) (2) of this section.

(2) *Beneficial ownership of special trusts.* To permit interested persons to acquire a beneficial ownership of loans comprising a special trust established under paragraph (a) (1) of this section, FmHA will sell certificates which will evidence beneficial ownership of an interest in the special trust to the extent of the face value of such certificates. FmHA will own an interest in special trusts equal to the amount by which the unpaid principal amount of loans comprising the trusts exceeds the face value of all outstanding certificates evidencing beneficial ownership in such trusts.

(b) *Sale of certificates.* FmHA will offer certificates for sale from time to time on such terms and conditions it may deem appropriate. Sales made by the Finance Office shall be made by its Director. No sale in excess of $1 million will be made to any one investor without prior approval of the Associate Administrator or his designee. The terms and limitations of sales are subject to change from time to time, and may be obtained from the Finance Office.

(1) *Form of certificates.* The certificates may be interest-bearing or non-interest-bearing. The certificates may be made payable to the bearer or registered holder thereof, and will be negotiable. The certificates will be issued in denominations specified in the invitations for bid or other announcement of sale.

(2) *Issue date and maturity date of certificates.* The certificates will be issued on such dates and mature on such dates as specified in the invitation for bids or other announcement of sale. Such dates will appear on the face of the certificates.

§ 1901.506 Book-entry procedure for FmHA securities—issuance and redemption of certificate by Reserve bank.

(a) *Authority of Reserve bank.* Each Reserve bank is hereby authorized in accordance with the provisions of this subpart to:

(1) Issue book-entry FmHA securities by means of entries on its records which shall include the name of the depositor, the amount, the securities title (or series) and maturity date.

(2) Effect conversions between book-entry FmHA securities and definitive FmHA securities.

(3) Otherwise service and maintain book-entry FmHA securities.

(4) Issue a confirmation of transaction in the form of a written advice (serially numbered or otherwise) which specifies the amount and description of any securities (that is, the securities title (or series) and the maturity date) sold or transferred and the date of the transaction.

(b) *Scope and effect of book-entry procedure.* (1) A Reserve bank as fiscal agent of the United States acting on behalf of FmHA may apply the book-entry procedure provided for in this subpart to any FmHA securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve bank will continue to maintain such deposit accounts in its individual capacity, notwithstanding application of the book-entry procedure to such securities. This paragraph shall be applicable but not limited to FmHA securities deposited:

(i) As collateral pledged to a Reserve bank (in its individual capacity) for advances by it.

(ii) By a member bank for its sole account.

(iii) By a member bank held for the account of its customers.

(iv) In connection with deposits in a member bank of funds of States, Municipalities, or other political subdivisions.

(v) In connection with the performance of an obligation or duty under Federal, State, Municipal, or local law, or judgments or decrees of courts.

(2) The application of the book-entry procedure under paragraph (b) (1) of this section shall not detract from or adversely affect the relationships that would otherwise exist between a Reserve bank in its individual capacity and its depositors concerning any deposit under this paragraph. Whenever the book-entry procedure is applied to such FmHA securities, the Reserve bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve bank in its individual capacity to perform its obligation as depositary with respect to such FmHA securities.

(3) A Reserve bank as fiscal agent of the United States acting on behalf of FmHA may apply the book-entry procedure to FmHA securities deposited as collateral pledged to the United States under Treasury Department Circular Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other FmHA securities deposited with a Reserve bank as fiscal agent of the United States.

(4) Any person having an interest in FmHA securities which are deposited with a Reserve bank (in either its individual capacity or as fiscal agent of the United States) for any purpose shall be deemed to have consented to their conversion to book-entry FmHA securities pursuant to the provisions of this subpart and in the manner and under the procedure prescribed by the Reserve bank.

(5) No deposits shall be accepted under this section on or after the date of maturity or call of FmHA securities.

(c) *Transfer or pledge.* (1) A transfer or pledge of book-entry FmHA securities to a Reserve bank (in its individual capacity or as fiscal agent of the United States), or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve bank under this subpart is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve bank making an appropriate entry in its records of the securities transferred or pledged. The making of such an entry in the records of a Reserve bank shall:

(i) Have the effect of a delivery in bearer form of definitive FmHA securities.

(ii) Have the effect of a taking of delivery by the transferee or pledgee.

(iii) Constitute the transferee or pledgee a holder.

(iv) If a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry FmHA securities effected under this paragraph shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (c) (2) of this section or any other manner.

(2) A transfer or pledge of transferable FmHA securities, or any interest therein, which is maintained by a Reserve bank (in its individual capacity or as fiscal agent of the United States) in a book-entry account under this subpart, including securities in book-entry form under § 1901.506(b) (1) (iii) is effected, and a pledge is perfected by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of FmHA securities, or any interest therein, if the securities were maintained by the Reserve bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry

FmHA securities maintained by a Reserve bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve bank maintaining book-entry FmHA securities, either in its individual capacity or as fiscal agent of the United States, is not a bailee for the purposes of notification of pledges of these securities under this paragraph, or a third person in possession for the purposes of acknowledgment of transfers thereof under this paragraph. Where transferable FmHA securities are recorded on the books of a depositary (a bank, banking institution, financial firm, or similar party, which regularly accepts in the course of its business FmHA securities as a custodial service for customers, and maintains accounts in the names of such customers reflecting ownership of or interest in such securities) for account of the pledgor or transferor thereof and such securities are on deposit with a Reserve bank in a book-entry account hereunder, such depositary shall, for purposes of perfecting a pledge of such securities or effecting delivery of such securities to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchaser may be obtained. A Reserve bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph and any such notice or advice shall have no effect. A Reserve bank may continue to deal with its depositor in accordance with the provisions of this subpart, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(3) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry FmHA securities or any interest therein.

(4) A Reserve bank shall, upon receipt of appropriate instructions, convert book-entry FmHA securities into definitive FmHA securities and deliver them in accordance with such instructions. No such conversion shall affect existing interest in such FmHA securities.

(5) A transfer of book-entry FmHA securities within a Federal Reserve Bank shall be made in accordance with procedures established by the Reserve bank not inconsistent with this subpart. The transfer of book-entry FmHA securities by a Reserve bank may be made through a telegraphic transfer procedure.

(6) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the securities.

(d) *Withdrawal of FmHA securities.* (1) A depositor of book-entry FmHA securities may withdraw them from a Reserve bank by requesting delivery of like definitive FmHA securities to itself or on its order to a transferee.

(2) FmHA securities which are actually to be delivered upon withdrawal may be issued in bearer or registered form.

(e) *Delivery of FmHA securities.* A Reserve bank which has received FmHA securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take other action in respect of the securities. A Reserve bank shall be fully discharged of its obligations under this subpart by the delivery of FmHA securities in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other depositary (other than a Reserve bank) may obtain FmHA securities in definitive form only by causing the depositor of the Reserve bank to order the withdrawal thereof from the Reserve bank.

(f) *Registered securities.* (1) No formal assignment shall be required for the conversion to book-entry FmHA securities of registered FmHA securities held by a Reserve bank (in either its individual capacity or as fiscal agent of the United States) on the effective date of this subpart for any purpose specified in section 1901.506(b)(1). Registered FmHA securities deposited thereafter with a Reserve bank for any purpose specified in section 1901.506(b) shall be assigned for conversion to book-entry FmHA securities.

(2) The assignment which shall be executed in accordance with the provisions of Subpart F of 31 CFR Part 306, so far as applicable, shall be to Federal Reserve Bank of _____, as fiscal agent of the United States acting on behalf of the Farmers Home Administration, United States Department of Agriculture, for conversion to book-entry Farmers Home Administration securities.

(g) *Servicing book-entry FmHA securities, payment of interest, payment at maturity or upon call.* Interest becoming due on book-entry FmHA securities shall be charged to the general account of the Treasurer of the United States on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged to the same account on the date of maturity or call, and the redemption proceeds, principal, and interest shall be disposed of in accordance with the depositor's instructions.

(h) *Issuance and redemption.* (1) In those instances where the Reserve bank is acting as fiscal agent of the United States acting on behalf of FmHA, the following subparts of Treasury Department Circular No. 300 (31 CFR Part 306), so far as applicable, shall apply to such certificates.

(i) Subpart B, Registration.

(ii) Subpart C, Transfers, Exchanges and Reissues.

(iii) Subpart D, Redemption or Payment.

(iv) Subpart E, Interest.

(v) Subpart G, Assignments of Registered Securities—General.

(vi) Subpart F, Assignments by or in Behalf of Individuals.

(vii) Subpart H, Assignments in Behalf of Estates of Deceased Owners.

(viii) Subpart I, Assignments by or in Behalf of Trustees and Similar Fiduciaries.

(ix) Subpart J, Assignments in Behalf of Private or Public Organizations.

(x) Subpart K, Attorneys in Fact.

(xi) Subpart L, Transfer Through Judicial Proceedings.

(xii) Subpart M, Requests for Suspension of Transactions.

(xiii) Subpart N, Relief for Loss, Theft, Destruction, Mutilation, or Defacement of Securities.

§ 1901.507 Certificates of beneficial ownership issued by the FmHA Finance Office.

(a) *Orders and payment.* Orders for investment in certificates may be placed with the Finance Office by mail, telephone, or in person. Payment for purchase of certificates may be made by a wire transfer to the Federal Reserve Bank of St. Louis for credit to the Farmers Home Administration, by a certified check or bank draft payable to the Farmers Home Administration. The rate of interest paid on the certificate will be the rate in effect on the date the Finance Office receives the payment.

(b) *Registration.* (1) The registration used must express the actual ownership of a certificate and may not restrict the authority of the owner to dispose of it in any manner. FmHA reserves the right to treat the registration as conclusive ownership. Request for registration must be clear, accurate, and complete, and include the appropriate taxpayer identifying number or social security number.

(2) The registration of all certificates owned by the same person, organization, or fiduciary should be uniform with respect to the name of the owner and, in case of fiduciary, the description of the fiduciary capacity. Individual owners should be designated by the names by which they are ordinarily known or under which they do business, perferably including at least one full given name. The name of an individual may be preceded by an applicable title, as, for example "Mrs." "Mr.", "Miss" "Ms."; "Dr." or "Rev." or followed by a designation such as "M.D." "D.D." "Sr." or "Jr." Any other similar suffix should be included when ordinarily used or when necessary to distinguish the owner from another member of his family. The address should include, where appropriate, the name and street, route, or any other location feature, and zip code.

(3) If an erroneously inscribed certificate is received, it should not be altered in any respect. FmHA should be given full particulars about the error and asked to furnish instructions.

(c) *Transfers and exchanges—closed periods.*—(1) *General.* Transfer of registered certificates should be made by assignment in accordance with this section. Registered securities are eligible for denominational exchange. Specific instructions for issuance and delivery of new certificates signed by the owner or the owner's authorized representative must accompany the certificates presented. Certificates presented for trans-

fer must be received by FmHA not less than 1 full month before the date on which they mature. Any certificates so presented which are received too late to comply with this provision will be accepted for payment only.

(2) *Closing of transfer books.* The transfer book are closed for 1 full month preceding interest payment dates. If the date set for closing falls on Saturday, Sunday, or a legal holiday, the books will be closed as of the close of business on the last business day preceding that date. The books are reopened on the first business day following the date on which interest falls due. Registered certificates which have not matured, or have been submitted for transfer and are received when the books are closed for that certificate, will be processed on or after the date such books are reopened. If certificates are received for transfer when the books are closed for payment of final interest at maturity, the following action will be taken in the absence of different instructions:

(i) Payment of final interest will be made to the registered owner of record on the date the books were closed.

(ii) Payment of principal will be made to the assignee under a proper assignment of the certificate.

(d) *Redemption or payment.*—(1) *General.* Certificates are payable in regular course of business at maturity. FmHA may provide for the exchange of maturing certificates. The registered certificates should be presented and surrendered for redemption at the FmHA Finance Office. No assignments or evidence in support of them will be required by or on behalf of the registered owner or assignee for redemption for his or its account, or for redemption-exchange if the new certificates are to be registered in exactly the same names and forms as in the registrations or assignments of the certificates surrendered.

(2) *Redemption at maturity.* Registered certificates presented and surrendered for redemption at maturity need not be assigned unless the owner desires that payment be made to some other person. Should the owner so desire assignments should be made to the "Farmers Home Administration for redemption for the account of (inserting name and address of person to whom payment is to be made)." Specific instructions for the issuance and delivery of the redemption check signed by the owner or the owner's authorized representative must accompany the certificates unless included in the assignment. Payment of the principal and interest will be made by a check drawn on the Treasurer of the United States to the order of the person entitled and mailed in accordance with the instructions received. If instructions are not received concerning interest, interest will be paid to the registered owner.

(3) *Interest.* The interest on FmHA certificates accrues and is payable annually. A full interest period does not include the day on which the last preceding interest became due, but does include the day on which the next succeeding interest payment is due. Certificates will cease to bear interest on the date of their maturity. The interest on registered certificates is payable by checks drawn on the Treasurer of the United States to the order of the registered owners, except as otherwise provided in this section. FmHA prepares the interest checks in advance of the interest payment date and ordinarily mails them in time to reach the addressees on that date. Interest on a registered certificate which has not matured and which is presented for any transaction when the books for that certificate are closed will be paid by check drawn to the order of the registered owner of record. On receipt of notice of the death or incompetency of an individual named as registered owner, a change in the name or in the status of a partnership, corporation, or unincorporated association, the removal, resignation, succession, or death of a fiduciary or trustee, delivery of interest checks will be withheld pending receipt and approval of evidence showing who is entitled to receive the interest checks. If the inscriptions on certificates do not clearly identify the owners, delivery of interest checks may be withheld pending reissue of the certificates in the correct registration, except as provided in this section. The final installment of interest will be paid by check drawn to the order of the registered owner of record on presentation and surrender of the certificate for redemption. To assure timely delivery of interest checks, owners should promptly notify FmHA of any change of address.

(e) *Assignments.* Assignments of certificates should be executed by the owner or the owner's authorized representative in the presence of an officer authorized to certify assignments. Assignments shall be made on the back of the certificate. Registered certificates may be assigned to a specified transferee or to FmHA for redemption or for exchange for other certificates offered at maturity. Assignments to "United States, Farmers Home Administration," "Farmers Home Administration for Transfer," or "Farmers Home Administration for Exchange" will not be accepted unless supplemented by specific instructions by or in behalf of the owner. If an alteration or erasure has been made in an assignment, a new assignment from the assignor should be obtained. Otherwise, an affidavit or explanation by the person responsible for the alteration or erasure should be submitted for consideration.

(f) *Death of certificate holder.* The Finance Office should be notified of the death of the registered owner of a certificate. The following documents should be forwarded with the notice if available.

(1) A certified copy of the death certificate.

(2) A certified copy of the court order appointing the Administrator or Executor (include the mailing address of the Administrator or Executor). The Finance Office will notify the person submitting such notice and/or documentation if any other records or documents are needed. Legal opinions and advice will be obtained by the Finance Office as needed from the Regional Attorney. After all legal requirements are met, the certificate should be reissued in the name of the current owner.

(g) *Replacement.* Lost, stolen, destroyed, or mutilated certificates will be replaced by the Finance Office on the registered owner's compliance with the requirements of § 1901.509.

§ 1901.508 Servicing of insured notes outstanding with investors.

The Director, or the insured loan officer of the Finance Office, is authorized in connection with the sale of any insured note to execute required documents on behalf of FmHA and to take other appropriate action, including, but not limited to, acknowledging notice of sale of an insured note, or requiring an insured holder to sell an insured note to FmHA in connection with any voluntary convevance or foreclosure, or transfer related to liquidation of the borrower's account or any other servicing action so related. Upon recommendation by the State Director that purchase of an insured note is necessary for any servicing action not related to liquidation of the borrower's account, authorization may be given by the National Office to request the Director, Finance Office, to require a holder to sell an insured note to FmHA.

(a) *Assignments*—(1) *Effective date of assignment.* When an insured note is sold by a private holder to a private buyer, notice of such sale executed by the seller must be given to and acknowledged by FmHA in order for the sale to be binding on FmHA, as to FmHA, the effective date of the sale will be the acknowledgment date specified in the acknowledgement of notice executed by FmHA.

(2) *Assignment to FmHA at request of FmHA.* At any time FmHA considers it necessary for proper servicing of the loan, FmHA may require, in writing, a private holder to sell an insured note to FmHA.

(3) *Assignment to FmHA at option of holder.* A private holder at any time during the option period may require, in writing, FmHA to purchase an insured note.

(4) *Price.* If FmHA is the buyer of an insured note, the price will be the par value as of the effective date of the sale. In other cases, the price will be determined by an agreement between the parties.

(b) *Sale of insured notes by private holders to private buyers.* (1) On receipt of notice from a private holder of intention to assign an insured note, the Director, Finance Office, will send the holder:

(i) Form FmHA 471-7 "Notice and Acknowledgment of Sale of Insured or Guaranteed Loan."

(ii) A statement of the unpaid principal. If requested the Director, Finance Office, will furnish a statement of account instead of or in addition to a statement of the unpaid principal.

(iii) Appropriate information on how to complete the assignment.

(2) If the Director, Finance Office, is informed that an insured note has been assigned and FmHA is requested to recognize the assignment, the Director, Fi-

nance Office, will send the assignor Form FmHA 471–7, with directions for its execution.

(3) On receipt of Form FmHA 471–7 properly executed by the assignor, the Director, Finance Office, will complete and execute the acknowledgment section of the form. The Director, Finance Office, will retain the original of the form, have two facsimile copies made and send one to the assignor, and one to the assignee. For any correction or other change to be made in the record of the name or address of a private holder, or of a designated agent of a private holder, a request will be made to FmHA in writing.

(4) As of the date of the acknowledgment, executed by the Director, Finance Office, on Form FmHA 471–7 the Director, Finance Office, will transfer the insured note from the assignor to the assignee as the insured holder on the records of FmHA. The name and address of the assignee will be recorded by FmHA exactly as they appear on Form FmHA 471–7.

(5) Payments transmitted by FmHA on or after the acknowledgment date shown on Form FmHA 471–7 will be transmitted to the assignee. The Director, Finance Office, will give notice to the assignor and the assignee of any payments transmitted by FmHA to the assignor before the acknowledgment date and after either the date of sale, or the date of the statement of account, whichever is earlier. However, FmHA will not be liable for any failure to give such notice.

(c) *Assignment of insured notes to FmHA.*—(1) *Assignment at the request of the holder.* For assignment of an insured note to FmHA during the option period at the request of the holder, the following procedure will apply:

(i) The holder will endorse the insured note as follows: "Pay to the order of the United States of America. Without recourse." The holder will then deliver the endorsed note, together with the insurance agreement, to the Director, Finance Office.

(ii) On receipt of the endorsed note with the accompanying insurance agreement, the Director, Finance Office, will acknowledge receipt of the note and process payment to the assignor of the par value of the note as of the date of the Treasury check.

(2) *Assignment at the request of FmHA.* The procedure for assigning an insured note at the request of FmHA will be the same as that prescribed in paragraph (c) (1) of this section, except that the Director, Finance Office, will send a written request to the holder requiring that the insured note be assigned to FmHA and delivered to the Director, Finance Office, with the accompanying insurance agreement. The Director, Finance Office, will explain that the assignment is necessary to enable FmHA to service the account properly and will give the holder all necessary information as to the manner of making the assignment and the amount to be paid by FmHA.

(d) *Replacement of called or fully paid notes.* Certain insurance endorsements contain a clause or rider providing for a replacement note when the original note is paid in full, or is called by FmHA. This provision applies to loans sold for a fixed period of 10 years or longer for loans sold on or after December 1, 1969, and a fixed period of 15 years or longer for loans sold before December 1, 1969. If a note is paid in full or called by the Government and the lender is entitled to a replacement note, the lender may obtain a certificate of beneficial ownership in lieu of the replacement note. The certificate will carry the rates and terms applicable to the replacement note.

(e) *Death of a noteholder.* The Finance Office should be notified of the death of a holder of an insured note. The following documents should be forwarded with the notice if available:

(1) A certified copy of the death certificate.

(2) A certified copy of the court order appointing the Administrator or Executor (include the mailing address of the Administrator or Executor). The Finance Office will notify the person submitting the notice and/or documentation if any other records or documents are needed, and will provide any additional instructions that are needed. Legal opinions and advice will be obtained by the Finance Office as needed from the Regional Attorney.

§ 1901.509 Loss, theft, destruction, mutilation, or defacement of insured notes, insurance contracts, and certificates of beneficial ownership.

(a) *Block sale insurance contracts.* The Associate Administrator is authorized in connection with block sale insurance contracts to authorize the FmHA's fiscal agent to establish requirements for issuance of a replacement insurance contract when the original issued by the Federal Reserve Bank of New York (FmHA's fiscal agent) is lost, stolen, destroyed, mutilated, or defaced. When a block sale insurance contract is lost, stolen, or destroyed, a duplicate may be issued to the registered holder upon receipt of an acceptable certificate of loss and an indemnity bond without surety. The certificate of loss should include the legal name and present address of the owner and address when issued, if different from the present address; the capacity of person certifying, if other than owner; the identity of the insurance contract, including series number, contract number, denomination, issue date, and form of inscription of registry, and the full statement of circumstances of loss. All available portions of an insurance contract that is mutilated, defaced, or partially destroyed should be submitted to the Federal Reserve Bank of New York (FmHA's fiscal agent) for determination as to whether a duplicate insurance contract can be issued without a certificate of loss and posting of an indemnity bond. In the event the holder of a block sales insurance contract obtains possession of the underlying notes, the requirements of paragraph (b) of this section apply.

(b) *Notes and certificates of beneficial ownership sold by County Office and Finance Office.* The Director, or the insured loan officer of the Finance Office, is authorized on behalf of the Government, in connection with insured notes or certificates of beneficial ownership sold through the FmHA Finance Office to require indemnity bonds from a noteholder when a note or certificate is lost, stolen, destroyed, mutilated, or defaced while in the custody of the holder or his designee. When a note or certificate of beneficial ownership is lost, stolen, or destroyed while in the custody of the holder or his designee, the following will apply:

(1) A certificate of loss should be filed with FmHA Finance Office. The certificate should include:

(i) Legal name and present address of owner when issued, if different from present address.

(ii) Capacity of person certifying, if other than the owner.

(iii) Identity of the note or certificate of beneficial ownership, including the name and FmHA case number of the maker thereof, issue date, interest rate of obligation, face amount of note or certificate of beneficial ownership, and a full description of any assignment, endorsement, or any other writing.

(iv) A full statement of circumstances of the loss, theft, or destruction of the note.

(2) An indemnity bond in the amount of the unpaid principal and interest will be required except in the following instances:

(i) Substantially the entire note or certificate of beneficial ownership is presented and surrendered by the owner or holder, and the Director, Finance Office, is satisfied as to the identity of the instruments and that any missing portions are not sufficient to form the basis of a valid claim against the United States or the borrower; or

(ii) The owner or holder is the United States, a Federal Reserve Bank, a Federal Government Corporation, a State or territory, or the District of Columbia.

(3) An indemnity bond without surety will be provided in the following cases:

(i) Cases involving registered unassigned obligations held by banks, trust companies, savings and loan associations, or companies holding certificates of authority from Secretary of the Treasury as acceptable sureties on Federal Bonds (companies listed on Treasury Department Circular 570) where the financial responsibilities of such claimants are well known or readily ascertainable.

(ii) Cases involving registered unassigned obligations where the evidence reasonably justifies a conclusion that the obligations were destroyed and the unpaid principal and interest amount does not exceed $1,000.

(4) An indemnity posted with a qualified surety is required in all cases involving registered unassigned obligations other than those cited in paragraphs (b) (2) (i), (b) (2) (ii), (b) (3) (i) and (b) (3) (ii) of this section. A qualified surety is a company holding a certificate of authority from the Secretary of the Treas-

ury as acceptable sureties on Federal Bonds, and listed in Treasury Department Circular 570.

(5) All indemnity bonds for notes must be payble to both the borrower and FmHA. All indemnity bonds for certificates of beneficial ownership must be payable to FmHA. The bond may be posted at the time the note or certificate of beneficial ownership becomes eligible for repurchase by FmHA. If the holder desires to continue to hold the note for the life of the note, an indemnity bond will not be required.

(6) An assignment of the note or certificate of beneficial ownership shall be made to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture. An acceptable form of assignment is available from the Director, Finance Office.

(c) *Other cases.* Cases involving bearer obligations and other cases not discussed in this section will be forwarded to the Director, Finance Office, for requirements.

(d) *Replacement of notes.* FmHA will not attempt to obtain replacement notes from borrowers.

§§ 1901.510–1901.550 [Reserved]

Effective date: This revision-redesignation shall become effective November 24, 1976.

Dated: November 4, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-34813 Filed 11-23-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12994; File No. 57-634]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Enforcement Obligations of Exchanges and Associations

The Commission today adopted a new § 240.19g2-1 of Title 17 of the Code of Federal Regulations ("Rule 19g2-1"). Rule 19g2-1 relieves national securities exchanges and registered securities associations from certain obligations to enforce the Securities Exchange Act of 1934 (the "Act").[1] The rule was proposed in Securities Exchange Act Release No. 12483 (May 26, 1976),[2] and interested persons were invited to submit comments; the rule as adopted reflects certain technical amendments based in large part on the comments received.

BACKGROUND AND PURPOSE

Rule 19g2-1 was proposed in order to refine the extent to which national securities exchanges and registered securities associations should be obligated to "enforce compliance" (within the meaning of section 19(g)[3]) with the Act and the rules thereunder by members and persons associated with members. Section 19(g)(1) of the Act requires each self-regulatory organization to comply with the Act, the rules and regulations thereunder and its own rules and, absent reasonable justification or excuse, to enforce compliance by its members and persons associated with its members.[4]

While Section 19(g)(1) of the Act may be viewed, in some measure, as a restatement of prior law,[5] Congress recognized that the broad statement of enforcement obligation that section contains would require refinement.[6] The growing diversification of securities firms into non-securities activities did not dictate that the jurisdiction of the self-regulatory organizations should thereby be automatically extended[7] and it was clear that such organizations "should never be placed in the position of being insurers of their members' compliance."[8] Accordingly, the Congress intended that the broadly stated enforcement duty contained in section 19(g)(1) be qualified in three respects.

First, the duty to enforce the Act is subject to the provisions of section 17(d). Among other things, that section authorizes the Commission to relieve any self-regulatory organization of responsibility to "enforce compliance" by any person who is a member of more than one self-regulatory organization and to allocate among those organizations the authority to adopt rules governing matters as to which they would otherwise share authority. That section contemplates that the Commission will use its authority to avoid unnecessary regulatory duplication and to foster both coordination among self-regulatory organizations and development of a national market system. The Commission has recently adopted Rule 17d-2 (17 CFR 240.17d-2) to implement section 17(d).[9]

Secondly, section 19(g)(1) qualifies the obligation to enforce compliance with the phrase "absent reasonable justification or excuse." Generally an exchange or association will have "reasonable justification or excuse" for failing to prevent a particular violation of the Act or the rules thereunder as to which it is required to enforce compliance, unless, at a time when action reasonably within its capacity would have prevented the violation, it knew, or, in view of all the facts and circumstances, should have known, that a member or person associated with a member proposed to commit acts constituting the violation.[10] Similarly, an exchange or association should normally have "reasonable justification or excuse" with respect to any failure to stop a course of conduct which violates any provision of the Act or the rules and regulations thereunder and as to which it is required to enforce compliance unless it knew, or, in view of all the facts and circumstances, should have known, that its system of reports, examinations and inspections was in material respects inadequate, in relation to resources reasonably available to it for the purpose of detecting such a course of conduct.[11] Also,

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[1] 15 U.S.C. 78a et seq.

[2] 41 FR 22959 (June 8, 1976).

[3] 15 U.S.C. 78s(g).

[4] This enforcement obligation is subject to the provisions of section 17(d) of the Act (15 U.S.C. 78q(d)) and the Commission's exemptive authority under Section 19(g)(2) of the Act pursuant to which Rule 19g2-1 has been adopted.

[5] Section 6(a)(1) of the Act, 48 Stat. 885 (1934), as it read prior to the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975) (the "1975 Amendments"), required each exchange "to enforce so far as * * * within its powers compliance by its members, with the provisions of [the Act] * * * and any rule or regulation made or to be made thereunder." See Securities Exchange Act Release No. 12483 (May 26, 1976), 41 FR 22959 (1976).

[6] For example, the Senate Committee on Banking, Housing and Urban Affairs stated: * * * the affirmative duty to enforce compliance imposed by this subsection may not be appropriate in some circumstances * * * It is expected that the Commission will use [its] authority, for example, to limit in a manner consistent with the purposes of the Exchange Act, a self-regulatory organization's responsibilities with respect to corporate parents of members or participants. Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249 (the "Senate Report"), S. Rep. No. 75, 94th Cong., 1st Sess. 133 (1975).

[7] Id. at 28.

[8] Id. at 34.

[9] *See* Securities Exchange Act Release No. 12935 (Oct. 28, 1976). In large part, action pursuant to Section 17(d) may refine further the extent to which exchanges and associations retain enforcement responsibilities with respect to securities activities by their members.

[10] See, e.g., *Butterman* v. *Walston & Co. Inc.*, 387 F. 2d 822, 825 (7th Cir. 1967), cert. denied, 391 U.S. 913 (1968), where the court affirmed a summary judgment for an exchange in a private action alleging a failure to enforce its rules. The court concluded that the exchange could not be held liable for damages resulting from a violation of its rules "where it had no knowledge, or reasonable way of gaining knowledge, of alleged violations * * *"

[11] See, e.g., *Hochfelder* v. *Midwest Stock Exchange*, 503 F. 2d 364 (7th Cir. 1974), where the plaintiffs asserted that the defendant exchange's system of investigation should have included scrutiny of all the personal financial dealings of a member and its associated persons. In rejecting that contention, the court observed: To place such a burden on [the exchange] to inquire into affairs unrelated to the activities of the Exchange would be tantamount to making the Exchange a guarantor of losses resulting from every fraudulent, personal scheme engaged in by individuals associated with member organizations. Indeed, the implementation of such a burden of inquiry might well be counterproductive in that it would dissipate resources which are limited and needed for the basic self-regulatory actions in scrutinizing matters pertaining to member organization activities and affairs. 503 F. 2d at 370. Exchanges and associations do and, of course, should take various surveillance measures with respect to those persons associated with a member who are active in the member's securities business. Though in limited cases regulatory reasons may suggest different requirements for different classes of members (or persons associated with members), any such measures are required to be developed and administered in a manner that is not unfairly discriminatory; see sections 6(b)(5) and 15A(b)(6) of the Act (15 U.S.C. 78f(b)(5) and 78o-3(b)(6)).

in appropriate circumstances, an exchange or association will have "reasonable justification or excuse" if its failure to enforce compliance resulted from its reliance in good faith upon reports prepared by qualified independent third parties, such as independent accountants, unless the exchange or association possessed or should otherwise have discovered information suggesting the need for further inquiry.

The third qualification to the broad general enforcement obligation is section 19(g)(2), which authorizes the Commission to relieve by rule any self-regulatory organization of the obligation to enforce compliance with provisions of the Act or the rules thereunder by members or classes of persons associated with a member of any such self-regulatory organization.[12] This obligation with respect to "persons associated with a member"[13] particularly requires clarification. Associated persons include, for example, a member's corporate parent or affiliates, regardless of whether they are engaged in securities activities or where their activities are carried out. That definitional breadth might cause self-regulatory organizations, in order to be in a position to document "reasonable justification or excuse," to subject their members' collateral business activities to otherwise unwarranted scrutiny. It also could introduce some genuine confusion between necessary and appropriate regulatory measures, on the one hand, and improperly restrictive regulatory (or quasi-regulatory) schemes, on the other. In proposing Rule 19g2-1, the Commission recognized the clear and present need to avoid confusion in that area by focusing self-regulatory responsibility more precisely through an exemptive rule.

Scope of Self-Regulation

Any exercise of the power under section 19(g)(2) to relieve exchanges and associations of their enforcement responsibility requires consideration of the continuing role self-regulation is to play under the Act. In adopting Rule 19g2-1, the Commission has paid particular attention not only to its own experience with self-regulation over the years and to the comments received on the proposed rule, but also to Congressional expressions over the last several years concerning the proper function of self-regulation. The legislative history of the Act and, more recently, Congressional studies of the self-regulatory process focused specifically on its virtues and problems as did the Congress again in considering the specific provisions of the 1975 Amendments. Accordingly, the Commission has carefully considered that record, which is summarized below, in developing Rule 19g2-1.

During the more than forty years that followed the passage of the Act in 1934 and preceded the enactment of the 1975 Amendments, the exchanges and the NASD have been relied on to a great extent to enforce the Act and the rules and regulations thereunder, as well as their own rules. That delegation was intended to minimize direct federal regulation, even in view of the limitations inherent in the very idea of self-regulation.[14]

In 1963, the Commission's Special Study[15] examined experience with self-regulation up to that time. It noted, among other things, that the success of self-regulation in serving the public intrest had been at times "uneven,"[16] warned of the dangers of self-regulation's anti-competitive tendencies, and stressed the need for effective governmental supervision:

> [S]elf-regulation by a member organization involves some degree of impairment of competition and public control is necessary not only to insure that such impairment is compensated for by effective regulation, but also to insure that the kinds and extent of impairment are only such and no greater than required by the exigencies of regulation. Inherent in self-regulation is the "private" formulation of restrictive standards of business conduct and their enforcement by, at the very least, exclusionary practices. It is essential that the standards and their application not be left to the unfettered discretion, or perhaps even lack of bona fide regulatory purpose, of the private regulators.[17]

Sparked several years later by the paperwork crisis of the late 1960's and the attendant failure of several major brokerage firms, the Congress began studying the securities markets, including the operation of the self-regulatory mechanism, with a view to overhauling the Act.[18] The Senate Study, echoing the earlier Special Study, observed in part:

> The Congress has always recognized that the practicality and positive advantages of self-regulation must be balanced against its fundamental weaknesses and limitations. Inherent in self-regulation is the "private" formulation of restrictive standards of business conduct and their enforcement by exclusionary and other "anti-competitive" practices. Therefore, the temptation will always be present for businessmen to use their self-regulatory powers to impair competition in order to advance private economic interests rather than to satisfy regulatory needs * * *
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> * * * Because of the scope of their jurisdiction and the temptations inherent in their position, government oversight of the self-regulatory agencies is necessary to assure that they do not exercise their delegated power in a manner inimical to the public interest and that they do exercise their power effectively to meet regulatory needs. [Footnotes omitted.][19]

As a consequence of the House and Senate studies, the 1975 Amendments substantially revised sections 6 (relating to exchanges) and 15A (relating to securities associations) of the Act to require that the rules of exchanges and associations accomplish the purposes enumerated—and no other purposes.[20] Furthermore, while the Act had originally permitted exchanges broad discre-

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[12] Exchanges and associations may develop their own rules (subject to Commission review) to apply to particular classes of associated persons; accordingly, it is not necessary for section 19(g)(2) to authorize the Commission to take action with respect to the obligation of exchanges and associations to enforce their own rules.

[13] The term "person associated with a member" is defined by section 3(a)(21) of the Act (15 U.S.C. 78c(a)(21)) to mean "any partner, officer, director, or branch manager of such member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such member, or any employee of such member."

[14] Testimony in 1934 by John Dickinson, Assistant Secretary of Commerce and Chairman of the so-called Roper Committee, emphasized the limitations on the Federal Government's resources:

> Now, it may be said, of course, cynically * * * that the idea of self-regulation is just a device to avoid regulation and so in some instances it no doubt is; but self-regulation in the first instance, with the Government holding its power in reserve to see that that self-regulation is exercised, is after all a necessary recourse in view of the mere physical limitations in time and its personnel, which operate on the direct exercise of the powers of government as the task of regulation becomes more and more extensive over a wider and wider field.

Hearings on H.R. 7852 and H.R. 8720 before the House Comm. on Interstate and Foreign Commerce, 73d Cong., 2d Sess. 514 (1934).

[15] Securities and Exchange Commission, Report of Special Study of Securities Markets (the "Special Study"), H.R. Doc. No. 95, 88th Cong., 1st Sess. (1963).

[16] Id. pt. 4, at 576. The Special Study examined and evaluated self-regulation generally in Chapter XII, which appears at pt. 4, 493-814. In the case of the NYSE, for example, the Special Study found much to praise but also much to criticize and concluded, among other things, that "the enforcement and surveillance techniques of the Exchange range from highly effective ones to quite inadequate ones." Id., pt. 4, at 576.

[17] Special Study, pt. 4, at 502. [Footnote omitted.]

[18] The Senate and the House both found that the Commission had too frequently cooperated with the exchanges and the NASD when it should have acted more decisively and sternly. See, e.g., Securities Industry Study, Report of the Subcomm. on Commerce and Finance of the House Comm. on Interstate and Foreign Commerce, H.R. Rep. No. 1519, 92d Cong., 1st Sess. 79-100 (1972); Securities Industry Study, Report of the Senate Comm. on Banking, Housing and Urban Affairs, S. Doc. No. 13, 93d Cong., 1st Sess. 189-196 (1973).

[19] Securities Industry Study, Report of the Senate Comm. on Banking, Housing and Urban Affairs, S. Doc. No. 13, 93d Cong., 1st Sess. 149-150 (1973).

[20] In commenting on sections 6(b)(5) and 15A(b)(6), the Senate Committee on Banking, Housing and Urban Affairs noted:

> * * * The bill would eliminate present Section 6(c) and the open-ended authority it grants to the exchanges, and it would limit by Sections 6(b)(5) and 15A(b)(6) the scope of the self-regulatory organizations' authority over their members to matters related to the purposes of the Exchange Act * * * Until it is specifically demonstrated to the Congress that the non-securities activities of firms which are members of self-regulatory agencies should be limited or regulated in the public interest, such firms should be free to undertake and pursue these activities in the same manner as other business organizations, subject only to those regulatory limitations necessary to assure protection of public investors and the public interest. Senate Report 28.

tion in such matters as formulating admission standards for their members, the 1975 Amendments eliminated all discretion by requiring admission of any registered broker or dealer meeting objective standards and by mandating that all persons be permitted to become associated with members if they met objective standards.[21]

Those reforms reflected basic Congressional conclusions about the appropriate role of self-regulation. The potential problems of a self-regulatory system which were apparent in 1934—that it could be used to avoid appropriate regulation—were real. The history of self-regulation in practice over the many years since 1934 led the Congress to conclude that changes were needed in order to establish a proper balance and to renew the vigor of the self-regulatory concept.[22]

Section 19(g) should be viewed against that background. The Senate noted that, "Requiring self-regulatory organizations to comply, and to enforce compliance by [their] members * * * with these provisions, is an essential prerequisite to vigilant and effective self-regulation." [23] At the same time, the Commission's power to adopt rules under section 19(g)(2) provides not only a method of refining the initial broad formulation but also a means of developing normative concepts as to the appropriate scope of self-regulation.

While any regulatory system imposes some burdens on competition,[24] in those areas where Rule 19g2–1 does not relieve self-regulatory organizations of responsibility to enforce the Act, there is, to a certain extent, an initial presumption that particular self-regulatory action (such as an examination or inspection program) will not unduly burden competition. On the other hand, initiatives going beyond Rule 19g2–1 should only be undertaken after careful consideration, including a searching evaluation of not only the burdens upon those who will be subjected to such requirements but also the burdens upon the resources of the self-regulatory organizations, particularly in light of the need for uniform application and administration of any such requirements. Similarly, existing rules which go beyond the scope of responsibility provided by Rule 19g2–1 should be carefully reviewed and, where appropriate, repealed.[25]

STRUCTURE OF THE RULE

Rule 19g2–1 provides that national securities exchanges and registered securities associations are not required to take certain actions to "enforce compliance" within the meaning of section 19(g)(1) with respect to members and persons associated with members. The rule establishes three classes of associated persons—a "securities person" as defined by paragraph (b)(1), a person who controls a member within the meaning of paragraph (b)(2), and all others. Depending upon the classification of an associated person, the rule relieves an exchange or association from the obligation to take specific types of action to enforce the Act and the rules thereunder.

Sections 12 (other than 12(j) and 12 (k)), 13, 14 (other than 14(b)), 15(d) and 16—paragraph (a)(1). With respect to both a member and person associated with a member of a national securities exchange or registered securities association,[26] paragraph (a)(1) of the rule provides that an exchange or association need not enforce compliance with sections 12 (other than sections 12 (j) and (k)), 13, 14 (other than section 14(b)), 15(d) and 16 and the rules thereunder except to the extent of any action normally taken with respect to any person [27] which is not a member.[28] Paragraph (a)(1) is, for example, intended to make clear that an exchange or association would not have any greater obligation to assure compliance with those sections by an issuer who is a member than by any other issuer of securities listed or traded on or through the facilities of the exchange or association. The rule does not, on the other hand, contemplate discontinuance of steps taken by an exchange or association, consistent with the Act, to facilitate the distribution of information provided by any issuer.

Persons associated with a member—paragraphs (a)(2) and (a)(3). In considering the proper scope of a self-regulatory organization's responsibility, the rule recognizes that a variety of actions may be undertaken to enforce compliance, including adopting rules, conducting inspections, reviewing reports, making inquiries as to particular acts or practices, monitoring trading activity, determining qualifications, denying membership, instituting disciplinary proceedings and imposing disciplinary sanctions for particular violations. As noted earlier, however, a self-regulatory organization is not expected to employ at all times the full range of enforcement techniques with a view to preventing or discovering violations by every possible person associated with a member within the meaning of the Act.

Paragraph (a)(2) of the rule provides that with respect to an associated person who is neither a "securities person" nor a person who controls a member, an exchange or association will not be required to take any particular enforcement action. On the other hand, there is not thereby imposed any limitation on investigatory techniques in the case of suspected violations or on the bringing of appropriate disciplinary proceedings.[29] The rule simply makes clear that an exchange or association need not employ

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[21] See generally Securities Exchange Act Release No. 12737 (Aug. 25, 1976), 41 FR 38847 (Sept. 13, 1976).

[22] The Senate Report concluded:

* * * Although self-regulation has not always performed up to expectations, on the whole it has worked well, and the Committee believes it should be preserved and strengthened. S. 249 is designed to accomplish this, not only by clarifying regulatory responsibilities at all levels but also by assuring that the self-regulatory organizations follow effective and fair procedures, that their activities are not anti-competitive and that the Commission's oversight powers are ample and its responsibility to correct self-regulatory lapses is unmistakable. The intent of the bill is not to diminish the role of self-regulation but to strengthen the total regulatory fabric. Senate Report 23.

[23] Senate Report 133.

[24] Section 23 of the Act requires that the Commission consider the impact of its rules on competition and prohibits the adoption of rules which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Similarly, the Act provides in sections 6, 15A and 19 that exchanges and associations may not impose unnecessary or inappropriate burdens on competition.

[25] Of course, there will be particular cases, involving ad hoc surveillance or "for cause" inspections, which are necessarily outside the scope of Rule 19g2–1. To the extent, however, that such programs may raise possible questions as to unfair discrimination or undue burdens on competition, they may be appropriately discussed with the Commission or its officers. Persons aggrieved by enforcement measures from which an exchange or association is not relieved by a rule such as Rule 19g2–1 (or which were undertaken after discussion) may use the Commission's appellate jurisdiction (see Section 19(d) of the Act) to obtain review of final action. *See Securities Acts Amendments of 1975, Conference Report to Accompany S. 249, Joint Explanatory Statement of the Comm. of Conference,* H.R. Rep. No. 229, 94th Cong., 1st Sess. 100 (1975); Baker, "Antitrust Law and Policy in the Securities Industry", 31 Bus. Lawyer 743 (Jan. 1976).

[26] Sections 3(a)(3)(A) and (B), respectively, define the term member when used with respect to a national securities exchange and a registered securities association.

[27] As proposed, paragraph (a)(1) of Rule 19g2–1 provided that action need not be taken except to the extent of any action normally taken with respect to "an issuer of securities." Some of the sections apply to persons who may not be issuers, and therefore the phrase "an issuer of securities" has been deleted and replaced by the phrase "any person." In response to a suggestion made in comments filed by the NYSE, the words "enforce compliance" have been substituted for the phrase "take any action" in order to eliminate any possible confusion about the scope of the provision. A similar change was made in paragraph (a)(2). Finally, sections 12(j) and (k) have been deleted from the sections as to which relief is granted in view of the special responsibilities of brokers and dealers under those sections and the consequent responsibilities of exchanges and associations with their members. Section 6, in which the requirements for exchanges are set forth, does not impose a similar obligation upon exchanges, however. Accordingly, the structure of the Act would appear to preclude any need to refer to section 15B in Rule 19g2–1. Similarly, it appeared unnecessary to relieve exchanges of enforcement obligations with respect to section 15A and associations with respect to section 6.

[28] One commentator questioned whether the omission of section 15B of the Act from the enumerated sections might imply that exchanges had particular enforcement obligations under that section. Section 15B provides for the regulation of transactions in municipal securities and requires the Municipal Securities Rulemaking Board (the "MSRB") to adopt rules to effectuate the purposes of that section. In turn, section 15A, governing the registration of securities associations, requires such associations to enforce compliance with the rules of the MSRB by their members and by persons associated

[29] See e.g., In the matter of the application of Samuel A. Sardinia, Securities Exchange Act Release No. 12392 (Apr. 29, 1976).

routine techniques such as reporting requirements or routine inspections with respect to associated persons who are not engaged in the securities business.

As proposed, Rule 19g2–1 was also intended to delineate the extent to which an exchange or association need review the background and competence of persons associated with a broker or dealer which is applying to become a member of the exchange or association or of persons proposing to become associated with a member. Thus, the rule included phrases such as "persons who * * * propose to become" an officer, partner or employee of a member. Commentators suggested, however, that the use of such phrases in, for example, the definition of the term "securities person," which in turn is used in the substantive paragraphs of the rule, might be misconstrued to suggest that an exchange or association had unnecessarily broad enforcement obligations under the Act with respect to such persons. Accordingly, those phrases have been deleted from the rule.

The Act contemplates that exchanges and associations will take certain actions to assess the competence and integrity of persons associated with a broker or dealer which seeks to become a member. Sections 6(c)(3) and 15A(g)(3), respectively, provide that exchanges and associations may deny membership to a broker or dealer which has associated with it natural persons who do not meet prescribed standards of training, experience or competence. As proposed and as adopted, paragraph (a)(3) provides that exchanges and associations need not, however, conduct examinations as to qualifications of persons associated with a member unless they would be securities persons of the member. Furthermore, as is discussed infra, it should not be necessary to make extensive inquiries concerning all the many possible persons associated with a broker-dealer applying for membership.[30] As a general matter, in passing on applications for membership and association, exchanges and associations need only be particularly concerned with persons who are or will become securities persons or persons who control the member.

Paragraph (a)(3) of the rule also provides that an exchange or association need not require the filing of periodic reports by, or conduct regular inspections of any associated person who is not a "securities person." Paragraph (a)(3), when read in connection with paragraph (a)(2), essentially relieves an exchange or association of any obligation to take the specified types of surveillance action (such as administration of examinations or regular inspection programs) with respect to persons who control a member but are not securities persons.

"Securities persons"—paragraph (b)(1). Generally, Rule 19g2–1 does not relieve exchanges and associations of their statutory duty to enforce the Act and the rules thereunder with respect to members and securities persons.[31] Paragraph (b)(1) defines the term "securities person" to include general partners,[32] officers and employees of a member as well as any registered broker-dealer (and consequently its officers (or general partners, and employees) which controls, is controlled by, or is under common control with the member and which effects transactions in securities through the member by use of facilities maintained or supervised by the exchange or association. If a member of one exchange or association is affiliated with a member of another exchange or association, it does not appear that the mere fact of affiliation should cause each self-regulatory organization to have to enforce compliance with respect to both its own member and the non-member affiliate.[33] Accordingly, only registered broker-dealers which are associated persons of a member and effect transactions by use of the facilities maintained or supervised by the exchange or association are included in the definition of "securities person."[34]

Several revisions have been made to the definition as originally proposed. References to persons who propose to become members or who propose to become employees of a member have been, as noted above, deleted. Also, as originally drafted, paragraph (b)(1) seemed to suggest that the officers and employees of certain registered broker-dealer affiliates of members were securities persons but that the registered broker-dealer itself was not. In order to avoid ambiguity, the definition has been revised to include both the registered broker-dealer affiliate[35] and its officers (or general partners) and employees.

"Control"—paragraph (b)(2). Paragraph (b)(2) defines "control" as the power to direct or cause the direction of the management or policies of a company through ownership of securities, by contract or otherwise. The rule establishes a rebuttable presumption that certain persons "control" a company while all others do not.[36]

Paragraph (b)(2) creates a presumption that three classes of persons would "control" a member: (i) persons who directly or indirectly have the right to vote 25 percent or more of the voting securities of the member, (ii) persons who are entitled to receive 25 percent or more of the net profits of the member and (iii) directors of the member.

When a member or broker-dealer applying to become a member of an exchange or association is controlled by one or more corporate entities, it may be appropriate in some circumstances to take action with respect to the directors or principal officers of the entities which control a member. It should be possible for exchanges and associations to develop sensible and fair policies which can be administered even-handedly to deal with particular fact situations raising questions of control.[37] In the context of reviewing an application for membership of a subsidiary corporation, for example, it normally should not be necessary to make extensive inquiries concerning mul-

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[30] See discussion infra under the heading "'control'—paragraph (b)(2)."

[31] That duty, of course, remains qualified under the Act in circumstances where an exchange or association would have "reasonable justification or excuse" for failing to enforce compliance or is relieved of specific obligations pursuant to Section 17(d) and Rules 17d–1 and 17d–2 thereunder.

[32] As proposed, the definition would have included limited partners as well. Based on comments received, the Commission has determined, however, to exclude limited partners who, as limited partners, are necessarily not active in the day-to-day operation of the members' business.

[33] The Commission has adopted Rule 17d–1 under the Act to relieve self-regulatory organizations of certain enforcement responsibilities in the case of any broker-dealer which is itself a member of two or more self-regulatory organizations. See also Rule 17d–2 under the Act.

[34] Of course, in the context of reviewing a particular trading pattern, an exchange or association remains free to examine transactions by an affiliate transacting in a different market in order to obtain a complete picture. Furthermore, if specific problems arise in connection with such a division of authority Rule 19g2–1 could be revised and, pending such revision, an exchange or association would be free, as indicated above, to take steps to change its rules, subject to Commission approval pursuant to section 19 of the Act. One commentator suggested that the phrase "by use of facilities maintained or supervised by such exchange or association" is broad enough to include reliance, in effecting a transaction off an exchange, on pricing information contained on that exchange's ticker tape or published quotations. Such an expansive interpretation seems unwarranted though, of course, if accepted it would be a problem inherent throughout the Act itself.

[35] The term "securities persons" was defined to cover registered broker-dealers because of the structure of the Act. A broader phrase, such as brokers or dealers, which are functionally defined in the Act (see sections 3(a)(4) and 3(a)(5)) without reference to jurisdictional considerations covered elsewhere in the Act, could have had an unfortunate effect. For example, the fact that a foreign entity which is an associated person of a member and which engages in securities activities outside the United States (and is therefore a broker or dealer though not required to register) should not necessarily cause an exchange or association to be required to enforce compliance with the Act as if that entity were itself a member. Section 30(b) of the Act provides that the provisions of the Act or any rule or regulation thereunder do not apply to any person insofar as he transacts a business in securities without the jurisdiction of the United States unless in contravention of Commission rules. 15 U.S.C. 78dd(b). If a foreign entity controls a member, it is appropriately classified as a control person under subsection (a)(2) of the Rule.

[36] As proposed, principal officers and general partners were presumed to "control" a company. In the context of Rule 19g2–1, which refers only to control of a member, such principal officers and partners would also be securities persons under the rule. Their inclusion in the definition of "control" persons is, therefore, unnecessary.

[37] Paragraph (b)(2)(C) provides that presumptions under the rule (including presumption of control), "may be rebutted on an appropriate showing." One commentator suggested that the rule should be revised to prescribe procedures for rebutting presumptions such as are set forth in section 2(a)(9) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(9). At this juncture, however, the Commission has determined to permit exchanges and associations to develop their own rules, subject to Commission approval, in that regard.

tiple tiers of officers and directors of the parent which will control the member subsidiary unless the exchange or association has reason to believe that the subsidiary is no more than the alter ego of the parent and the parent is not engaged in other business operations. On the same basis, the activities of other non-securities subsidiaries of a parent corporation will generally not be of particular interest to an exchange or association.[23]

STATUTORY BASIS

The Securities and Exchange Commission, acting pursuant to the Act, and particulary sections 3, 6, 15A, 19 and 23 thereunder (15 U.S.C. 78c, 78f, 78o–3, 78s and 78w), hereby adopts, effective December 20, 1976, § 240.19g2–1 of Title 17 of the Code of Federal Regulations. The modifications made in § 240.19g2–1 as proposed are technical in nature; accordingly, the Commission finds, pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), that further notice and public procedure are not necessary. The Commission also finds that by relieving exchanges and associations of the obligation to take certain actions to enforce the Act and the rules thereunder, Rule 19g2–1 should reduce burdens on competition.

By the Commission.

Dated: November 18, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

§ 240.19g2–1 **Enforcement of compliance by national securities exchanges and registered securities associations with the Act and rules and regulations thereunder.**

(a) In enforcing compliance, within the meaning of Section 19(g) of the Act, with the Act and the rules and regulations thereunder by its members and persons associated with its members, a national securities exchange or registered securities association is not required:

(1) To enforce compliance with sections 12 (other than sections 12(j) and 12(k)), 13, 14 (other than section 14 (b)), 15(d) and 16 and the rules thereunder except to the extent of any action normally taken with respect to any person which is not a member or a person associated with a member;

(2) To enforce compliance with respect to persons associated with a member, other than securities persons or persons who control a member; and

(3) To conduct examinations as to qualifications of, require filing of periodic reports by, or conduct regular inspections (including examinations of books and records) of, persons associated with a member, other than securities persons whose functions are not solely clerical or ministerial.

(b) For the purpose of this rule:

(1) A "securities person" is a person who is a general partner or officer (or person occupying a similar status or performing similar functions) or employee of a member; *Provided, however,* That a registered broker or dealer which controls, is controlled by, or is under common control with, the member and the general partners and officers (and persons occupying similar status or performing similar functions) and employees of such a registered broker or dealer shall be securities persons if they effect, directly or indirectly, transactions in securities through the member by use of facilities maintained or supervised by such exchange or association; and

(2) "Control" means the power to direct or cause the direction of the management or policies of a company whether through ownership of securities, by contract or otherwise; *Provided, however,* That:

(i) Any person who, directly or indirectly, (A) Has the right to vote 25 percent or more of the voting securities, (B) Is entitled to receive 25 percent or more of the net profits, or (C) Is a director (or person occupying a similar status or performing similar functions) of a company shall be presumed to be a person who controls such company;

(ii) Any person not covered by paragraph (b)(2)(i) of this section shall be presumed not to be a person who controls such company; and

(iii) Any presumption may be rebutted on an appropriate showing.

(Secs. 3, 6, 19, 23, 48 Stat. 882, 885, 898, 901, as amended (15 U.S.C. 78c, 78f, 78s, 78w); Sec. 15A, 52 Stat. 1070, as amended (15 U.S.C. 78o–3).)

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[23] In carrying out the enforcement obligation which they retain under section 19(g)(1) of the Act, as modified by Rule 19g2–1, exchanges and associations may believe it useful to secure the cooperation of certain associated persons of members by having them enter into appropriate agreements subjecting themselves to (among other things) regulatory oversight inspections and disciplinary proceedings. The NYSE raised a question whether such persons would thereby be deemed a member of the exchange or association by reason of entering into an agreement. See section 3(a)(3)(A)(iv) and (B) of the Act, which define a member to include any broker or dealer which agrees to be regulated by the exchange or association and with respect to which the exchange or association undertakes to enforce compliance. Under Rule 19g2–1, that situation could theoretically arise in the case of a broker-dealer which (a) was affiliated with a member of an exchange or association and (b) by reason of the membership of its affiliate, indirectly used the facilities maintained or supervised by such exchange or association. In those circumstances the affiliated broker-dealer, if required to register with the Commission, would be treated as a securities person of the member, and, if not required to register, may be treated in most circumstances as a control person. Accordingly, it would not be necessary or appropriate also to classify the affiliate as a member for purposes of the Act.

REGULATION AND FRAUD IN CONNECTION WITH COMMODITY AND COMMODITY OPTION TRANSACTIONS

General Regulations Under the Commodity Exchange Act, Adoption of Rules

The Commodity Futures Trading Commission ("Commission") has adopted interim regulations under the Commodity Exchange Act, as amended, 7 U.S.C. 1 et seq. (Supp. V, 1975), relating to commodity options substantially in the form previously announced with certain technical and substantive revisions deemed necessary as a result of comments received. On October 8, 1976, the Commission published a proposal to adopt interim regulations as the first step in a two-stage procedure under which the Commission plans to adopt comprehensive regulations for a limited, rigidly-controlled, three-year (or shorter) test program that ultimately will require commodity options to be purchased and sold on or through the facilities of Commission-designated boards of trade in the United States or Commission-recognized foreign options systems. See 41 FR 44560 (October 8, 1976). Except to the extent discussed below, the Commission's discussion of the basis and purpose of rules proposed at that time constitutes the basis and purpose of the interim rules adopted today. A copy of the Commission's announcement of October 8, 1976, is published as an appendix[1] to this FEDERAL REGISTER notice.

The Commission's October 8, 1976 FEDERAL REGISTER notice contained a review of the Commission's consideration of the issues surrounding the regulation of commodity options in this country, including a summary of the Commission's prior regulatory proposals; set forth a discussion of the basis and purpose of the Commission's two-stage regulatory proposal, including a section-by-section analysis of the Commission's proposed interim rules; and invited interested persons to participate in the rule-making process by providing written submissions to the Commission. The Commission has considered all of the comments and suggestions received and has determined to adopt the interim rules in the form set forth below. Such rules, as adopted, shall become effective 15 days after publication of this notice in the FEDERAL REGISTER (December 9, 1976), except that the segregation provisions contained in § 32.6 of the rules will become effective 30 days after such publication (December 27, 1976).

At the outset, the Commission wishes to emphasize certain aspects concerning the interim rules adopted today. The authority granted to the Commission by the Congress to regulate commodity option transactions is extremely broad. Under section 2(a)(1) of the Act, 7 U.S.C. 2

[1] Appendix is filed as part of original document.

(Supp. V, 1975), the Commission has "exclusive jurisdiction" with respect to "accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option' * * *), and transactions involving contracts of sale of a commodity for future delivery * * *." Section 4c (a) (B) of the Act prohibits the offer and sale of certain commodity options—generally those relating to agricultural commodities which were regulated under the Commodity Exchange Act prior to the 1974 amendments thereto. For a list of those commodities see section 2(a) (1) of the Act and § 32.2(a) of the regulations adopted today. Under section 4c(b) of the Act, it is unlawful to offer or sell an option involving any other commodity regulated under the Act contrary to such rules and regulations as the Commission may prescribe.[2] In pertinent part, that section provides as follows:

> No person shall offer to enter into, enter into, or confirm the execution of, any [commodity option] transaction . . . contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. * * *[3]

Accordingly, the Commission is empowered under section 4c(b) to determine if and under what circumstances commodity option trading will be permitted. Under this authority the Commission could prohibit all commodity option trading, permit all commodity option trading under such terms and conditions as it shall prescribe, or permit some forms of trading, subject to the Commission's rules and regulations, and prohibit others.

The rules announced today reflect the Commission's considered judgment as to the appropriate method of regulating commodity option transactions in this country. The Commission's determination has been made after extensive Commission study of the offer and sale of commodity options in the United States, a process which has consumed substantial Commission resources and has involved the solicitation of the broadest possible public participation. Just four days after the effective date of the Commodity Futures Trading Commission Act of 1974, which established the Commission, the Commission solicited written comments with respect to its proposed antifraud rule relating to commodity options. 40 FR 18187 (April 25, 1975). On June 24, 1975, the Commission adopted a broad antifraud rule applicable to commodity option transactions. 40 FR 26505 (June 24, 1975). On October 22, 1975, the Commission announced that it was considering the adoption of rules to regulate—or perhaps forbid—transactions in commodity options, including the promulgation of a temporary rule pending the adoption of a definitive regulatory program. 40 FR 49360 (October 22, 1975). On February 20, 1976, the Commission proposed comprehensive regulations governing off-exchange commodity option transactions. 41 FR 7774 (February 20, 1976). At the time of that proposal, the Commission stated that it was affirmatively considering restricting commodity option transactions solely to organized exchanges and the Commission invited public comment on whether the Commission's regulatory program should include the segregation of premiums received by option dealers and the delivery of a disclosure statement to prospective purchasers. The Commission received written comments following the publication of its proposal, and the Commission held oral hearings in Washington, D.C., on March 8, 1976, during and subsequent to which it received additional comments on the issues raised by its announcement.

During this period, the Commission's Advisory Committee on the Definition and Regulation of Market Instruments was also considering regulatory recommendations relating to commodity options. That Committee was requested to submit a report and recommendations to the Commission on appropriate regulations or restrictions concerning commodity options. See 40 FR 32866 (August 5, 1975). The Advisory Committee's report was transmitted to the Commission on July 6, 1976 and was published as a special supplement, numbered 26, to the CCH Commodity Futures Law Reporter (July 15, 1976) and was also made available by the Commission to all interested persons.

After carefully considering the comments received on its prior proposals, the presentations made at its oral hearing in March 1976, the report and recommendations of its Advisory Committee, and the comments received on its proposal of October 8, 1976, the Commission has determined to adopt the interim rules announced today pursuant to the broad authority contained in sections 2 (a) (1), 4c(a), 4c(b) and 8a(5) of the Act. The Commission believes that affected persons and members of the public have had ample opportunity to comment on the Commission's proposed regulatory program; the Commission has evaluated all of the comments received; and the Commission has determined that the public interest requires that it adopt rules regulating the offer and sale of the commodity options without further delay.

Many of the persons who commented on the Commission's proposal of October 8, 1976, maintained that the Commission's proposal was anti-competitive in various respects: that it imposed stricter standards on persons dealing in commodity options than are presently imposed on persons dealing in commodity futures contracts; that it discriminated unfairly between futures commission merchants dealing in commodity options and futures commission merchants dealing in commodity futures contracts; and that it required disclosures to prospective option customers that are not required to be made to prospective customers dealing in commodity futures contracts. In proposing and in adopting the interim rules, the Commission has taken into account its responsibilities under section 15 of the Act, 7 U.S.C. 19 (Supp. V, 1975), and has determined that the options regulations in the form proposed and as adopted meet the requirements of that Section. Section 15 requires that the Commission take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. While the Commission is mindful that the financial, segregation and other criteria imposed as prerequisites to allowing a person to enter into or continue in the commodity options business may result in some lessening of competition, in its judgment, the interim rules are necessary to effectuate an essential purpose and policy of the Act: That is to require that the Commission provide essential customer protections which would attempt to assure the financial solvency of option transactions and prevent fraud. As a result, rules have been adopted, particularly in the areas of registration, disclosure, segregation and minimum working capital, which are intended to provide such customer protections as are deemed essential. Such rules may have an anticompetitive effect in that not all persons will be able to comply because of lack of adequate financing or other reasons. Nonetheless, in weighing its responsibilities, the Commission has determined that the objectives, policies and purposes of the Act can be met, in its judgment, only by regulations such as these.

In this connection the Commission wishes to emphasize that, since its inception in April 1975, a very substantial part of its resources devoted to the enforcement of the Act and the regulations thereunder have been directed to monitoring the activities of commodity options dealers, to investigating those activities, and to bringing resulting enforcement actions. The Commission believes that its experience of the past 18 months bears out the Congressional judgment that strong regulatory safeguards are needed in connection with the commodity options business [see, e.g., H.R. Rep. No. 93-975, 93d Cong., 2d Sess., 37 (1947)]. The Commission's experience in the field of futures contracts has been salutary in comparison to the options area. As a result, the Commission has provided for greater financial responsibility and increased disclosure requirements for option dealers than for those dealing with futures contracts.

The Commission does not understand section 15 of the Act to require that the Commission permit entry into or maintenance of the commodity options business at the expense of the public interest considerations with which the Act is concerned. On the contrary, the Commission views section 15 as a Congressional judgment that the public interest protected

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[2] Section 4c(b) governs options involving the newly-regulated commodities (i.e., those coming under regulation after the 1974 amendments to the Commodity Exchange Act), namely "all other goods and articles [except onions] * * * and all services, rights and interests in which contracts for future delivery are presently or in the future dealt in * * *." Section 2(a)(1) of the Act.

[3] In addition, the Commission has general rule-making authority under Section 8a(5) of the Act, 7 U.S.C. 12a(5) (Supp. V, 1975).

by the antitrust laws be considered in the context of the Commission's judgment of how best to effectuate the policies and purposes of the Act, including the Commission's express authority to regulate—or to forbid—commodity option transactions. Thus, the essential judgments made have been made in light of section 15 of the Act.

The Commission also wishes to stress that as proposed and as adopted, § 32.3 of the interim rules provides that on and after January 17, 1977, it will be unlawful for a person to solicit or accept orders for commodity options transactions or for an individual to be associated with any such person, unless registered as a futures commission merchant or as an associated person of such futures commission merchant, respectively, under the Act. Therefore, the Commission again wishes to advise affected persons to file their applications for registration promptly. The Commission is already processing applications for registration which it has received as a result of its announcement of the proposed interim rules. A person who defers filing an application runs the risk that the application may not be processed before the January 17th deadline. Normal requirements for processing are 30–60 days. While the Commission intends to expedite the processing of applications, a prompt filing will enable the Commission to do so on a timely basis.

Finally, the Commission stated in its October 8, 1976 announcement that the proposed interim rules would become effective on November 22, 1976. In order to alleviate some of the concerns expressed by the commentators that it would be difficult to comply with certain aspects of the proposed interim rules by that date, the Commission has determined to adopt the interim rules effective December 9, 1976, and, with respect to the segregation requirements contained in § 32.6, December 27, 1976. However, as indicated above, the Commission has determined to retain the January 17, 1977 date in the registration provisions of the interim rules.

Set forth below is a synopsis of the interim rules in the form adopted, together with the discussion of certain general and specific comments received by the Commission and of the revisions made in the proposed interim rule as a result of those comments and further consideration by the Commission.

Definitions

One commentator suggested that the definition of "option customer" in § 32.1 (c) should be amended to include a person who writes or grants an option through a futures commission merchant, since such a person is a customer of the futures commission merchant. The Commission has determined not to amend the definition at this time because it believes for purposes of its interim rules that coverage of option customers by virtue of the definition is sufficiently broad to encompass the vast majority of persons who are affected by such transactions. However, the Commission is considering appropriate amendments to the option customer definition in connection with the second stage of its regulations to be announced shortly. It was also suggested that the definition of "purchase price" in § 32.1(d) was too broad and should be broken down into its essential components such as the premium, sales commissions and other fees. In light of the Commission's treatment of segregated funds, discussed below, where such definition has particular importance, the Commission does not believe that an amendment to this definition is desirable.

Prohibited Transactions

One commentator suggested that § 32.2(b) should be amended to make clear that that section prohibits only the offer or sale of commodity options involving domestically traded futures contracts and prices of such contracts, and not commodity option transactions relating to futures contracts traded on foreign boards of trade. The Commission believes that § 32.2(b) is sufficiently clear on this point and does not purport to prohibit commodity option transactions involving futures contracts traded on foreign boards of trade. Of course, such transactions are prohibited if the contracts involve those commodities which were regulated prior to the 1974 amendments to the Act and which are the subject of section 4c(a)(B) of the Act, as incorporated in § 32.2(a) of the interim rule.

Unlawful Commodity Option Transactions

As proposed and as adopted, § 32.3 specifies the circumstances under which persons accepting funds or other property from option customers as payment of the purchase price of the commodity option or soliciting or accepting orders for commodity options are required to register as futures commission merchants or associated persons under the Act. One commentator suggested that §32.3(a) be amended to make clear that the resale of a commodity option by an option customer to a writer does not require the customer to register as a futures commission merchant. The Commission does not interpret § 32.3 as requiring the registration of option customers because of the occasional resale by an option customer to a writer and, accordingly, does not believe that an amendment to this section is necessary.

It was also suggested that § 32.3(c) be amended to make clear that persons registered under the interim rules need not register as commodity trading advisors if their services are rendered on a basis solely incidental to their commodity option activities. This was the intent of § 32.3(c) and to make this clear, the Commission has incorporated such an amendment in § 32.3(c)(2) as adopted.

Another commentator suggested that the proposed rule be amended to provide that persons already registered as floor brokers under the Act need not register as associated persons in accordance with the terms of the interim rule. This suggestion is consistent with the provisions of section 4k(1) of the Act and therefore the Commission has amended § 32.3(d) and has added a new § 32.3(e) to provide that a person registered as an associated person or a floor broker under the Act need not register as an associated person in order to comply with § 32.3. In addition, as proposed, § 32.3(d) provided that persons who need not register as associated persons under § 32.3 by virtue of their existing registrations under the Act were nevertheless required to notify the Commission immediately in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under that section. As adopted, the Commission has deleted this requirement from § 32.3(d), and, in new § 32.3(e), has required the employing futures commission merchant to provide this notification to the Commission. The Commission believes that this change will reduce the number of reports which need to be filed by affected persons in order to comply with § 32.3.

One commentator suggested that the Commission's determination to make it unlawful for persons to accept money and other funds from option customers unless registered as futures commission merchants was, in effect, an amendment of the Act's definition of a futures commission merchant. The Commission disagrees. Persons who come within the definition of futures commission merchant in section 2(a)(1) of the Act are required to register as such thereunder. The Commission's adoption of the interim rules in on way alters that obligation and in no way alters the definition of futures commission merchant contained in the Act. Rather, as the Commission stated at the time of its October 8, 1976 proposal, the Commission has determined, pursuant to its plenary power to regulate commodity option transactions, to entrust options activities only to persons who meet the basic financial and other requirements of futures commission merchants and associated persons of specified futures commission merchants under the provisions of the Act and the regulations promulgated thereunder.

Exemptions

As proposed, § 32.4(a) provided that, except for the provisions of §§ 32.2 (prohibited transactions) and 32.9 (fraud in connection with commodity option transactions), the provisions of the interim rules do not apply to certain trade option transactions. However, as will be discussed more fully below, the Commission has adopted new §§ 32.8 (b) and (c) as explicit codifications of activity which the Commission considers presently to be violations of its anti-fraud rule. In addition, proposed § 32.8, adopted as § 32.8 (a), was believed to have limited applicability in a trade exemption situation since it dealt with unlawful representations as to registration. Nonetheless, since it also proscribes representations being made concerning the Commission's approval of the transaction, the Commission believes that § 32.8(a), as well as the newly adopted §§ 32.8 (b) and (c), should apply in trade exemption situations. Accordingly, the Commission has adopted the trade option transaction exemption in the form proposed, with the addition of the applicability of § 32.8 thereto.

DISCLOSURE

The Commission received many comments strongly critical of the disclosure provisions of the proposed interim rule contained in § 32.5. Commentators suggested that the requirement that an option customer receive the summary disclosure statement contemplated by § 32.5 (a) not less than 24 hours prior to the entry into the commodity option transaction was unrealistic in light of the volatile nature of the commodities markets. In addition, commentators noted that § 32.5(a), which could be interpreted to require delivery of a summary disclosure statement prior to the entry into each commodity option transaction, would be unduly burdensome. Furthermore, commentators pointed out that, as proposed, § 32.5 required summary disclosure of particularized price information if available, and if not available, disclosure of such information immediately upon execution of the commodity option transaction. Commentators suggested that a more practical approach would be to provide a generalized disclosure document regarding commodity option transactions prior to the entry into the commodity option transaction, with particularized data made available as part of the confirmation of the execution of the transaction. It was also suggested that the persons required to deliver the confirmatory price information be permitted to do so not later than one business day following execution of the transaction rather than "immediately".

The Commission believes that the foregoing comments are essentially constructive and has revised § 32.5 to incorporate these suggestions while retaining the basic thrust of the proposed disclosure rules. As adopted, § 32.5(a) eliminates the requirement that the summary disclosure statement be furnished not less than 24 hours prior to the entry into the commodity option transaction. However, the Commission wishes to emphasize that the option customer or prospective option customer must be furnished with the summary disclosure statement prior to the entry into a commodity option transaction. Accordingly, persons who intend to mail summary disclosure statements should obtain assurances that the summary disclosure statement has been received by the option customer or prospective option customer before entering into a commodity option transaction.

In addition, as adopted, § 32.5(a) eliminates the requirement that particularized price information be furnished as part of the summary disclosure statement. Rather, the summary disclosure statement shall contain (1) as a brief description of the commodity option transactions being offered, including (i) the duration of the commodity options being offered and the total quantity and quality of the commodities which may be purchased or sold upon exercise of the options being offered or which underlie the contracts of sale for future delivery which may be purchased or sold upon exercise of such commodity options; (ii) a listing of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees and other charges, as well as the method by which the premium is established; (iii) the services to be provided for the separate elements comprising the purchase price; and (iv) the method by which the striking price is established; (2) a description of any and all costs in addition to the striking price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise), and all similar fees and charges which may be incurred; (3) a statement to the effect that the price of the commodity or contract of sale for future delivery underlying each commodity option transaction being offered must either rise above the striking price, or fall below the striking price, as the case may be, by an amount in excess of the sum of the premium and all other costs incurred in entering into and exercising the commodity option in order for the option customer to realize a profit on the commodity option transaction; and (4) a clear explanation of the effect of any foreign currency fluctuations with respect to options which are to be executed on or through the facilities of a foreign board of trade.

As adopted, § 32.5(a) retains the proposed provisions that the first page of the disclosure statement contain the boldfaced statement required by § 32.5 (a)(5). In addition, the summary disclosure statement must contain the statements called for by § 32.5(a)(6) to the effect that specific market movements of the commodities or contracts of sale of a commodity for future delivery underlying the options being offered cannot be accurately predicted and that, generally, an option customer will be unable to sell any option purchased in any market to recover any of the purchase price, but rather may only liquidate by exercising an option before the expiration of the option. The proposed requirement that a statement be made that an option customer may also liquidate by entering into an offsetting transaction has been deleted because, generally, no such offsetting trading mechanism exists at the present time.

As adopted, § 32.5(b) basically provides that the summary disclosure statement need not be provided to an existing option customer prior to entry into each option transaction except (1) upon request or (2) if the disclosure statement that has been previously provided to such customer has become outdated or inaccurate in any material respect. The Commission wishes to point out that § 32.5(b) applies only to existing option customers and that the summary disclosure statement must be provided to prospective option customers who have not previously entered into a commodity option transaction with the person required to provide the statement.

Moreover, although the summary disclosure statement need not contain particularized price data, the Commission believes that where information concerning particular price information is available prior to the entry into a commodity option transaction, option customers should be informed of such information. Accordingly, the Commission has adopted § 32.5(c), which specifies the price information which, if known prior to the entry into any commodity option transaction, must be disclosed to option customers and prospective option customers.

As adopted, § 32.5(d) of the interim rule relates to the required confirmation statement which must be delivered to all option customers after execution of each option transaction. That section basically provides that not more than 24 hours after the execution of a commodity option transaction, a commodity option customer must be furnished, by mail or other generally accepted means of communication, a written confirmation statement which contains at least (1) the actual amount of the purchase price, including a separate listing of the premium, markups on the premium, costs, fees and other charges; (2) the striking price; (3) the total quantity and quality of the commodity which may be purchased or sold or which underlies the contract of sale for future delivery which may be purchased or sold upon exercise of the commodity option; (4) the exercise date of the commodity option purchased and, in case of an option on a contract of sale for future delivery, the final trading date on such contract; and (5) the date the commodity option was executed.

The Commission believes that the foregoing changes in the disclosure requirements of § 32.5 will ameliorate many of the concerns expressed by the commentators. While the disclosure requirements have been adopted in a somewhat modified form, the Commission does not anticipate that affected persons should experience particular difficulty in complying with these revised provisions since substantially the same information will be required to be disclosed in this section as adopted as had originally been proposed. Some of the commentators objected to various aspects of the disclosure statement such as, for example, that the disclosure of markups was unwarranted, exceeded the Commission's authority and was not in accordance with normal commercial practice. The Commission's authority under § 4c(b), as previously indicated, is exceedingly broad and in light of the Commission's knowledge of markups in excess of 100% being charged in some cases, the Commission deems disclosure of such items to be an essential customer protection.

One commentator suggested that, as an alternative to its disclosure requirements, the Commission encourage development of an industry-wide brochure regarding commodity options. The Commission believes that this suggestion has some merit and encourages interested persons to work on such a brochure and to comment in this regard, particularly since standardized disclosure materials appear compatible with the Commission's proposed second-stage of regulations which will be designed to restrict commodity option trading on or through

the facilities of designated boards of trade in the United States and of recognized foreign options systems.

SEGREGATION

The strongest objections made to the Commission's proposed interim rules concerned the segregation requirements of § 32.6. The criticisms can be summarized as follows: (1) segregation of the entire purchase price is unfair since receipt of at least a substantial portion of the monies obtained from customers is necessary for the options dealer to be able to continue to conduct an options business and cover the payment of employees' salaries, sales commissions, administrative expenses, fees for executing brokers, and similar charges; (2) the inability of an options dealer to have available a portion of the purchase price for day-to-day operations would encourage options dealers to offer options of a shorter duration than are presently being offered, and force them to encourage their customers to exercise existing options prematurely in order to achieve a more favorable cash flow—both practices that could possibly be detrimental to option customers; (3) only larger firms with great amounts of capital could afford to stay in business if options dealers are required to comply with the Commission's proposed segregation requirements; and (4) futures commission merchants engaged in accepting margin from option customers trading commodity futures contracts are not required to segregate sales commissions, so that the Commission's proposal operated to discriminate unfairly against futures commission merchants engaged in options activities.

At the time of the announcement of its proposed interim rules, the Commission stated that it viewed the proposed segregation requirements as essential to protect at least the basic investment of commodity option customers as well as to assure, to the extent feasible, the financial integrity of option transactions. The Commission stressed that what is of paramount importance is that option customers be assured, at the very least, that the assets which they put up to purchase a commodity option will be safe during the term of the option, and be available to be refunded in the event that an option customer exercises the option but is unable to obtain satisfaction of the obligations owing to him because of the insolvency of his futures commission merchant or its principals. In its report to the Commission the Advisory Committee recognized and addressed this problem as follows:

> At the present time, neither United States nor London vendors of ICCH or LME member options are required to segregate funds received from United States customers. Moreover, neither the ICCH nor the LME currently guarantees to United States customers the performance of obligations on any ICCH or LME option. The Advisory Committee has been informed that these and other circumstances, such as the absence of financial requirements for option dealers in the United States and the lack of regulation of the United States market for Foreign Options, make it very difficult for United States customers to obtain redress in the United States from dealers of 'London' options in the event of a default on the option transaction. On this basis, the Advisory Committee has determined that, to the extent possible, these deficiencies should be remedied by the Commission." (CCH Commodity Futures Law Reporter, Special Supplement numbered 26 at pages 41–42 (July 15, 1976)).

The Commission firmly believes that by providing a minimum fund under segregation requirements, an essential customer protection, albeit a bare minimum one, will be afforded commodity option customers in the United States. Several commentators have indicated that letters of credit, bonding requirements, and other forms of financial guarantees could be used as alternatives to segregation. While the Commission believes that these suggestions are on the whole constructive, and while the Commission would urge continued efforts by commentators to suggest suitable alternatives to the segregation requirement, specific proposed alternatives have not yet been submitted which would be capable of being effectuated to coincide with the adoption of the interim rules. Accordingly, the Commission has determined to include segregation requirements in the interim rules as adopted, to provide for a minimal cash fund to be available in the United States for the benefit of option customers.

However, the Commission also realizes, as it stated at the time of its October 8, 1976 proposal, that the segregation requirements could result in so-called "double segregation", particularly with respect to the sale of London options and that affected persons will need time to take the necessary steps in order to be in compliance when the segregation requirements become effective. In addition, as the Commission also stated at that time, it had originally intended to permit futures commission merchants to exclude sales commissions from the assets required to be segregated. The Commission is persuaded by the comments it has received that it would not be inconsistent with customer protection considerations to permit futures commission merchants to withhold a portion of the purchase price received to help meet operating expenses or the costs of any necessary financing arrangements. Accordingly, as adopted, the Commission has amended § 32.6(a) to provide that up to a maximum of 10% of the money, securities or property accepted from an option customer as payment of the purchase price in connection with a commodity option transaction need not be treated and dealt with as belonging to the option customer and segregated as required by § 32.6. In addition, in order to provide additional time for affected persons to be in full compliance with the segregation requirements when they become effective, the Commission has determined to adopt § 32.6 effective December 30, 1976. Any affected person may, pursuant to § 32.4 (b), submit a written request to the Commission for exemption from the segregation requirements (or other requirements of these rules). However, any such request should be accompanied by complete and specific details of the basis upon which the exemption is requested and of the alternative to segregation which the requesting person will utilize in connection with its commodity option transactions. The Commission points out that under the terms of § 32.4(b), an exemption will be granted only if the Commission finds, in its discretion, that it would not be contrary to the public interest to grant such exemption. The Commission will not, however, entertain frivolous or incomplete applications for exemption. Any bonding or letter of credit must contain a complete and unconditional obligation to the commodity option customer from an unquestionably financially sound entity before it will even be considered. The Commission has no intention of expending its limited resources on a myriad of exemption applications unless there is real substance to the proposed alternatives.

The Commission notes that one commentator suggested that a suitable alternative to segregation would be a form of commodity account insurance. On November 12, 1976, the Commission, as required by section 417 of the Commodity Futures Trading Commission Act of 1974, submitted to the Congress its report respecting the need for legislation insuring owners of commodity futures accounts and persons handling or clearing trades in such accounts against loss by reason of the insolvency or financial failure of a futures commission merchant carrying such accounts. In that report the Commission concluded that, at this time, the need for an insurance program is minimal because the level of public confidence in the safety of customer funds in the commodity futures industry is relatively high and that the benefit-cost ratios presented in the report demonstrate that such insurance protection would not be cost effective. In part, the Commission based its conclusion on the protection afforded by the Commission regulations requiring periodic audits of futures commission merchants and the segregation of customer funds, and the minimum capital requirements imposed on futures commission merchants. However, the Commission also indicated that it would reevaluate the concept of an insurance fund from time to time and, should circumstances warrant, will be prepared to make appropriate recommendations to the Congress. In this connection, the Commission would welcome comments with respect to whether an insurance program designed to protect the accounts of option customers would be an appropriate alternative to segregation and would be willing to review a sound proposal for an insurance program to achieve this end.

At the time the Commission originally proposed that segregation requirements be part of an interim rule it indicated that such requirements might have to be modified in the second-stage of its regulations to take into account option trading on boards of trade designated by the Commission and on recognized foreign options systems. In that connection, the Commission wishes to advise affected persons that the segregation requirements adopted by the interim rules reach

only the purchase price of the commodity option and do not purport to require segregation of equities accruing to the customer as a result of the commodity option transaction or of monies deposited by option customers which are not committed to a particular commodity option transaction. Accordingly, the Commission wishes to stress that the segregation requirements contained in the interim rules relate solely to the customer's basic investment in the commodity option and in no way are designed to guarantee performance of the fulfillment of the commodity option transaction to the option customer or to guarantee that there will be sufficient funds in segregation to cover accrued customer equities, or to provide that the option customer will receive the benefits of his bargain. The Commission considers it to be unlawful, and a violation of the Commission's antifraud rule governing commodity option transactions, 17 CFR 30.01, for any person to represent to its option customer that compliance with the Commission's interim rules guarantees fulfillment of a commodity option transaction. Accordingly, the Commission deems it appropriate to codify its view in the interim rule and has adopted § 32.8(b) which explicitly makes such representatives unlawful.

BOOKS AND RECORDKEEPING

The Commission has adopted § 32.7, concerning books and recordkeeping, substantially in the form proposed. However, commentators suggested that the Commission amend § 32.7(a) to require retention of solicitation material used on radio and television. This had been intended by the Commission's proposed requirement concerning the retention of all solicitation and advertising materials. However, the Commission has amended this section to make explicit the requirements that the text of standardized oral presentations and of radio, television, seminar or similar mass media presentations be retained. In addition, by virtue of the requirement in § 32.5(d), as adopted, that option customers receive confirmation statements, the Commission has included a requirement in § 32.7 (a) that copies of such confirmation statements be retained.

It was also suggested that it was impractical to require in § 32.7(b) that persons keep a permanent record showing the true name of commodity option makers, underwriters, issuers or other persons who assume or purport to assume any financial responsibility for the fulfillment of any commodity option transaction, since the identity of such persons would often be unknown. Accordingly, the Commission has amended this section in the form adopted to require the retention of such information to the extent that such information is known or may be reasonably obtained by the person required to retain the information.

The Commission also received comments that the requirement in § 32.7(a), that persons retain and furnish to the Commission upon request the true name and address of each prospective commodity option customer solicited, was unduly burdensome. The commentators believed that this requirement should be limited exclusively to option customers. The Commission disagrees. This provision imposes no greater burden than placing a check mark next to the name and address of the customer on the solicitation list utilized. Moreover, the Commission believes that this information, as well as its books and record-keeping requirements generally, will assist in the Commission's monitoring of the activities of persons offering commodity option transactions for compliance with the interim rules.

In view of the Commission's adoption of § 32.5(d), concerning the furnishing of commodity option customers with a confirmation statement, the Commission has deleted the last sentence of proposed § 32.7(d), as adopted, since the information called for by that sentence is to be furnished to the option customer as part of the confirmation statement.

The Commission has adopted § 32.8 of the proposed interim rules as § 32.8(a) without change. In addition, as indicated above, the Commission has adopted § 32.8(b) to make explicit the Commission's view that it is unlawful to represent that compliance with the provisions of the interim rule constitutes a guarantee of performance of the fulfillment of the commodity option transaction. Moreover, the Commission believes it to be a violation of its anti-fraud rule governing option transactions for any person, upon receipt of an order for a commodity option transaction, unreasonably to fail to secure prompt execution of such order. In order to make explicit this view, the Commission has adopted as § 32.8(c) a rule specifically proscribing such activity.

ANTIFRAUD

As proposed, the Commission has incorporated its antifraud rule governing commodity option transactions in § 32.9 of the interim rules. This provision has been included as part of the interim rules so that all rules affecting commodity options transactions will be in one place in the Code of Federal Regulations. Section 32.9 is the same rule that is presently in effect, 17 CFR 30.01, modified to incorporate certain of the definitions set forth in the interim rules and to delete certain unnecessary language. As the Commission indicated at the time of its proposal of the interim rules, the redesignation of § 30.01 as § 32.9 is technical only and will have no substantive effect on fraudulent activity prior to, on, or after the effective date of § 32.9. In this connection, the Commission wishes to stress that judicial interpretations of § 30.01 will, of course, continue to be applicable to new § 32.9. See *CFTC* v. *J. S. Love & Associates Options Ltd.*, CCH Com. Fut. L. Rep. ¶ 20,198 (S.D.N.Y., Aug., 12, 1976).

OPTION TRANSACTIONS ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THE INTERIM RULES

As proposed § 32.10 was intended to make clear that the interim rules are to have prospective effect only. However, to make clear that fraudulent activity occurring after the effective date of the interim rules in connection with a commodity option transaction lawfully entered into prior to their effective date is unlawful, the Commission has adopted § 32.10 to provide that nothing in the interim rules shall be construed to affect lawful activities that occurred prior to the effective date of the interim rules.

AMENDMENTS TO §§ 1.3 AND 1.17

The Commission has adopted these amendments in the same form as proposed on October 8, 1976. The amendment to § 1.3 of the Commission's regulations includes within the definition of "futures commission merchant" any person required to register as a futures commission merchant by virtue of the interim rules and the amendments to § 1.17 require that any futures commission merchant engaging in commodity option transactions referred to in Part 32 of the Commission's regulations would be required to have, and to maintain at all times, adjusted working capital equal to or in excess of whichever of the following is greater: (1) $50,000 or (2) the sum of the safety factors described in § 1.17 with respect to both proprietary and customers' accounts plus 5% of the applicant's aggregate indebtedness. A futures commission merchant who is exempt from the financial requirements of § 1.17(a) would also be required to maintain minimum adjusted working capital of at least $50,000, computed in accordance with the bylaws, rules, regulations or resolutions of the contract market which serve as the basis for such exemption. Based on its experience, as previously stated, the Commission believes that the distinction in working capital requirements between futures commission merchants who are engaging in options activity as opposed to those who are not, is necessary to provide a cushion against losses which are more likely to arise in the commodity options area. The Commission has also amended § 1.17 to add a new paragraph (c)(9) defining "customer" to include "option customer" as defined in the interim rules.

SECTION 1.19

It has been suggested that Commission regulation § 1.19, 17 CFR 1.19, precludes futures commission merchants from dealing in commodity options in accordance with the interim rules. The Commission disagrees. Section 1.19 precludes futures commission merchants from issuing or otherwise assuming financial responsibility for the fulfillment of commodity option transactions. It does not prohibit futures commission merchants from accepting money from option customers in connection with option transactions if the futures commission merchant acts solely in an agency capacity in a commodity option transaction. However, should futures commission merchants be obligated for the fulfillment of

the option upon exercise by the option customer, the futures commission merchant would be in violation of § 1.19. As previously stated, the Commission is considering the repeal of § 1.19 in connection with the proposed second stage of its regulations.

* * * * *

In consideration of the foregoing, the Commission, pursuant to its authority contained in sections 2(a)(1), 4c(a), 4c(b) and 8a of the Act, 7 U.S.C. 2, 6c(a), 6c(b) and 12a (Supp. V, 1975), hereby amends Chapter 1 of Title 17 of the Code of Federal Regulations by amending §§ 1.3(p) and 1.17, by deleting § 30.01 and by adding a new Part 32 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3(p) is amended by adding a "(1)" after the word "means" and before the word "individuals", by deleting the period and adding the word "and" after the word "therefrom" and by adding the following:

§ 1.3 Definitions.

* * * * *

(p) * * *

(2) shall include any person required to register as a futures commission merchant under the Act by virtue of Part 32 of this chapter.

2. Section 1.17 is amended to revise paragraphs (a) and (b) and to add paragraph (c)(9) as follows:

§ 1.17 Minimum financial requirements.

(a) Except as provided in paragraphs (b)(1) and (b)(2) of this section, no person applying for registration as a futures commission merchant shall be so registered unless he has adjusted working capital equal to or in excess of whichever of the following is greater: (1) $10,000 or (2) the sum of the safety factors hereinafter prescribed in this section with respect to both proprietary accounts and customers' accounts plus 5 percent of the applicant's aggregate indebtedness; and each person registered as a futures commission merchant shall at all times continue to meet such financial requirements.

(b)(1) Except as provided in paragraph (b)(2) of this section, no person registered as a futures commission merchant shall engage in commodity option transactions referred to in Part 32 of this chapter unless he has adjusted working capital equal to or in excess of whichever of the following is greater: (1) $50,000 or (2) the sum of the safety factors hereinafter prescribed in this section with respect to both proprietary accounts and customers' accounts plus 5 percent of the applicant's aggregate indebtedness; and each such person registered as a futures commission merchant shall at all times continue to meet such financial requirements.

(2) The requirements of paragraphs (a) and (b)(1) of this section shall not apply if the applicant for registration or registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations or resolutions approved by the Commission: *Provided, however,* That a futures commission merchant who engages in option transactions referred to in Part 32 of this chapter shall at all times maintain a minimum capital of $50,000 computed in accordance with the applicable bylaws, rules, regulations or resolutions of such contract market which have been approved by the Commission.

(c) * * * (9) The term "customer" shall include an "option customer" as defined in Part 32 of this chapter.

* * * * *

PART 30—FRAUD IN CONNECTION WITH COMMODITY TRANSACTIONS

§ 30.01 [Removed]

1. Section 30.01 is removed.

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

2. Part 32 is added to read as follows:

Sec.

32.1 Definitions.
32.2 Prohibited transactions.
32.3 Unlawful commodity option transactions.
32.4 Exemptions.
32.5 Disclosure.
32.6 Segregation.
32.7 Books and recordkeeping.
32.8 Unlawful representations; execution of orders.
32.9 Fraud in connection with commodity option transactions.
32.10 Option transactions entered into prior to the effective date of this Part.

AUTHORITY: Secs. 2(a)(1), 4c(a), 4c(b), 8a, Commodity Exchange Act (7 U.S.C. 2, 6c(a), 6c(b) and 12a (Supp. V, 1975)).

§ 32.1 Definitions.

As used in this Part—

(a) "Commodity option transaction" and "commodity option" each means any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty" involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(b) "Interstate commerce" shall be construed and have the same meaning as set forth in sections 2(a) and 2(b) of the Act;

(c) "Option customer" means any person who, directly or indirectly, purchases or otherwise acquires for value any interest in a commodity option, but shall not include a person required to register as a futures commission merchant in accordance with this Part;

(d) "Purchase price" means the total actual cost paid to to be paid, directly or indirectly, by an option customer for entering into and maintaining an interest in a commodity option transaction, by whatever named called; and

(e) "Striking price" means the price at which an option customer may purchase or sell the commodity or the contract of sale of a commodity for future delivery which is the subject of a commodity option transaction.

§ 32.2 Prohibited transactions.

No person may offer to enter into, enter into, confirm the execution of, or maintain a position in, any transaction in interstate commerce involving:

(a) Wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice, or

(b) any contract of sale of any commodity for future delivery traded on or subject to the rules of any contract market or involving the prices of such contracts, except under such terms and conditions as the Commission shall prescribe;

if the transaction is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty".

§ 32.3 Unlawful commodity option transactions.

(a) On and after January 17, 1977, it shall be unlawful for any person to accept any money, securities, or property (or to extend credit in lieu thereof) from an option customer as payment of the purchase price in connection with a commodity option transaction unless such person is registered as a futures commission merchant under the Act and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked.

(b) On and after January 17, 1977, it shall be unlawful for:

(1) Any person to solicit or accept orders (other than in a clerical capacity) for the purchase or sale of any commodity option, or to supervise any person or persons so engaged, unless such person is:

(i) Registered as a futures commission merchant under the Act, or

(ii) If such person is an individual, registered as an associated person of a specified futures commission merchant under the Act;

and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked; and

(2) Any futures commission merchant to permit an individual to become or remain associated with such futures commission merchant as a partner, officer or employee (or in any similar status or position involving similar functions) in

any capacity involving such solicitation, acceptance or supervision if such futures commission merchant knew or should have known that such individual was not registered as an associated person or that such registration has expired, been suspended (and the period of suspension has not expired) or revoked;

(c) A person required to register as a futures commission merchant or as an associated person in accordance with this section which furnishes the services specified in that portion of section 2(a)(1) of the Act defining the term "commodity trading advisor" shall not be included in the term commodity trading advisor if:

(1) At the time such services are furnished, such person is registered as a futures commission merchant, as a floor broker or as an associated person under the Act, and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked; and

(2) The furnishing of such services is solely incidental to the conduct of such person's activities relating to commodity option transactions.

(d) A person registered as a futures commission merchant under the Act, who is required to register as such by virtue of this section, need not register as such in order to comply with this section, but shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this section.

(e) A person registered as an associated person or as a floor broker under the Act, who is required to register as an associated person by virtue of this section, need not register as such in order to comply with this section, but the futures commission merchant employing such person shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this section.

§ 32.4 Exemptions.

(a) Except for the provisions of §§ 32.2, 32.8 and 32.9, which shall in any event apply to all commodity option transactions, the provisions of this Part shall not apply to a commodity option offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or by-products thereof, and that such producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such.

(b) The Commission may, by order, upon written request or upon its own motion, exempt any other person, either unconditionally or on a temporary or other conditional basis, from any provisions of this Part, other than §§ 32.2, 32.8 and 32.9, if it finds, in its discretion, that it would not be contrary to the public interest to grant such exemption.

§ 32.5 Disclosure.

(a) Except as provided in paragraph (b) of this section, prior to the entry into a commodity option transaction, each option customer or prospective option customer shall be furnished a summary disclosure statement by the person soliciting or accepting the order therefor. The disclosure statement shall contain the following:

(1) A brief description of the commodity option transactions being offered including:

(i) The duration of the commodity options being offered and the total quantity and quality of the commodities which may be purchased or sold upon exercise of the options being offered or which underlie the contracts of sale for future delivery which may be purchased or sold upon exercise of such commodity options;

(ii) A listing of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees and other charges, as well as the method by which the premium is established;

(iii) The services to be provided for the separate elements comprising the purchase price; and

(iv) The method by which the striking price is established;

(2) A description of any and all costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise), and all similar fees and charges which may be incurred;

(3) A statement to the effect that the price of the commodity or contract of sale for future delivery underlying each option transaction being offered must either rise above the striking price, or fall below the striking price, as the case may be, by an amount in excess of the sum of the premium and all other costs incurred in entering into and exercising the commodity option in order for the option customer to realize a profit on the commodity option transaction;

(4) A clear explanation of the effect of any foreign currency fluctuations with respect to commodity option transactions which are to be executed on or through the facilities of a foreign board of trade;

(5) The following boldfaced statements on the first page of the summary disclosure statement:

BECAUSE OF THE VOLATILE NATURE OF THE COMMODITIES MARKETS, THE PURCHASE OF COMMODITY OPTIONS IS NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. A PERSON SHOULD NOT PURCHASE A COMMODITY OPTION UNLESS HE IS PREPARED TO SUSTAIN A TOTAL LOSS OF THE PURCHASE PRICE OF THE COMMODITY OPTION. SUCH TRANSACTIONS SHOULD BE ENTERED INTO ONLY BY PERSONS WHO ARE AWARE OF THE POTENTIAL FOR LOSS AND WHO UNDERSTAND THE NATURE AND EXTENT OF THEIR RIGHTS AND OBLIGATIONS.

THESE COMMODITY OPTIONS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE COMMODITY FUTURES TRADING COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A VIOLATION OF THE COMMODITY EXCHANGE ACT AND THE REGULATIONS THEREUNDER;

(6) Statements to the effect that:

(i) Specific market movements of the commodities or contracts of sale for future delivery underlying the options being offered cannot be accurately predicted, and

(ii) Generally, an option customer will be unable to sell any option purchased in any market to recover any of the purchase price, but rather may only liquidate by exercising an option before the expiration date of the option.

(b) A person shall not be required to deliver the summary disclosure statement to an option customer as required by paragraph (a) of this section if a summary disclosure statement has previously been furnished by such person to the option customer: *Provided, however,* That notwithstanding the foregoing, a disclosure statement shall be delivered in any event (1) upon the request of the option customer, or (2) if the previously delivered disclosure statement has become outdated or has become inaccurate in any material respect.

(c) Prior to the entry into a commodity option transaction, each option customer or prospective option customer shall, to the extent the following amounts are known, be informed by the person soliciting or accepting the order therefor of the actual amount of the premium, markups on the premium, costs, fees and other charges comprising the purchase price, as well as the striking price and all costs to be incurred by the option customer if the commodity option is exercised.

(d) Not more than 24 hours after the execution of a commodity option transaction, each person which accepts any money, securities or property (or extends credit in lieu thereof) from an option customer as payment of the purchase price in connection with a commodity option transaction shall furnish, by mail or other generally accepted means of communication, such option customer with a written confirmation statement containing at least the following information:

(1) The actual amount of the purchase price including a separate listing of the premium, mark-ups on the premium, costs, fees, and other charges;

(2) The striking price;

(3) The total quantity and quality of the commodity which may be purchased or sold, or which underlies the contract of sale for future delivery which may be purchased or sold, upon exercise of the commodity option;

(4) The exercise date of the commodity option purchased, and in the case of an option on a contract of sale for future delivery, the final trading date on such contract; and

(5) The date the commodity option was executed.

§ 32.6 Segregation.

(a) Any person which accepts money, securities or property from an option

customer as payment of the purchase price in connection with a commodity option transaction shall treat and deal with such money, securities and property as belonging to such option customer until expiration of the term of the option or, if the option customer exercises the option, until all rights of the option customer under the commodity option have been fulfilled. Such money, securities, and property (1) shall be separately accounted for and segregated as belonging to such option customer, (2) shall be kept in the United States, and (3) shall not be commingled with the money, securities or property of any other person, including the money, securities or property received by a futures commission merchant to margin, guarantee or secure the trades or contracts of commodity customers (as defined in § 1.3(k) of this chapter) or with the money accruing to such commodity customers as the result of such trades or contracts: *Provided, however,* That the money, securities or property treated as belonging to an option customer may for convenience be commingled with the money, securities or property treated as belonging to any other option customer and deposited in the same account or accounts with any bank or trust company in the United States. Such money, securities and property, when so deposited with any bank or trust company, shall be deposited under an account name which will clearly show that it contains money, securities or property, segregated as required by this Part. Each person depositing such money, securities or property shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from such bank or trust company that it was informed that the money, securities and property therein are being treated as belonging to option customers and are being held in accordance with the provisions of this Part. Such bank or trust company shall allow inspection of such accounts at any reasonable time by representatives of the Commission: *Provided, further,* That, up to a maximum of 10 percent of the money, securities or property accepted from an option customer as payment of the purchase price in connection with a commodity option transaction need not be treated and dealt with as belonging to the option customer and segregated as aforesaid.

(b) No money, securities or property deposited in accordance with paragraph (a) of this section shall be held, disposed of, used or treated as belonging to the depositing person or any person other than the option customers of such person: *Provided, however,* That such money may be invested in obligations of the United States, and in obligations fully guaranteed as to principal and interest by the United States. Such investments shall be made through an account or accounts used for the deposit of money, securities or property received from option customers and proceeds from any sale of such obligations shall be redeposited in such account or accounts. Each person which invests money belonging to option customers in obligations as described in this paragraph (b), shall separately account for such obligations and segregate such obligations as belonging to such option customers. Such obligations may only be deposited with a bank or trust company in the United States and shall be deposited under an account name which will clearly show that it contains obligations treated as belonging to option customers, segregated as required by this Part. Each person depositing such obligations shall obtain and retain in its files an acknowledgment from such bank or trust company that it was informed that the obligations are treated as belonging to option customers and are being held in accordance with the provisions of this Part. Such acknowledgment shall be retained for the period provided in § 1.31 of this chapter. Such bank or trust company shall allow inspection of the obligations at any reasonable time by representatives of the Commission.

(c) Each person which invests money treated as belonging to option customers as permitted hereunder shall keep a record showing the following: (1) The date on which such investments were made, (2) The name of the person through which such investments were made, (3) The amount of money so invested, (4) A description of the obligations in which such investments were made, (5) The identity of the depositories or other places where such obligations are segregated, (6) The date on which such investments were liquidated or otherwise disposed of and the amount of money received on such disposition, if any, and (7) The name of the person to or through which such investments were disposed of.

(d) Persons which invest money in obligations described in paragraph (b) of this section shall include such obligations in segregated accounts at values which at no time shall be greater than current market value, determined as of the close of the market on the last preceding market day.

(e) The deposit and/or investment of money as provided in paragraphs (a) or (b) of this section shall not operate to prevent the person so depositing and/or investing such money from receiving and retaining as its own any increment or interest resulting therefrom.

(f) The amount of money, securities and property which is and which must be in a segregated account in order to comply with the requirements of this Part shall be computed by each person required to segregate such money, securities and property as of the close of each business day. A record of such computation shall be made and kept, together with all supporting data in accordance with the provisions of § 1.31 of this chapter. Such computation shall be made prior to the opening of business on the next business day.

§ 32.7 Books and record keeping.

(a) Each person which accepts any money, securities or property (or extends credit in lieu thereof) from an option customer as payment of the purchase price in connection with a commodity option transaction shall keep full, complete and systematic records together with all pertinent data and memoranda of or relating to such transactions. Such records shall at least include all orders (filled, unfilled or cancelled), signature cards, books of records, journals, ledgers, cancelled checks, copies of all statements of purchase, exercise or lapse, and reports, letters, disclosure statements and confirmation statements required by § 32.5 of this Part, solicitation or advertising material (including the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations), circulars, memoranda, publications, writings, and all other literature or written advice distributed to option customers or prospective option customers. Upon the request of an authorized representative of the Commission, such person shall furnish the true name and address of each commodity option customer or prospective commodity option customer solicited.

(b) Each person referred to in paragraph (a) of this section shall also keep a record in permanent form which shall show the true name and address of each maker, underwriter, issuer or other person who assumes or purports to assume any financial responsibility for the fulfillment of any commodity option transaction solicited or accepted by such person, to the extent that such information is known or may be reasonably obtained by such person.

(c) Each person which accepts an order for a commodity option transaction from a person other than an option customer, shall keep full, complete and systematic records together with all pertinent data and memoranda of or relating to the transaction. Such records shall at least include the items set forth in paragraph (b) of this section and, to the extent necessary to reflect such person's participation in the transaction, shall include all items set forth in paragraph (a) of this section.

(d) Each person which accepts an order for a commodity option shall immediately upon receipt thereof prepare a written record of such order, including an account identification and order number, and shall record thereon by timestamp or other device, the date and time, to the nearest minute, that (1) the order is accepted, (2) the order is transmitted for execution, and (3) the order is executed.

(e) All records, memoranda and other documents required to be maintained by paragraphs (a) through (c), and to be prepared by paragraph (d), of this section shall be retained for the period specified in § 1.31 of this chapter, and each person required to maintain such records shall be required to produce the same for inspection and furnish true and correct copies thereof and information and reports as to the contents or meaning thereof when and as requested by any authorized representative of the Commission or the United States Department of Justice.

§ 32.8 Unlawful representations; execution of orders.

It shall be unlawful for—

(a). Any person required to be registered with the Commission in accordance with this Part expressly or impliedly to represent that the Commission, by declaring effective the registration of such person or otherwise, has directly or indirectly approved such person, or any commodity option transaction solicited or accepted by such person;

(b) Any person in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction expressly or impliedly to represent that compliance with the provisions of this Part constitutes a guarantee of the fulfillment of the commodity option transaction;

(c) Any person, upon receipt of an order for a commodity option transaction, unreasonably to fail to secure prompt execution of such order.

§ 32.9 Fraud in connection with commodity option transactions.

It shall be unlawful for any person directly or indirectly—

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever;

in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction.

§ 32.10 Option transactions entered into prior to the effective date of this part.

Nothing contained in this part shall be construed to affect any lawful activities that occurred prior to the effective date of this part.

The foregoing adoption by the Commission of the amendments to §§ 1.3 and 1.17, of the deletion of § 30.01, and of Part 32 shall become effective 15 days after the date this Notice is published in the FEDERAL REGISTER (December 9, 1976), except that § 32.6 of Part 32 of the foregoing rules shall become effective 30 days after the date of publication (December 27, 1976). In order to assure full and fair consideration of the various proposals that have been made over the many months in which option regulations have been considered, it has not been possible to implement appropriate regulations before now. That consideration having now been completed, however, the Commission finds that the public interest requires that the foregoing rules be adopted without any further delay inasmuch as the public has been without the protection of a comprehensive regulatory program in an area which historically has been fraught with abuses. Moreover, there has been ample notice and public participation in this rule-making proceeding and affected persons have had adequate notice and opportunity to comment on the subject of these rules and the issues involved in their consideration, as well as the terms of the rules themselves substantially as adopted. Furthermore, affected persons have had an adequate opportunity, through prior notices, to take the necessary steps to be in full compliance with the rules by the effective dates thereof.

Issued in Washington, D.C. on November 22, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-34934 Filed 11-23-76;9:22 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 918]

[Docket No. AO-162-A5]

FRESH PEACHES GROWN IN GEORGIA

Hearing On Proposed Amendment of Marketing Agreement, As Amended, and Order, As Amended

Notice is hereby given of a public hearing to be held December 9, 1976, in the County Agricultural Agent's Office, Everett Square Agricultural Building, West Church Street, Fort Valley, Georgia 31030, beginning at 10:00 a.m., local time, with respect to proposed amendment of the marketing agreement, as amended, and Order No. 918, as amended, regulating the handling of fresh peaches grown in Georgia.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendment, hereinafter set forth, and any appropriate modifications thereof, of the marketing agreement, as amended, and the order, as amended.

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

PROPOSED BY THE INDUSTRY COMMITTEE:

PROPOSAL NO. 1

Revise § 918.10 to read as follows:

§ 918.10 District.

"District" means the applicable one of the following described geographical subdivisions of the area:

(a) "South Georgia District" shall include the counties of Quitman, Coffee, Miller, Jeff Davis, Baker, Toombs, Terrell, Ware, Mitchell, Pierce, Worth, Evans, Brooks, Liberty, Turner, Glynn, Irwin, Echols, Atkinson, Early, Wheeler, Decatur, Montgomery, Randolph, Bacon, Dougherty, Wayne, Crisp, Charlton, Thomas, Bryan, Tift, McIntosh, Ben Hill, Berrien, Lanier, Clay, Telfair, Seminole, Clinch, Calhoun, Appling, Lee, Tattnall, Grady, Brantley, Colquitt, Long, Cook, Chatham, Wilcox, Camden, Lowndes, Stewart, Pulaski, Webster, Dodge, Sumter and Dooly;

(b) "Central Georgia District" shall include the counties of Muscogee, Bleckley, Marion, Laurens, Schley, Johnson, Macon, Candler, Houston, Glascock, Bullock, Twiggs, Wilkinson, Taylor, Washington, Crawford, Emanuel, Peach, Jefferson, Burke, Effingham, Chattahoochee, Treutlen, Bibb, Jenkins, and Screven; and

(c) "North Georgia District" shall include the counties of Harris, Talbot, Upson, Monroe, Jones, Baldwin, Hancock, Warren, McDuffie, Polk, Troup, Gwinnett, Lamar, Jackson, Fayette, Forsyth, Jasper, Franklin, Douglas, Gordon, Henry, Dade, Greene, Whitfield, Lincoln, Haralson, Paulding, Cobb, De Kalb, Rockdale, Walton, Oconee, Oglethorpe, Floyd, Richmond, Cherokee, Pike, Clarke, Coweta, Elbert, Butts, Banks, Carroll, Chattooga, Clayton, Dawson, Morgan, Catoosa, Wilkes, Gilmer, Fannin, Lumpkin, Union, White, Towns, Habersham, Stephens, Rabun, Columbia, Bartow, Meriwether, Barrow, Heard, Madison, Spalding, Hall, Putnam, Hart, Fulton, Pickens, Newton, Walker, Taliaferro, and Murray.

PROPOSAL NO. 2

Revise § 918.15 to read as follows:

§ 918.15 Establishment of Industry Committee.

An Industry Committee, consisting of nine members, is hereby established to administer the terms and provisions of this part. The members of said Industry Committee, and their respective alternates, shall be selected in accordance with the provisions of this part. There shall be included an individual who shall serve as a non-voting member of the committee and an individual to serve as his alternate. These individuals shall not be a grower or handler of peaches, nor shall they be affiliated with one.

PROPOSAL NO. 3

Revise § 918.16 to read as follows:

§ 918.16 Representation by districts on Industry Committee.

(a) Two members of the Industry Committee shall be selected from among growers in the South Georgia District.

(b) Four members of the committee shall be selected from among growers in the Central Georgia District.

(c) Two members of the committee shall be selected from among growers in the North Georgia District.

PROPOSAL NO. 4

§ 918.17 [Deleted]

Delete § 918.17 *Selection of initial members of Industry Committee.*

PROPOSAL NO. 5

Revise § 918.18 to read as follows:

§ 918.18 Nomination of succeeding members of Industry Committee.

The Industry Committee shall hold or cause to be held prior to January 31 of each year a meeting or meetings of growers in each of the districts designated in § 918.10, for the purpose of designating nominees from among whom the Secretary may select members and alternate members of the Industry Committee. The committee shall give adequate notice of any such meeting or meetings to all growers in the respective district. The members of the committee, selected pursuant to § 918.21, may at the first meeting after the effective date of this part and whenever necessary thereafter, by a majority vote of those present, nominate an individual to serve as a non-voting member and an individual to serve as his alternate.

PROPOSAL NO. 6

Revise § 918.26 to read as follows:

§ 918.26 Term of office.

The members of the Industry Committee and their respective alternates, selected subsequent to the initial members and alternates, shall serve for the fiscal period for which they have been selected and if their successors have not been selected and qualified prior to the end of the respective fiscal period, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified. The nonvoting member and his alternate shall serve at the pleasure of the Secretary. The Secretary shall give consideration to any recommendation of the committee with respect to termination of the appointment of this member and alternate.

PROPOSAL NO. 7

Revise § 918.27 to read as follows:

§ 918.27 Reimbursement for expense.

Each member of the Industry Committee and each alternate member when acting for a member or when designated by the committee to attend, may be reimbursed for expenses incurred (a) while attending committee meetings; (b) while attending to committee business authorized by the committee; and (c) while attending each consultation or conference with any committee, or representatives thereof, established under any marketing agreement and order program pursuant to the act, with respect to the handling of peaches grown in Georgia or in any other State.

PROPOSAL NO. 8

§ 918.29 [Amended]

Amend § 918.29 by deleting paragraphs (g) and (q), by deleting reference to the

Distributors' Advisory Committee in paragraph (h), and by appropriately redesignating the remaining paragraphs in the section.

PROPOSAL NO. 9

§ 918.32–918.38 [Deleted]

Delete §§ 918.32, 918.33, 918.34, 918.35, 918.36, 918.37, and 918.38, all of which relate to the Distributors' Advisory Committee.

PROPOSAL NO. 10

Revise § 918.44 to read as follows:

§ 918.44 Accounting.

If at the end of a fiscal period the assessments collected are in excess of expenses incurred, the Industry Committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve up to an amount of $20,000. Such reserve funds may be used (a) to cover any expenses authorized by this part and (b) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

PROPOSAL NO. 11

§ 918.81 [Amended]

Amend § 918.81 by deleting the provision requiring that the Secretary conduct a referendum every 2 years to determine if growers favor termination of the marketing order, and substitute therefor a provision requiring that the Secretary conduct a referendum when growers who produced at least 10 percent of the inspected peaches shipped during the prior season petition the Secretary requesting that he conduct a referendum.

PROPOSED BY THE FRUIT AND VEGETABLE DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 12

Revise § 918.1 to read as follows:

§ 918.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

PROPOSAL NO. 13

Revise §918.40 to read as follows:

§ 918.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 918.41.

PROPOSAL NO. 14

Revise § 918.41 to read as follows:

§ 918.41 Assessments.

Each handler who first ships peaches shall pay upon demand, to the Industry Committee such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period: *Provided,* That no assessment shall be levied against peaches that are exempt from regulation pursuant to § 918.71 or against peaches that are exempt from inspection pursuant to § 918.64. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers as the first shippers thereof during the same fiscal period.

PROPOSAL NO. 15

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendment thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Lakeland Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 302 South Massachusetts Avenue, Rms. 204–206—Florida Citrus Mutual Bldg. (Mailing address: P.O. Box 9), Lakeland, Florida 33802, or from the Hearing Clerk, Room 112–A Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C. on November 19, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76–34681 Filed 11–23–76;8:45 am]

[7 CFR Part 1108]

[Docket Nos. AO–243–A32; AO–237–A28; AO–219–A34]

MILK IN THE CENTRAL ARKANSAS; FORT SMITH, ARKANSAS AND MEMPHIS, TENNESSEE MARKETING AREAS

Hearing On Proposed Amendments to Tentative Marketing Agreements and Orders

Notice is hereby given of a public hearing to be held December 14, 1976 at the Sheration—Little Rock, 6th and Ferry Streets, Little Rock, Arkansas, beginning at 10:00 a.m. local time with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid specified marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposal to combine the abovenamed marketing areas under one order raises the issue of whether the provisions set forth in Proposal No. 1 would tend to effectuate the declared policy of the Act if they are applied to the entire marketing area as proposed, and, if not, what modifications of the provisions would be appropriate.

The issues raised by this proposal include whether the declared policy of the Act would tend to be effectuated by:

(a) Merger of one or more of the above marketing areas, or any combination thereof, including also the redefinition of marketing areas for separate or combined orders which include part or all of the areas presently defined in the respective orders or proposed herein to be regulated; and

(b) Adoption of any of the proposed provisions, or appropriate modification thereof, for any separate order or any combination of such orders, including a review of the appropriate pricing and pooling provisions of the orders whether separate or in any combination.

The proposed merger of orders also raises the issue of the appropriate disposition of the producer-settlement fund in the Central Arkansas order and of the marketing service funds, administrative funds, and advertising and promotion funds accumulated under the respective orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 1

PART 1108—MILK IN ARKANSAS—MEMPHIS MARKETING AREA

GENERAL PROVISIONS

§ 1108.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1108.2 Arkansas-Memphis, Marketing Area.

"Arkansas-Memphis Marketing Area" hereinafter called the "Marketing Area"

means all of the territory within the counties enumerated below.

ZONE I

ARKANSAS COUNTIES

Arkansas.	Logan.
Clark.	Lonoke.
Cleburne.	Mississippi.
Conway.	Monroe.
Craighead.	Montgomery.
Crawford.	Perry.
Crittenden.	Phillips.
Cross.	Poinsett.
Faulkner.	Polk.
Franklin.	Pope.
Garland.	Prairie.
Grant.	Pulaski.
Greene.	Saline.
Hot Spring.	Scott.
Independence.	St. Francis.
Jackson.	Sebastian.
Jefferson.	Van Buren.
Johnson.	White.
Lawrence.	Woodruff.
Lee.	Yell.

ZONE II

TENNESSEE COUNTIES

Chester.	Lauderdale.
Fayette.	Madison.
Hardeman.	McNairy.
Hardin.	Shelby.
Haywood.	Tipton.

ZONE III

MISSISSIPPI COUNTIES

Alcorn.	Monroe.
Benton.	Panola.
Chickasaw.	Pontotoc.
Clay.	Prentiss.
DeSoto.	Tate.
Itawamba.	Tippah.
Lafayette.	Tishomingo.
Lee.	Tunica.
Marshall.	Union.

§ 1108.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk to a wholesale or retail outlet (including any delivery through a vendor, or from a plant or plant store) except a delivery to another pool plant.

§ 1108.4 [Reserved]

§ 1108.5 Distributing plant.

"Distributing plant" means all of the premises and facilities of a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk.

§ 1108.6 Supply plant.

"Supply plant" means a plant approved as a Grade A facility by a duly constituted health authority from which fluid milk products, except filled milk, in an amount not less than 75 percent of its receipts of producer milk and milk received from a handler described in § 1108.9(c) is moved during such month to a plant described in § 1108.7(a) (1) and (2): *Provided,* That any such plant which qualifies as a supply plant for each of the months during the period September through January shall upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through August.

§ 1108.7 Pool plant.

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

(1) A distributing plant from which Class I milk, except filled milk, equal to not less than 45 percent of its receipts of milk from producers (including milk diverted pursuant to § 1108.13(d)), handlers described in § 1108.9(c) and other pool plants is disposed of during the month, on routes or through plant stores, to wholesale or retail outlets (except pool plants) and from which Class I milk, except filled milk, equal to not less than 10 percent of such receipts is disposed of during the month, on routes in the marketing area;

(2) A distributing plant which qualified as a pool plant during the immediately preceding month pursuant to paragraph (a) (1) of this section and has route disposition during the month of Class I milk, except filled milk, equal to not less than 10 percent of its receipt of milk from producers, handlers described in § 1108.9(c) and other pool plants but has route disposition of less than 45 percent of such receipts shall continue to be a pool plant until the fourth consecutive month that such percentage is less than 45 percent; and

(3) A supply plant.

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

(1) A producer-handler plant;

(2) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless a greater volume of Class I milk, except filled milk, was disposed of from such plant during the 3-month period immediately preceding to retail or wholesale outlets (except pool plants or nonpool plants) in the Arkansas-Memphis marketing area than in the marketing area regulated pursuant to such other order; and

(3) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant qualified as a pool plant for each of the preceding months of September through January.

§ 1108.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are shipped during the month to a pool plant qualified pursuant to § 1108.7, and which is not an other order plan nor a producer-handler plant.

§ 1108.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more distributing plants.

(b) A cooperative association with respect to milk of products diverted for the account of such association in accordance with the provisions of § 1108.13.

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered.

(d) Any person who operates a partially regulated distributing plant.

§ 1108.10 Producer-handler.

"Producer-handler means any person:

(a) Who operates a dairy farm and distributing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Whose receipts of fluid milk products during the month from pool plants do not exceed the lesser of 5 percent of his Class I disposition during the month or 10,000 pounds;

(d) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from his own farm production or pool plants; and

(e) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

§ 1108.11 [Reserved]

§ 1108.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1108.9(c); or

(3) Diverted from a pool plant in accordance with § 1108.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44(a)(8)(iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1108.13 Producer milk.

"Producer milk" shall be that skim milk or butterfat for each handler's account in milk (in an amount determined by weights and measurements for individual producer's deliveries, as taken at the farm in the case of milk moved from the farm in a bulk tank truck) which is received pursuant to paragraph (a), (b), and (c), of this section and diverted pursuant to paragraph (d) of this section as follows:

(a) Received directly from producers' farms at a pool plant by the operator of the pool plant (except that received from a handler described in § 1108.9(c)) or diverted by the pool plant operator pursuant to paragraph (d) of this section.

(b) Received directly from producers' farms for his account by a handler described in § 1108.9(c) or diverted for his account pursuant to paragraph (d) of this section.

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1108.9(c), is the handler for such milk;

(d) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1108.9(b) subject to the following conditions:

(1) The total quantity of milk so diverted during the months of September through January and February through August shall not exceed one-third and two-thirds, respectively, of the total producer milk pooled under this part during the month by a cooperative association or by a handler operating a pool plant.

(2) Any milk diverted in excess of the limits prescribed in paragraph (d)(1) of this section shall not be producer milk. If the diverting handler fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler during the month to a nonpool plant shall be producer milk.

(3) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

§ 1108.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1108.40(b)(1) from any source other than producers, handlers described in § 1108.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1108.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1108.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1108.40(b)(1)) for which the handler fails to establish a disposition.

§ 1108.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1108.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1108.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1108.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

§ 1108.30 Reports of receipts and utilization.

Handler Reports

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1108.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1108.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in fluid milk products disposed of on routes in the marketing area.

(c) Each handler described in § 1108.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and

milk products in such manner as the market administrator may prescribe.

§ 1108.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who elects pursuant to § 1108.73(d) to pay producers shall report to the market administrator the following information:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1108.32 Other reports.

(a) On or before the 20th day of each month each handler described in § 1108.9 (a), (b) and (c), except a cooperative association with respect to producer milk for which it elects to collect payments, shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 7th day after the end of each month, each handler described in § 1108.9 (a), (b) and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the pounds of base milk;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim milk and butterfat received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

CLASSIFICATION OF MILK

§ 1108.40 Classes of utilization.

Except as provided in § 1108.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1108.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product; eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milk fat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1108.15; and

(6) In shrinkage assigned pursuant to § 1108.41(a) to the receipts specified in § 1108.41(a)(2) and in shrinkage specified in § 1108.41 (b) and (c).

§ 1108.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1108.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1108.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1108.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1108.42 Classification of transfers and diversions.

(a) Transfers to pool plants. Subject to paragraph (a)(4) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. The classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1108.44(a)(7) or the corresponding step of § 1108.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1108.44(a)(11) or (12) or the corresponding steps of § 1108.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(4) Subject to the provisions of paragraph (a)(2) and (3) of this section, skim milk or butterfat transferred in the form of a bulk fluid milk product from a supply plant to another pool plant shall be allocated pro rata to the pounds of milk remaining in each class at the transferee-plant after the computation pursuant to § 1108.44(a)(10)(i) and the corresponding step of § 1108.44(b).

(b) Transfers and diversions to other order plants. Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3), of this section:

(1) If transferred as paokaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3)) of this section;

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1108.40.

(c) Transfers to producer-handlers. Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) Transfers and diversions to other nonpool plants. Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1108.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from such nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluild milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant

fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first, and any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1108.43 General classification rules.

In determining the classification of producer milk pursuant to § 1108.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1108.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1108.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1108.40, 1108.41, and 1108.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to 1108.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1108.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1108.9(a) for each of his pool plants separately and of each handler described in § 1108.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1108.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1108.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1108.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III;

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in

Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1108.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handlers; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1108.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) (i) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(ii) Subtract pro rata from the pounds of skim milk remaining in each class the pounds of skim milk received in the form of a bulk fluid milk product from a supply plant described in § 1108.6.

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred, or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1108.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds if skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section; should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available:

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant that were not subtracted pursuant to paragraph (a) (10) (ii) of this section according to the classification of such products pursuant to § 1108.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk from a handler described in § 1108.9 (c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk from a handler described in § 1108.9 (c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding steps of paragraph (b) of this section.

§ 1108.45 Market administrator's reports and announcements concerning classification.

The marketing administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1108.44(a) (12) and the corresponding step of § 1108.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1108.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1108.50 Class prices.

Subject to the provisions of § 1108.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.94.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1108.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1108.52 Plant location adjustments for handlers.

(a) For milk received at a pool plant from producers or a handler described in § 1108.9(c) and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the Class I price specified in § 1108.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (3) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1108.2, the adjustment shall be as follows:

(i) For a plant located in Zone I, north of Interstate Highway No. 40, and more than 50 miles from the County Courthouse, Forrest City, Arkansas, the County Courthouse, Fort Smith, Arkansas, or the State Capitol, Little Rock, Arkansas, whichever is nearest, the Class I price shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and such nearest point;

(ii) For a plant located in Zone II and more than 50 miles from the City Hall, Memphis, Tennessee, the Class I price shall be reduced 9 cents for the first 50 miles and at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and the City Hall, Memphis, Tennessee;

(iii) For a plant located in Zone III and more than 50 miles from the City Hall, Memphis, Tennessee, the Class I price shall be increased 9 cents for the first 50 miles and at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and the City Hall, Memphis, Tennessee.

(2) For a plant located outside the marketing area, west of the Mississippi River and more than 50 miles from the County Courthouse, Forrest City, Arkansas, the County Courthouse, Fort Smith, Arkansas, of the State Capitol, Little Rock, Arkansas, whichever is nearest, the Class I price shall be adjusted at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and such nearest point; *Provided,* That for a plant located south of Interstate Highway No. 40, the Class I price shall be increased and for a plant located north of such highway, the Class I price shall be decreased.

(3) For a plant located outside the marketing area east of the Mississippi River and more than 50 miles from the City Hall, Memphis, Tennessee, the Class I price shall be adjusted 9 cents for the first 50 miles and at the rate of 1.5 cents for each additional 10 miles or fraction thereof between such plant and the City Hall, Memphis, Tennessee: *Provided,* That for a plant located south of the Tennessee-Mississippi and Tennessee-Alabama border, the Class I price shall be increased and for a plant located north of the Tennessee-Mississippi and Tennesee-Alabama border, the Class I price shall be decreased.

(b) For the purpose of calculating such adjustment, Class I transfers between pool plants shall be assigned Class I disposition to the extent that such transfer is allocated to Class I pursuant to § 1108.44. Such assignment to be made in sequence beginning with the transferor plant with the highest Class I price.

(c) All distances determined pursuant to this section shall be the shortest hard surfaced distance as determined by the Market Administrator.

§ 1108.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1108.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

§ 1108.60 Handlers value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1108.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1108.9(c) in each class as determined pursuant to § 1108.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1108.44(a) (14) and the corresponding step of § 1108.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1108.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the

Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1108.44(a)(9) and the corresponding step of § 1108.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7)(i) through (iv) and the corresponding step of § 1108.44(b) excluding receipts of bulk fluid cream products from another plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7)(v) and (vi) and the corresponding step of § 1108.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(11) and the corresponding step of § 1108.44(b), excluding such skim milk and butterfat in receipts of bulk flued milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract for a handler described in § 1108.9(c) the amount obtained from multiplying the Class III price as adjusted by the butterfat differential specified in § 1108.74 for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month.

§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) For each month the market administrator shall compute the uniform price (or weighted average price) per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1108.60 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to § 1108.71 for the preceding month;

(2) Add or subtract an amount equal to the total value of the location adjustments computed pursuant to § 1108.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1108.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months of March through July, shall be the "uniform price" for milk of 3.5 percent butterfat content received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract the amount resulting from the computations made pursuant to paragraph (a)(1) through (4) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(2) Compute the aggregate value of excess milk by assigning such milk, in series beginning with Class III, to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices less 5 cents and adding together the resulting amounts;

(3) Divide the aggregate value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b)(3) of this section, plus 4 cents, times the hundredweight of excess milk from the aggregate value of milk obtained in paragraph (b)(1) of this section;

(5) Divide the result obtained in paragraph (b)(4) of this section by the total hundredweight of base milk of handlers included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

§ 1108.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

§ 1108.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1108.71, 1108.76 and 1108.77, and out of which he shall make all payments pursuant to §§ 1108.73(a) through (f) 1108.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1108.71 Payments to the producer-settlement fund.

(a) Subject to paragraphs (c) and (d) of this section, each handler shall pay to the market administrator on or before the 25th day of each month an amount determined by multiplying the handler's receipts during the first 15 days of such month of producer milk (excluding, in the case of a handler described in § 1108.9(c), producer milk delivered to a pool plant) and milk from a handler described in § 1108.9(c) by the Class III price for the preceding month, less:

(1) Payments made by the handler on or before such date to producers for milk received during the 15-day period; and

(2) Proper deductions authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value (at the Class III price) of the milk received from the producer during the 15-day period.

(b) Subject to paragraphs (c) and (d) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1108.60, as adjusted by the butterfat differential specified in § 1108.74, and pursuant to § 1108.60 (b) through (g), less:

(1) Payments made by the handler pursant to paragraph (a) of this section for such month:

(2) Payments, other than those specified in § 1103.73(d), that were made by the handler on or before such date to producers for milk received during such month;

(3) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk, except that the amount deducted for each produced shall not exceed the value of the milk received from the producer during the month; and

(4) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value was computed pursuant to § 1108.60(f).

(c) The following conditions shall apply with respect to the payments prescribed in paragraphs (a) and (b) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or on any Monday that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(d) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1108.73(c).

§ 1108.72 [Reserved]

§ 1108.73 Payments to producers and to cooperative associations.

(a) Subject to pargaraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 28th day of each month for milk for which payment pursuant to § 1108.71(a) has been received by the market administrator. Such payment shall be at a rate per hundredweight equal to the Class III price for the preceding month less the amounts specified in § 1108.71(a)(1) and (2).

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 16th day after the end of each month for milk for which payment pursuant to § 1108.71(b) has been received by the market administrator or offset pursuant to § 1108.71(d). Such payment shall be at the uniform price computed pursuant to § 1108.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1108.74 and 1108.75;

(2) Less the payments described in § 1108.71(b)(2) and paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1108.86;

(4) Less the authorized deductions specified in § 1108.71(b)(3); and

(5) Any adjustments for errors in calculating payments to an individual producer for past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(e) The following conditions shall apply with respect to the payments prescribed in paragraph (a) through (d) of this section:

(1) If the date by which such payments are to be made falls on a Saturday or Sunday or on any Monday that is a national holiday, such payments need not be made until the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1108.71(c)(2) or paragraph (e)(1) of this section results in a delay in the partial or final payments by handlers to the market administrator or by the market administrator to handlers, the corresponding partial or final payments prescribed in paragraphs (a) thorugh (d) of this section may be delayed by the same number of days.

(f) If the market administrator does not receive the full payment required of a handler pursuant to § 1108.71, he shall reduce uniformly per hundredweight the payments due producers for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

(g) Subject to § 1108.71(c)(1) and (2), each handler who receives bulk fluid milk products from a pool plant operated by a cooperative association shall pay the following amounts for such milk to the market administrator, who in turn shall transmit such money to the cooperative association:

(1) On or before the 25th day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the Class III price for the preceding month; and

(2) On or before the 14th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1108.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1108.74, less any payment made by the handler pursuant to paragraph (g)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the higher of the Class I prices applicable at the transferee-plant and the transferor-plant.

§ 1108.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1108.73, the uniform price computed pursuant to § 1108.61 for the month shall be adjusted by the amounts set forth in § 1108.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1108.71, the uniform price shall be adjusted by the amount set forth in § 1108.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1108.76 Payments by handlers operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1108.30(b) and 1108.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1108.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing pursuant to § 1108.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1108.60 for such handler shall include, in lieu of the value of other source milk specified in § 1108.60(f) less the value of such other source milk specified in § 1108.71(a) (2) (ii), a value of milk determined pursuant to § 1108.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1108.6 subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1108.30(b) and 1108.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1108.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

§ 1108.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1108.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1108.71, 1108.73(g), 1108.76, 1108.77, or 1108.85 shall be increased at the rate of nine percent per annum computed daily beginning with the day following the day such payment is due and continuing through the day prior to the day such payment is received in the market administrator's office, provided that for the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1108.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk received by a handler described in § 1108.9(c) except that transferred to another handler operating a pool plant;

(b) Producer milk of a handler operating a pool plant (including such handler's own production), plus milk received from a handler described in § 1108.9(c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a) (7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1108.76(a) (2).

§ 1108.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator in making payments to producers for milk (other than milk of a handler's own farm production) pursuant to § 1108.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight as may be prescribed by the Secretary. Such money shall be used by the market ad-

ministrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 16th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

BASE-EXCESS PLAN

§ 1108.90 Base milk.

"Base milk" means milk received by handlers from a producer during any of the months of March through July which is not in excess of such producer's base computed pursuant to § 1108.93.

§ 1108.91 Excess milk.

"Excess milk" means milk received by handler from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1108.93.

§ 1108.92 Computation of daily average base for each producer.

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of this part during the immediately preceding period of September through January by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under this part, but not less than 120. In the case of producers delivering milk to a plant which first became a pool plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the plant had been a pool plant during such period.

§ 1108.93 Determination of monthly base of each producer.

Subject to the rules set forth in § 1108.94, the market administrator shall calculate a monthly base for each producer whose milk was received by a handler as producer milk by multiplying such producer's daily base computed pursuant to § 1108.92 by the number of days in such month.

§ 1108.94 Base rules.

The following rules shall apply in connection with the transfer of daily average bases for each producer computed pursuant to § 1108.92:

(a) A daily base may be transferred from a producer holding such base to other producers in increments of not less than 50 pounds: *Provided,* That, any producer who discontinues producing Grade A milk may transfer any remaining portion of such base. Such transfer shall become effective at the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the base-holder, or his heirs, and by the person to whom such base is to be transferred; and

(b) If a base is held jointly, base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the producer to whom such base is to be transferred.

§ 1108.95 Announcement of established bases.

On or before February 25 of each year the market administrator shall notify each producer of the daily average base established by such producer.

§ 1108.96 Monthly announcement of base milk and excess milk for each producer.

On or before the 11th day after the end of each of the months of March through July, the market administrator shall notify each handler of the amount of base milk and excess milk received from each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1108.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1108.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1108.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1108.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1108.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1108.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1108.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1108.114 Agency operating procedure.

A major of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1108.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the term and provisions within the scope of Agency authority pursuant to § 1108.110;

(b) Make rules and regulations to effectuate the purposes of Pub. L. 91–670;

(c) Recommended amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1108.110 and 1108.117.

§ 1108.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1108.110 and 1108.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1108.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1108.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1108.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1108.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1108.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form perscribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June or September for milk to be marketed during the ensuing calander quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1108.121 Duties of the market administrator.

Except as specified in § 1108.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside the amounts subtracted under § 1108.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State Law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1108.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund

shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1108.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.122).

(d) Make the necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1108.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1108.70.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Charles S. McDonald, P.O. Box 4225, Asher Avenue Station, Little Rock, Arkansas 72204; or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on November 19, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-34757 Filed 11-23-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 210, 211 and 212]

EXEMPTION OF MOTOR GASOLINE FROM THE MANDATORY PETROLEUM ALLOCATION AND PRICE REGULATIONS

Proposed Rulemaking; and Public Hearings; Negative Determination of Environmental Impact

The Federal Energy Administration (FEA) hereby gives notice that, following a preliminary analysis of the impact of regulation of motor gasoline (as defined in 10 CFR 211.51 and 212.31) pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (EPAA), it has tentatively concluded that this product should be exempted from its Mandatory Petroleum Allocation and Price Regulations. Therefore, by this notice of proposed rulemaking, FEA is proposing two amendments to be submitted to the Congress in accordance with the provisions of section 12 of the EPAA, section 551 of the Energy Policy and Conservation Act (EPCA) and section 102 of the Energy Conservation and Production Act (ECPA), to exempt motor gasoline from the application of the Mandatory Petroleum Allocation and Price Regulatiosn (10 CFR Parts 210, 211 and 212), thereby converting the EPAA to standby authority with respect to the pricing and the allocation of motor gasoline. These proposed amendments have been issued concurrently with FEA's "Preliminary Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations" (the Preliminary Findings).

In connection with its proposed exemption of motor gasoline, the FEA also gives notice of a proposal to establish a special set-aside for motor gasoline to alleviate possible supply dislocations following deregulation.

FEA further gives notice that it will hold public hearings and receive written comments with respect to this proposed exemption of motor gasoline, the Preliminary Findings, and the proposed set-aside. If, after all comments received during the public comment period are fully considered, FEA concludes that its preliminary findings and views are correct, two energy actions to exempt motor gasoline from regulation will be submitted to the Congress. The set-aside would become effective upon the effectiveness of the proposal to exempt motor gasoline from allocation controls.

BACKGROUND

Because supplies of crude oil and refined petroleum products have generally been sufficient since the end of the 1973 oil embargo, and FEA's domestic crude oil allocation (entitlements) program equalizes refiners' crude costs to a competitive range, it has been apparent for some time that the complex regulatory program created for the embargo shortage period may no longer be necessary to assure that the original objectives of the regulatory program are achieved with regard to some or all products.

On December 22, 1975, the President signed into law the Energy Policy and Conservation Act (EPCA) which, among other things, extended the EPAA, eliminated the cumbersome exemption procedures of section 4(g)(2) and provided new and more flexible exemption procedures in section 455, which added section 12 to the EPAA. In the Conference Report accompanying S. 622, the conferees stated with respect to section 455 of the EPCA:

> The United States still faces a critical energy problem. However, the dimensions of that problem are different from those which existed in 1973 and were by the EPAA. There is no longer a general shortage of crude oil or refined petroleum products, with the exception of propanes. In many ways, the supply side of the market has returned to near the pre-embargo which prevailed in 1972.
>
> In view of these changed conditions, a comprehensive regulatory structure * * * may no longer be necessary. On the other hand, to allow such a comprehensive structure to expire, overnight, may itself create severe dislocations. To the extent that mandatory controls are no longer needed or desirable, a gradual return to an unregulated market is preferable to sudden decontrol.
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> * * * * *
>
> Extension of the EPAA and its conversion to a standby authority offers, in addition, the potential for a smooth transition of petroleum markets from a closely regulated state to a large [sic] unregulated status subject to standby pricing and allocation authority. [Conference Report to Accompany S. 622, Report No. 94-516, p. 203-204, December 8, 1975.]

In February 1976, the FEA held public hearings and received written comments on a complete reevaluation of FEA price and allocation regulations as required by section 454 of the EPCA. The overwhelming majority of comments in that proceeding advocated the exemption of all refined petroleum products from FEA regulations

FEA has accordingly proceed in a gradual manner to exempt refined products from price and allocation regulations and thereby to return to an unregulated market subject to standby price and allocation controls. On June 1, 1976, the exemption of residual fuel oil became effective; on July 1, middle distillates were so exempted. On September 1, naphthas, gas oils, greases, lubricants, certain petrochemical feedstocks and other specialty products were exempted, and most recently, on October 1, naphtha base jet fuel was exempted. To date, almost half the products produced by domestic refiners from crude oil have been exempted from regulation and a smooth transition from a closely regulated state to an unregulated status has been achieved with respect to these products.

FEA is continuing the examination of its regulations in light of the comments received in the reevaluation proceeding and other available information with a view toward the further exemption of refined petroleum products still under controls where the regulations issued pursuant to section 4(a) of the EPAA are no longer necessary to achieve the objectives of that legislation. On the basis of evidence available to FEA, because so great a portion of refined petroleum products have been exempted from regulation and supplies are ample, the effect of the price and allocation regulations on the refined products still subject to controls currently tends more to create market distortions than to further the objectives of the EPAA.

EXEMPTION PROCEDURE

Section 455 of the EPCA has provided more flexibility in the exemption of products than was the case under the EPAA prior to to enactment of the EPCA. Certain products or categories of products may be exempted in the same proceeding, for example, and an exemption is no longer limited to 90 days in length. FEA may propose to exempt and oil or refined product category from the regulation prescribed under section 4(a) of the EPAA if it determines that the exemption is consistent with the attainment of the public policy objectives specified in sec-

tion 4(b)(1) of the EPAA. Those objectives are as follows:

(A) Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

(B) Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(D) Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distributing, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

(E) The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

(G) Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

(i) Fuels, and

(ii) Minerals essential to the requirements of the United States, and for required transportation related thereto;

(H) Economic efficiency; and

(I) Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

An amendment exempting crude oil, residual fuel oil, or a refined petroleum product with respect to a class of persons or transactions with respect to any market level, must be submitted to the Congress before it takes effect. An exemption amendment may take effect if not disapproved by either House of Congress within 15 days under expedited Congressional review procedures.

Section 12 of the EPAA further provides that any amendment submitted to Congress which proposes to exempt crude oil (if permissible under and consistent with the requirements and limitations of section 8 of the EPAA), residual fuel oil, or any refined petroleum product from the allocation regulations must be accompanied by a finding that the oil or product is no longer in short supply and that the exemption would not have an adverse impact on the supply of any other oil or product. Any proposed exemption with respect to price must be accompanied by findings that competition and market forces would provide adequate protection for the consumer, and that such amendment would not result in inequitable prices for any class of user. Any exemption amendment submitted to the Congress must also be accompanied by an analysis of and FEA's views on the potential economic impact of such amendment.

Any oil or refined petroleum product which is exempted from the regulation under section 4(a) of the EPAA is subject to the reimposition of controls if FEA determines that reimposition is necessary for and consistent with the objectives specified in section 4(b)(1). Subsequent reexemption of that oil or refined petroleum product would not be subject to Congressional review.

In addition to the requirements and procedures set forth in section 12 of the EPAA and section 551 of the EPCA, section 102 of the ECPA, enacted on August 14, 1976, prohibits FEA from submitting to Congress as one energy action an amendment proposing exemption of any oil, refined petroleum product or refined product category from both the allocation and pricing regulations. However, FEA may concurrently submit to Congress an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.

Proposed Exemption

As section 12(c)(2) of the EPAA requires that an exemption amendment apply to only one refined petroleum product or one refined product category, and specifies that motor gasoline constitutes a single product category, FEA is proposing the exemption of motor gasoline as a single product category in this notice of proposed rulemaking. FEA is considering in one rulemaking at this time the exemption of motor gasoline from both the Mandatory Petroleum Allocation and Price Regulations because recent surplus supplies and market conditions appear to justify an end to both types of controls. Upon conclusion of this rulemaking, FEA will determine whether an exemption of this product category from either or both of the allocation and price regulations should be adopted and, if so, will as discussed earlier, submit the appropriate exemption amendments for this product category to the Congress for review of FEA's findings and views supporting such exemption. If FEA concludes that motor gasoline should be exempted from the Mandatory Petroleum Price Regulations, further conforming amendments to the price regulations, beyond the simple exemption proposed herein, may be necessary to fully reflect the exemption of motor gasoline pursuant to this proceeding.

For purposes of this proposed exemption, motor gasoline, as set forth in the allocation regulations (10 CFR 211.51), means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties, but does not include aviation gasoline. As defined in the pricing regulations (10 CFR 212.31), "gasoline" means "all of the various grades, other than aviation gasoline, of refined petroleum naphtha which, by its composition, is suitable for use as a carburant in internal combustion engines."

FEA has concluded in its Preliminary Findings on the basis of currently available data that this exemption would be consistent with and in furtherance of the attainment of the objectives set forth in section 4(b)(1) of the EPAA, as amended by section 451 of the EPCA. FEA's preliminary conclusions are that, since an adequate supply is anticipated, the continuation of allocation and price controls for motor gasoline is not necessary to protect the public health, safety and welfare (section 4(b)(1)(A)); the maintenance of all public services (section 4(b)(1)(B)); the maintenance of agricultural operations (section 4(b)(1)(C)); or the maintenance of exploration for and production or extraction of fuels and minerals (section 4(b)(1)(G)). Adequate supply and the positive effects of increased competition should insure that the proposed exemption is consistent with the preservation of an economically sound and competitive petroleum industry (section 4(b)(1)(D)); the equitable distribution of crude oil, residual fuel oil and refined petroleum products (section 4(b)(1)(F)); economic efficiency (section 4(b)(1)(H)); and minimization of economic distortions, inflexibility, and interference with market mechanisms (section 4(b)(1)(I)). The proposed exemption should have no adverse effect on the allocation of suitable crude oil to domestic refineries (section 4(b)(1)(E)). FEA emphasizes that these conclusions are preliminary and invites specific data, views and arguments with respect to the relationship between the objectives of the EPAA and the exemption contemplated by this proposal. Any further information received with respect to the compatibility of the exemption proposed herein with these objectives will be considered by FEA in formulating its final conclusions.

Tentative conclusions as set forth in the Preliimnary Findings include:

(1) Sufficient domestic refining capacity exists to adequately satisfy projected U.S. demand.

(2) Exemption of motor gasoline from the Mandatory Petroleum Allocation and Price Regulations would not have an ad-

verse impact on the supply of any other oil or refined product subject to the EPAA.

(3) Competition and market forces are adequate to protect consumers, following such an exemption from regulation.

(4) Such an exemption from regulation will not result in inequitable prices for any class of user of motor gasoline fuel or other products.

In connection with tentative conclusion (4) set forth above, it should be noted that FEA projects that no price increase will occur solely as a result of motor gasoline decontrol. FEA recognizes that current pricing regulations may not permit an adequate differential between the maximum allowable prices for unleaded and leaded gasoline. Upon decontrol, adjustments could occur to reflect the additional refining costs for unleaded gasoline, which may average approximately two cents a gallon. However, to the extent that these costs will be able to be recovered directly in the prices for unleaded gasoline, they will no longer have to be recovered in part in prices for leaded gasoline. Thus, although some shifting in prices could occur, there should be no net price increase. Furthermore, even if pricing controls were to continue, FEA expects to propose amendments to the regulations to permit the additional refining costs for unleaded gasoline to be recovered in the maximum allowable price for unleaded gasoline.

In addition, FEA recognizes that decontrol of other products may be beginning to disturb the normal pricing relationships between controlled and exempt products—principally gasoline and middle distillate—which had been maintained, when all products were under controls, by the cost allocation rules for refiners. Currently, with middle distillates and other products exempt from price controls, fewer costs are allocable to gasoline than was possible prior to the decontrol amendments adopted to date. If this situation were to continue for extended periods of time, it could ultimately have the effect of depressing ceiling prices for gasoline below what they would otherwise be were all refined products still subject to controls, and of creating corresponding increased cost pressures on middle distillate prices. Although adjustments to the price regulations in this regard would be unnecessary in a decontrolled environment, FEA expects to propose the amendments that would permit historical price relationships between gasoline and middle distillates to be maintained, in the event controls on motor gasoline should continue.

The Preliminary Findings also indicates FEA's tentative views concerning the potential economic impacts of exempting motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. It is not anticipated that there will be any adverse state or regional impacts resulting from the proposed exemption. As noted in the Preliminary Findings, recently effected regulatory changes afford refiners regional pricing flexibility of up to three cents a gallon and removal of controls should not result in disparate price increases for any region.

In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA believes that the proposed exemption may have a positive effect on competition. The proposed exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's analysis concludes that there will be no effect of the proposed exemption on the rate of unemployment in the United States, on the Consumer Price Index or on the implicit price deflator for the Gross National Product.

Proposed Set-Aside

FEA is hereby proposing Special Rule No. 4 to Subpart A of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211), which would establish a special set-aside for motor gasoline to protect marketers during the transitional period following removal of controls as to their ability to obtain supplies.

Following the submission to the Congress on June 15, 1976, of Energy Actions No. 3 and No. 4 to effect the exemption of middle distillates from allocation and pricing controls, FEA committed to Congress that it would take certain actions following the effectiveness of the middle distillate exemption to assure that supply dislocations would not occur in the period following the removal of controls. In satisfaction of this commitment, FEA adopted Special Rule No. 3 to Subpart A of 10 CFR Part 211, a set-aside for middle distillates effective through March 31, 1977. Special Rule No. 4, as proposed herein is derived substantially from Special Rule No. 3.

While FEA does not expect supply dislocations to occur as a result of motor gasoline decontrol, Special Rule No. 4 is designed as a safeguard against the same type of potential supply dislocations which prompted the adoption of Special Rule No. 3, and is proposed to be effective following the exemption of motor gasoline. FEA seeks to insure that no marketer of gasoline will lose its supply source without adequate time to arrange for a new supplier during the transitional period following the removal of controls. The proposal permits marketers who have made diligent unsuccessful efforts to obtain supplies of motor gasoline to be assigned as much as their previously authorized base period use from the special set-aside. Thes assignments could be made for periods of up to 90 days if required to permit the marketers to make their own supply arrangements or for longer if required to preclude hardships to consumers. The proposal also allows assignments to be made directly to consumers under the same hardship criteria that currently exist for motor gasoline in the state set-aside program. As proposed, the set-aside for each prime supplier constitutes three percent of the estimated portion of its total supply of motor gasoline for the particular month to be sold into the distribution system of a state for consumption therein. FEA is proposing that the motor gasoline special set-aside be administered by State Offices, which currently are authorized to administer both the state set-aside for motor gasoline and the special set-aside for middle distillates. The actual duration of proposed Special Rule No. 4 is dependent upon the effective date of the motor gasoline exemption, but, is proposed to remain in effect from its effective date of decontrol through the end of September 1977.

To further assure a smooth transition to a decontrolled situation, FEA is proposing to have motor gasoline decontrol become effective the first day of the month following the first full month subsequent to the expiration of the Congressional review period. FEA believes such a lead time would be necessary to allow gasoline marketers and purchasers to plan to operate in an unregulated market. FEA requests comments regarding the appropriate time period to delay the effective date of decontrol following the expiration of the Congressional review period.

FEA is also requesting comments as to whether a price monitoring system such as that adopted with respect to middle distillates might be appropriate to inhibit unwarranted price increases in the transitional period following decontrol of motor gasoline, and also the most effective manner in which such a system may be implemented.

Comments and Procedures

FEA's specific preliminary findings and views on the exemption proposed hereby and the data and information in support of the proposed exemption and the proposed Special Rule No. 4 are fully set forth in its Preliminary Findings. Interested persons may obtain copies of the Preliminary Findings by writing FEA, Office of Communications and Public Affairs; Publications Distribution Center, Washington, D.C. 20461. Copies will also be available at the FEA Press Room, Room 3138, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

FEA has determined that in addition to holding a public hearing on this proposal in Washington, D.C., it will hold regional hearings in Atlanta, Chicago, Dallas, Denver, New York, and San Francisco.

In Washington, D.C., the hearing (hereinafter referred to as the National hearing) will be held beginning at 9:30 a.m., e.s.t., on December 14, 1976 in the Departmental Auditorium, Constitution Avenue, between 12th and 14th Streets, N.W., Washington, D.C., and will be continued if necessary at 9:30 a.m., e.s.t., on December 15, 1976 at the same location. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest in this proceeding may make a written request for an oppor-

tunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, Room 3309, Box JP, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., on December 8, 1976. A request may be hand delivered between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Requests should be submitted in accordance with the request procedures set forth below.

The regional hearings in Atlanta, Chicago, Dallas, Denver, New York, and San Francisco will be held beginning at 9:30 a.m., local time, December 14, 1976 at the locations specified below, except for the New York Regional hearing which will begin on December 14 at 1 p.m., local time, and all the regional hearings will be continued if necessary on December 15, 1976 at 9:30 a.m., local time, at the same locations. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest may make a written request for an opportunity to make an oral presentation. Such a request should be directed to FEA at the address given below for the appropriate Region, and in accordance with the request procedures set forth below. Requests must be received before 4:30 p.m., local time, on December 8, 1976.

FEA region	Submit request to testify and questions to—	Hearing location
Atlanta, Ga	FEA, 1655 Peachtree St., Atlanta, Ga. 30309	Atlanta Civic Center, Room 101, 395 Piedmont Ave., NE, Atlanta, Ga.
Chicago, Ill	FEA, 175 West Jackson Blvd., Room A-333, Chicago, Ill. 60604.	Everett McKinley Dirksen Building, Room 2525, 219 South Dearborn St., Chicago, Ill.
Dallas, Tex	Mr. Gary Andrews, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Tex. 75235.	Executive Inn, Jubilee Room, 3232 West Mockingbird Lane, Dallas, Tex. 75235.
Denver Colo	FEA, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226.	U.S. Post Office Building, Room 239, 1823 Stout St., Denver, Colo. 80202.
New York, N.Y	FEA, Regional Administrator, 26 Federal Plaza, New York, N.Y. 10007.	Conference Room, Room 305, 26 Federal Plaza, New York, N.Y. 10007.
San Francisco, Calif	FEA, Regional Administrator, 111 Pine St., San Francisco, Calif.	PSA Hotel Franciscan, 1231 Market St., San Francisco, Calif. 94103.

The following request procedures are applicable to both the National and regional hearings. Persons requesting an opportunity to make an oral presentation should submit their written requests to the appropriate address for the hearing in which they wish to appear. Requests should be labeled both on the document and on the envelope "Exemption of Motor Gasoline."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such interest; and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through December 14, 1976. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., local time, December 9, 1976. One hundred copies of his or her statement must be submitted to the Office of Regulations Management, FEA, Room 2214, 2000 M Street, N.W., Washington, D.C. 20461, before 9 a.m., e.s.t. on December 13, 1976 for the National hearing, and to the location of the hearing on the day the statement is scheduled to be presented, for the regional hearings.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the National hearings, to Executive Communications, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. before 4:30 p.m., e.s.t., December 9, 1976. Any interested person may submit questions to be asked of any person making a statement at the regional hearings to the same address as that for submitting requests to testify, before 4:30 p.m., local time, December 10, 1976. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of hearings, including the transcripts, will be retained by the FEA and made available for inspection at the Freedom of Information Office of the FEA, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, DC., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcripts from the reporters.

Interested persons are also invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed regulations set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box JP, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to the FEA, Executive Communications, with the designation "Exemption of Motor Gasoline." Fifteen copies should be submitted. All comments received by December 15, 1976, and all relevant information will be considered by the FEA before final action is taken on the proposed regulations.

The inflationary impact of this proposal has been considered by the FEA, consistent with Executive Order 11821, issued November 27, 1974, and OMB Circular A-107. FEA has determined that this document contains a major proposal requiring preparation of an Inflationary Impact Statement, the requirement for which is satisfied by the issuance of the Preliminary Findings.

A copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had the following comments:

In response to your recent letter, the Environmental Protection Agency has reviewed the Federal Energy Administration's draft notice of proposed rulemaking setting forth revisions to 10 CFR Parts 210, 211 and 212 "Exemption of Motor Gasoline From The Mandatory Petroleum Allocation and Price Regulations. EPA does not have detailed comments to make regarding the proposed regulations at this time. Nevertheless, we believe the exemption of motor gasoline from mandatory allocation and pricing regulations could result in both beneficial and adverse effects on the environment.

For example, if decontrol results in increased gasoline prices, the result could be to encourage vehicle owners to drive fewer miles, resulting in a reduction in automobile emissions. Increased prices could also provide investment incentives to the refining industry and encourage the installation of octane processing facilities necessary to achieve compliance with EPA's lead phasedown regulations without a shortage in gasoline supply. However, if decontrol results in an increased price differential between unleaded gasoline and leaded regular gasoline, this could encourage some motorists to use leaded gasoline in cars now designed for unleaded. Such action could have adverse impacts on air quality. Decontrol could also potentially adversely impact the availability of unleaded gasoline if some retailers find themselves unable to obtain a supplier under decontrol.

EPA is not in a position at this time to weigh the potential impact of these competing factors on the environment. We encourage comments from the industry and the public regarding these issues so that both EPA and FEA will be in a better position to evaluate the potential environmental effects of the proposed regulations.

NEGATIVE ENVIRONMENT DETERMINATION

Based on an environmental assessment of the proposed action, the Federal Energy Administration has determined the exemption of motor gasoline not to be a "major Federal action significantly affecting the quality of the human environment" (section 102(2)(C), National Environmental Policy Act, 42 U.S.C. 4332 (2)(C)).

Copies of the environmental assessment will be available upon request from the FEA Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the document will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of this proposed exemption and the environmental assessment to Executive Communications, Box JQ, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Motor Gasoline Decontrol." Fifteen copies should be submitted. All comments should be received by FEA by December 15, 1976, in order to receive full consideration.

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

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

In consideration of the foregoing, it is proposed to amend Parts 210, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., November 19, 1976.

MICHAEL F. BUTLER,
General Counsel.

PART 210—GENERAL ALLOCATION AND PRICE RULES

1. Section 210.35 is amended by adding paragraph (h) to read as follows:

§ 210.35 Exempted products.

* * * * *

(h)(1) Motor gasoline as defined in § 211.51 of this chapter is exempt from the provisions of Part 211 of this chapter.

(2) Gasoline as defined in § 212.31 of this chapter is exempt from the provisions of Part 212 of this chapter.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

2. Section 211.1 is amended in paragraph (b) by adding new paragraph (b)(10) to read as follows:

§ 211.1 Scope.

* * * * *

(b) *Exclusions.*

* * * * *

(10) Notwithstanding the other provisions of this part, including Subpart F, motor gasoline is excluded from this part (except for Special Rule No. 4 to Subpart A).

3. The Appendix to Subpart A of Part 211 is amended by the addition of a Special Rule No. 4 to read as follows:

SPECIAL RULE NO. 4

1. *Scope.* Notwithstanding the exemption of motor gasoline from the Mandatory Petroleum Allocation and Price Regulations, this Special Rule provides for a set-aside program for motor gasoline for the months _____ 1977 through September 1977, as provided below.

2. *Provision for motor gasoline set-aside.* Notwithstanding the provisions of paragraph (h) of § 210.35 and of subparagraph (10) of paragraph (b) of § 211.1, a set-aside is hereby established for the months _____ 1977 through September 1977 for motor gasoline for assignment by State Offices in accordance with the provisions of this Special Rule.

3. *Set-aside volume.* A prime supplier shall inform each appropriate State Office monthly of the estimated volume of motor gasoline to be sold into a state for consumption within that state. The set-aside volume available in a state to a State Office for a particular month shall be the sum of the amounts calculated by multiplying three (3%) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that state's distribution system for consumption within the state. The set-aside for a particular month cannot be accumulated or deferred; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

4 *State representative.* Each supplier shall designate a representative for each state in which the supplier is a prime supplier to act for and on behalf of the prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. Each prime supplier for a state shall designate its representative for that state and shall notify in writing the appropriate State and FEA Regional Offices of such designation within 10 days after the effective date of this Special Rule. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any aluthorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by the State Offices to meet hardship and emergency requirements of all wholesale purchaser-consumers and end users and to meet the supply needs of a wholesale purchaser-reseller in cases where the wholesale purchaser-reseller has demonstrated that it will not be able to obtain with diligent efforts in a particular month a volume of motor gasoline equal to its base period use of motor gasoline for that month as determined under this subpart and Subpart F of this part. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside in order that the wholesale purchaser-reseller can supply the wholesale purchaser-consumers and end-users experiencing the hardship or emergency.

6. *Term of assignments.* Assignments to eligible wholesale purchaser-resellers under section 5 of this Special Rule by a State Office shall not be made for a period in excess of 90 days. Assignments for additional periods shall not be made to a firm unless necessary to preclude hardship and provide emergency requirements to ultimate consumers. No assignments to eligible recipients under section 5 of this Special Rule shall relate to any period subsequent to September 30, 1977.

7. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the approprate State Office, which Office has jurisdiction over the state in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211-218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule and except that all applications by wholesale purchaser-resellers must be in writing.

8. *Transfer of functions to FEA Regional Office.* Any state may elect irrevocably at any time to transfer administration of the motor gasoline set-aside established by this Special Rule from its State Office to the FEA Regional Office which has jurisdiction over said state, and will inform the FEA Regional Office in writing of such election. In the event of an election described in the preceding sentence by a particular state, all applications by applicants conducting business within that state shall be made to the appropriate FEA Regional Office. With respect to applications made to an FEA Regional Office under this section all references to a State Office in this Special Rule and Subpart Q of Part 205 of this chapter shall be deemed to refer to the appropriate FEA Regional Office.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier and an amount from the set-aside to the applicant. To determine an appropriate prime supplier, the State Office may coordinate with the state representatives of the prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated state representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that time.

11. *Supplier's responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of motor gasoline to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation, and shall not delay deliveries required by the authorizing document while confirming such deliveries with the prime supplier. Any non-prime supplier which provides motor gasoline pursuant to an authorizing document shall in turn receive from its prime supplier an equivalent volume of the prod-

uct. The requirements of paragraph (b) of § 210.62 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating, or impairing the objectives, purposes and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall supply motor gasoline from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for motor gasoline for that month for the state concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the state.

14. *Orders issued by State Offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated state representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the FEA Regional Office that has jurisdiction over the state involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

4. Section 212.31 is amended in the definition of "covered products" to read as follows:

§ 212.31 Definitions.

* * * * *

"Covered products" means aviation fuel (kerosene-type), aviation gasoline, butane, crude oil, natural gas liquids, natural gasoline, and propane. A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

* * * * *

5. Subpart C of Part 212 is amended by adding a new § 212.58 as follows:

§ 212.58 Gasoline.

The prices charged for gasoline are exempt from the provisions of this part.

[FR Doc.76-34767 Filed 11-19-76;4:46 pm]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 123]

DISASTER LOANS

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the authority contained in Section 5 of the Small Business Act, 15 U.S.C. 631 et seq., it is proposed to amend, as set forth below, § 123.1(a) of Part 123 of Chapter I, Title 13 of the Code of Federal Regulations.

Prior to the final adoption of such amendment, consideration will be given to any comments. Such comments should be submitted in writing, in triplicate, to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, on or before December 27, 1976.

Information. The Small Business Administration does not make Economic Injury Disaster Loans to small businesses affected adversely by a drought until the Secretary of Agriculture issues a formal declaration that a drought exists.

Pub. L. 94-305 requires SBA to make all its services (including disaster loans) available to small businesses engaged in "the production of food and fiber, ranching and raising livestock, aquaculture, and all other farming and agricultural-related industries."

SBA is able to make economic injury disaster loan assistance available to small businesses located in a drought area only if the Secretary of Agriculture issues a natural disaster declaration for the drought area.

However, since the recently-enacted legislation requires SBA to assist agricultural enterprises by making loans for economic restoration as well as to rehabilitate, or replace physical property damaged or destroyed in a disaster, it is necessary for the SBA to be able to issue disaster declarations for drought-caused damage or injury independent of any action by the Secretary of Agriculture.

Also, we are listing for the first time in the new subsection those catastrophic events for which SBA will issue disaster declarations.

It is proposed to amend 13 CFR Part 123 § 123.1 by revising paragraph (a) to read:

§ 123.1 General.

(a) SBA is authorized to make or guaranty loans where necessary or appropriate to victims of floods, riots, civil disorders and other catastrophes such as, but not limited to, a hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire or explosion, to rehabilitate or replace damaged or lost physical property (Physical-Loss Disaster Assistance).

(Catalog of Federal Domestic Assistance Program No. 59,002 Economic Injury Disaster Loans and 59,008 Physical Disaster Loans.)

Dated: November 15, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-34801 Filed 11-23-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B; Docket No. R-0031]

EQUAL CREDIT OPPORTUNITY

Revision of Proposed Rulemaking

On November 8, 1976, the Board of Governors proposed for comment (41 FR 49123) a revised version of its Regulation B, Equal Credit Opportunity. Appendix B of that proposal contained four model credit application forms: one for open-end, unsecured credit; one for closed-end, secured credit; one for closed-end unsecured or secured credit; and one for use in community property States. In addition, the proposal stated that the Board intends to include a model residential real estate mortgage loan application in the final version of Regulation B. A proposed version of that form, based upon an application form designed by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, follows:

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data or comments. All comments should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 17, 1976. All submitted material should include the docket number, R-0031. Written comments will be made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board rules regarding availability of information (12 CFR Part 261).

This notice of proposed rulemaking is published pursuant to the Board's authority under section 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)).

Board of Governors, November 16, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise separate Statements and Schedules are required. If the Co-Borrower section was completed about your spouse, complete this statement and supporting schedules about your spouse also.

☐ Completed Jointly ☐ Not Completed Jointly

STATEMENT OF ASSETS AND LIABILITIES

ASSETS		LIABILITIES AND PLEDGED ASSETS		
Description	Cash or Market Value	Owed To (Name, Address and Account Number)	Mo. Pmt. and Mos. left to pay	Unpaid Balance
Cash Toward Purchase Held By		Indicate by (*) which will be satisfied upon sale or upon refinancing of subject property.		
		Installment Debt (include "revolving" charge accounts)	$ Pmt./Mos.	$
Checking and Savings Accounts (Indicate Names of Institutions/Acct. Nos.)				
Stocks and Bonds (No./Description)				
Life Insurance Net Cash Value				
Face Amount ($)		Automobile Loan		
SUBTOTAL LIQUID ASSETS				
Real Estate Owned *(Enter Total Market Value from Real Estate Schedule)*		Real Estate Loans (Itemize and Identify Lender)		
Vested Interest in Retirement Fund				
Net Worth of Business Owned *(Attach Financial Statement)*				
Auto (Make and Year)		Other Debt Including Stock Pledges (Itemize)		
Furniture and Personal Property		Alimony, Child Support, and Separate Maintenance Payments		
Other Assets (Itemize)				
		TOTAL MONTHLY PAYMENTS	$	
	A.		TOTAL	B.
TOTAL ASSETS	$	NET WORTH (A.—B.)$	LIABILITIES	$

SCHEDULE OF REAL ESTATE OWNED (If Additional Properties Owned Attach Separate Schedule)

Address of Property (Indicate S if Sold, PS if Pending Sale or R if Rental being held for income)	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Taxes, Ins., Maintenance and Misc.	Net Rental Income
TOTALS →		$	$	$	$	$	$

LIST PREVIOUS CREDIT REFERENCES

B—Borrower C—Co-Borrower	Owed To (Name and Address)	Account Number	Purpose	Highest Balance	Date Paid
				$	

List any names under which credit references may be verified if different than borrower's or co-borrower's _____

AGREEMENT: The undersigned applies for the loan described in this application, to be secured by a first mortgage or trust deed on the property described in this application and represents that the property will not be used for any illegal or restricted purpose and that all statements made in this application are true and made for the purpose of obtaining the loan. Verification may be obtained from any source named in this application.

I/we fully understand that it is a Federal crime punishable by fine or imprisonment or both to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1014.

Signature (Borrower) _____ Date _____ Signature (Co-Borrower) _____ Date _____

Home Phone _____ Business Phone _____ Home Phone _____ Business Phone _____

INFORMATION FOR MONITORING PURPOSES

The following information is requested by the Federal Government to monitor this lender's compliance with equal credit opportunity and fair housing laws. The law provides that we may not discriminate on the basis of this information or whether or not it is furnished in deciding on this loan. While you are urged to do so, furnishing this information is voluntary. If you decline to furnish the following information, please initial below.

	BORROWER		CO-BORROWER	
Race—National Origin	☐ American Indian Alaskan Native	☐ Hispanic	☐ American Indian Alaskan Native	☐ Hispanic
	☐ Asian Pacific Islander	☐ White	☐ Asian Pacific Islander	☐ White
	☐ Black	☐ Other (specify) _____	☐ Black	☐ Other (specify) _____
Sex	☐ Female	☐ Male	☐ Female	☐ Male
Marital Status	☐ Married ☐ Unmarried (inc. single, divorced, widowed)	☐ Separated	☐ Married ☐ Unmarried (inc. single, divorced, widowed)	☐ Separated
Age	Years _____		Years _____	
	I decline to furnish this information _____ (Initials)		I decline to furnish this information _____ (Initials)	

RESIDENTIAL LOAN APPLICATION

MORTGAGE APPLIED FOR: Type ☐ FmHA ☐ Conv. ☐ FHA ☐ VA | Amount $ | Interest Rate % | No. of Months | Monthly Payment Principal & Interest $ | Escrow/Impounds (to be collected monthly) ☐ Taxes ☐ Hazard Ins. ☐ MI ☐

Prepayment Option | SMSA | Census Tract

SUBJECT PROPERTY

Property Street Address | City | County | State | Zip | No. Units

Legal Description (Attach description if necessary) | Year Built | Property is: ☐ Fee ☐ Leasehold ☐ Condo ☐ PUD ☐ DeMinimis PUD

Purpose of Loan: ☐ Purchase ☐ Construction-Perm. ☐ Construction ☐ Refinance ☐ Other (Explain)

Complete this line if Construction-Perm. or Construction Loan — Year Acquired | Lot Value Data: Original Cost $ | Present Value (a) $ | Cost of Impr. (b) $ | Total (a+b) $ | ENTER TOTAL AS PURCHASE PRICE IN DETAILS OF PURCHASE

Complete this line if a Refinance Loan — Year Acquired | Original Cost $ | Amt. Existing Liens $ | Purpose of Refinance | Describe Improvements ☐ made ☐ to be made | Cost: $

Title Will Vest In What Names? | How Will Title Be Held? (Tenancy)

Note Will Be Signed By? | Source of Down Payment and Settlement Charges

Regarding any Co-Borrower, check the appropriate box. If ☐ (1) another person will be jointly obligated with you on the loan, or ☐ (2) you are relying on income from alimony, child support, or separate maintenance or on the income or assets of such person as a basis for repayment of the loan, or ☐ (3) you are married and reside or the property is located in a community property State, complete the Co-Borrower section and all other Co-Borrower questions to the extent that you can. If item (1) or (2) is checked above, have the Co-Borrower sign the application.

BORROWER	CO-BORROWER
Name — Age — School Yrs	Name — Age — School Yrs
Present Address — No. Years — ☐ Own ☐ Rent	Present Address — No. Years — ☐ Own ☐ Rent
Street	Street
City/State/Zip	City/State/Zip
Former address if less than 2 years at present address	Former address if less than 2 years at present address
Street	Street
City/State/Zip	City/State/Zip
Years at former address ☐ Own ☐ Rent	Years at former address ☐ Own ☐ Rent
Marital Status: ☐ Married ☐ Separated ☐ Unmarried (inc. single, divorced, widowed) — Dependents other than Co-Borrower: Number — Ages	Marital Status: ☐ Married ☐ Separated ☐ Unmarried (inc. single, divorced, widowed) — Dependents other than listed by Borrower: Number — Ages
Name and Address of Employer	Name and Address of Employer
Years employed in this line of work or profession	Years employed in this line of work or profession
Years on this job ☐ Self Employed	Years on this job ☐ Self Employed
Position/Title — Type of Business	Position/Title — Type of Business

GROSS MONTHLY INCOME				MONTHLY HOUSING EXPENSE			DETAILS OF PURCHASE	
Item	Borrower	Co-Borrower	Total	Rent*	Present $	Proposed		
Base Salary	$	$	$	First Mortgage (P&I)		$	a. Purchase Price	$
Overtime				Other Financing (P&I)			b. Total Closing Costs	
Bonuses				Hazard Insurance			c. Pre-Paid Escrows	
Commissions				Taxes (Real Estate)			d. Total (a+b+c)	$
Dividends/Interest				Assessments			e. Amt. This Mortgage	( )
Net Rental Income				Mortgage Insurance			f. Other Financing	( )
Other (**Before completing, see notice under Other Income below.)				Homeowner Assn Dues			g. Present Equity in Lot	( )
				Total Monthly Pmt	$	$	h. Amt. of Deposit	( )
				Utilities			i. Closing costs paid by Seller	( )
Total	$	$	$	Total	$	$	j. Cash required for closing	$

*If Co-Borrower presently resides separately, list requested information on separate sheet.

DESCRIBE OTHER INCOME

B—Borrower C—Co-Borrower** Alimony, child support, or separate maintenance income need not be revealed if you do not choose to have it considered as a basis for repaying this loan.

	Monthly Amt.
	$

IF EMPLOYED IN CURRENT POSITION FOR LESS THAN TWO YEARS COMPLETE THE FOLLOWING

B/C	Previous Employer/School	City/State	Type of Business	Position/Title	Dates From/To	Monthly Salary
						$

QUESTIONS APPLY TO BOTH BORROWERS

If Yes, explain on attached sheet

	Borrower Yes or No	Co-Borrower Yes or No		Borrower Yes or No	Co-Borrower Yes or No
Have you any outstanding judgments? In the last 14 yrs. ever taken bankruptcy, had property foreclosed upon, or given deed in Lieu thereof?			Do you have liable and accident insurance?		
			Do you have major medical coverage?		
Comaker or endorser on any note?			Do you intend to occupy property?		
Now a party in a law suit?			Will this property be your primary residence?		
Obligated to pay alimony, child support or separate maintenance?			Have you previously owned a home?		
Any portion of the down payment borrowed?			Value of previously owned home	$	$

[FR Doc.76-34691 Filed 11-23-76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket Nos. RM76-21, etc.]

RULEMAKING PROCEEDINGS ON NEW PUBLIC USE FORMS

Extension of Time; Clarification of Intent

NOVEMBER 16, 1976.

In the mater of Annual Report of Power System Transmission and Distribution of Technical Data—New Form 157, Docket No. RM76-21 (41 FR 28416, June 30, 1976; 41 FR 36823, September 1, 1976); Annual Report of Power System Energy Accounting, Peak Demands, and Intersystem Purchases and Sales—New Form 158, Docket No. RM76-31 (41 FR 37232, September 2, 1976; 41 FR 46467, October 21, 1976); Report of Generating Plant, Technical, Environmental and Operating Data—New Form 156, Docket No. RM76-32 (41 FR 36926, September 1, 1976).

On October 29, 1976, the Commission issued a notice of further extension of time for three rulemaking proceedings on new public use forms: Docket Nos. RM76-27, RM76-33, and RM76-34 (published November 5, 1976, 41FR48745). Within that notice, the Commission responded to comments received regarding parallel reporting and magnetic tape submission.

This notice is to clarify the intent of the Commission to apply the responses in the October 29, 1976, notice, as repeated herein, to the additional rulemaking proceedings cited above.

1. The Federal Power Commission will collect 1976 data on existing forms as it has in prior years. As part of parallel reporting, essentially the same data will be collected on the new forms, after it has been submitted on the existing forms. For annual reports the data will be collected on the new forms no earlier than 60 days after the submission on the old forms. The precise schedule for monthly and event type submissions has not yet been fully determined but will occur no earlier than July 1977.

2. During the parallel reporting period, the Federal Power Commission will welcome any and all suggestions that respondents desire to submit regarding the new forms. Respondents' comments will be evaluated together with internal comments to determine changes to be made to the forms, magnetic tape submission procedures, or other aspects of the new respondent reporting system.

3. A substantial number of the comments received to date were concerned with the time allowed for rulemaking review and new form submission. These comments centered on the requirements to submit magnetic tape and the lack of a data directory to assist them in preparing the tapes. Therefore, magnetic tape submission will be voluntary during the period of parallel reporting. Further, the FPC will conduct a pilot test of the magnetic tape submission procedure during the same parallel reporting period for those companies desiring to submit tapes.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34699 Filed 11-23-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-308A; Docket No. 29913; Dated: November 19, 1976]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Implementing CAB/SEC Single Reporting System and Updating Accounting and Reporting Provisions; Supplemental Notice of Proposed Rulemaking

By notice of proposed rulemaking EDR-308, dated October 12, 1976, the Civil Aeronautics Board gave notice that it had under consideration an amendment of Part 241 of its Economic Regulations (14 CFR Part 241) which would establish a CAB/SEC single reporting system and update the accounting and reporting provisions of Part 241 in a manner consistent with the needs of the Board. The Board requested that interested parties file their comments on or before November 19, 1976, and further stated that in order to make these changes available for the carriers' benefit in reporting to the SEC in calendar year 1977, routine requests for extensions of the due date for filing comments were discouraged and would be denied in the absence of extraordinary circumstances.

By telex dated November 18, 1976, Northwest Airlines, Inc. filed a request that the due date for filing comments be extended 10 days to November 29, 1976. In support of its request Northwest stated that EDR-308, dated October 12, 1976, was not received by it until November 1, 1976, and that due to the magnitude and complexity of the proposal additional review time was necessary.

Apparently, through no fault of Northwest the actual distribution of EDR-308 was delayed for approximately 15 days. The undersigned is therefore persuaded that this is not a routine request for an extension of time, and that good cause has been shown for the granting of such an extension.

No previous extension of time has been granted in this proceeding and it does not appear that the granting of the requested 10 day extension would prejudice any party to this proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR Part 385), the undersigned hereby extends the time for filing comments to November 29, 1976.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc.76-34741 Filed 11-23-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Arbitrage Bonds; Correction

On Friday, October 29, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 33285). The following corrections are made to the proposed regulations:

(1) The third sentence of § 1.103-14 (e) (2) (ii) should be "In the case of a refunding issue sold on or after October 29, 1976, or issued after November 28, 1976, as the proceeds of the prior issue become transferred proceeds, those proceeds of the prior issue which are invested in materially higher yield obligations pursuant to the provisions of paragraph (d) of this section or § 1.103-13 (b) (1) (ii) shall become transferred proceeds ratably."

(2) The fourth sentence of § 1.103-14 (e) (2) (ii) should be "The preceding two sentences shall not apply for purposes of paragraph (e) (4) and (5) of this section."

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

[FR Doc.76-34769 Filed 11-23-76;8:45 am]

[26 CFR Part 1]

INCOME TAX

Political Organizations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 10, 1977. Pursuant to 26 CFR 601.601 (b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rulemaking is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d) (9). Any person submitting comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by January 10, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the

FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to prescribe regulations to section 527 of the Internal Revenue Code of 1954 as enacted by section 10(a) of the Act of January 3, 1975 (Pub. L. 93-625, 88, Stat. 2116), relating to the taxation of political organizations.

Section 527 provides special tax treatment for organizations which qualify as "political organizations" as defined in section 527(e). Generally, a political organization is an organization which engages primarily in the furtherance of the selection or election of any individual to a Federal, State, or local office.

A political organization will not be taxed on amounts of money or other property it receives as contributions, membership dues or assessments from its members, or proceeds from political fundraising events which are not carried on in the ordinary course of a trade or business. These amounts collected and received by a political organization must be segregated in a separate fund for use only in the organization's political activities. All income not placed in a segregated fund and all investment income earned by the political organization are taxable to the organization. A political organization will be taxed on its nonexempt income as though the organization were a corporation. A political organization will be allowed a $100 deduction from its gross income but it will not be permitted a surtax exemption.

The regulations provide rules for determining when an organization will be considered primarily engaged in political activities. The regulations also provide rules for determining when an organization's income will be considered to be the result of political fund-raising activities and when the organization will be considered engaging in a trade or business.

Political organizations must spend amounts in their segregated fund for exempt function purposes. Where the political organization does not expend these funds for exempt function purposes they risk the loss of exempt status. In addition, where amounts are expended for activities judicially determined illegal, such amounts will be treated as political organization taxable income.

Section 527(f) imposes a tax on an organization described in section 501(c) and exempt from tax under section 501 (a) which expends money for political purposes. The tax is imposed on the lesser of the organization's net investment income or the amount actually expended for political purposes. The regulations provide rules for the establishment of segregated funds by such organizations. These segregated funds will be treated as though they were political organizations and expenditures for exempt functions made from such funds, generally, will not be attributable to the section 501(c) organization.

Finally, section 527(g) allows an officeholder or candidate to establish and maintain a fund to be used exclusively to prepare and circulate a newsletter. Generally, such a fund will be treated as an exempt political organization. This tax treatment is available for any individual who holds a Federal, State or local office, has been elected to such office, or is a candidate for such office. The proposed regulations provide rules for the operation of such newsletter funds.

AMENDMENTS TO THE REGULATIONS

In order to prescribe the Income Tax Regulations (26 CFR Part 1) to section 527 of the Code as enacted by section 10(a) of the Act of January 3, 1975 (Pub. L. 93-625, 88 Stat. 2116), relating to the taxation of political organizations, such regulations are amended as follows:

Paragraph 1. Immediately after § 1.526 there are added the following new sections:

Sec.
1.527 Statutory provisions; political organizations.
1.527-1 Tax imposed on political organizations.
1.527-2 Definitions.
1.527-3 Political organization taxable income.
1.527-4 Expenditures treated as income to an individual or political organization.
1.527-5 Inclusion of certain amounts in the gross income of an exempt organization which is not a political organization.
1.527-6 Newsletter funds.
1.527-7 Effective date; filing requirements; and miscellaneous provisions.

§ 1.527 Statutory provisions; political organizations.

Sec. 527. *Political organizations*—(a) *General rule.* A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) *Tax imposed*—(1) *In general.* A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the political organization were a corporation and as though the political organization taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11 (d) shall not be allowed.

(2) *Alternative tax in case of capital gains.* If for any taxable year any political organization has a net section 1201 gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such a tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

(A) A partial tax, computed as provided by paragraph (1), on the political organization taxable income determined by reducing such income by the amount of such gain, and

(B) An amount determined as provided in section 1201 (a) on such gain.

(c) *Political organization taxable income defined.*—(1) *Taxable income defined.* For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) The gross income for the taxable year (excluding any exempt function income), over

(B) The deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) *Modifications.* For purposes of this subsection—

(A) There shall be allowed a specific deduction of $100,

(B) No net operating loss deduction shall be allowed under section 172, and

(C) No deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) *Exempt function income.* For purposes of this subsection, the term "exempt function income" means any amount received as—

(A) A contribtuion of money or other property,

(B) Membership dues, a membership fee or assessment from a member of the political organization, or

(C) Proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business, to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) *Certain uses not treated as income to candidate.*—For purposes of this title, if any political organization—

(1) Contributes any amount to or for the use of any political organization which is treated as exempt from tax under subsection (a) of this section,

(2) Contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(3) Deposits any amount in the general fund of the Treasury or in the general fund of any State or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this title for the contribution or deposit of any amount described in the preceding sentence.

(e) *Other definitions.* For purposes of this section—

(1) *Political organization.* The term "political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) *Exempt function.* The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

(3) *Contributions.* The term "contributions" has the meaning given to such term by section 271(b)(2).

(4) *Expenditures.* The term "expenditures" has the meaning given to such term by section 271(b)(3).

(f) *Exempt organization which is not political organization must include certain amounts in gross income*—(1) In general. If an organization described in section 501(c) which is exempt from tax under section 501(a) expends any amount during the taxable year directly (or through another organization) for an exempt function (within the meaning of subsection (e)(2)), then, not withstanding any other provision of law, there shall be included in the gross income of such organization for the taxable year, and shall be subject to tax under subsection (b) as if it constituted political organization taxable income, an amount equal to the lesser of—

(A) The net investment income of such organization for the taxable year, or

(B) The aggregate amount so expended during the taxable year for such an exempt function.

(2) *Net investment income.* For purposes of this subsection, the term "net investment income" means the excess of—

(A) The gross amount of income from interest, dividends, rents, and royalties, plus the excess (if any) of gains from the sale or exchange of assets over the losses from the sale or exchange of assets, over

(B) The deductions allowed by this chapter which are directly connected with the production of the income referred to in subparagraph (A).

For purposes of the preceding sentence, there shall not be taken into account items taken into account for purposes of the tax imposed by section 511 (relating to tax on unrelated business income).

(3) *Certain separate segregated funds.* For purposes of this subsection and subsection (e)(1), a separate segregated fund (within the meaning of section 610 of title 18 or of any similar State statute, or within the meaning of any State statute which permits the segregation of dues moneys for exempt functions (within the meaning of subsection (e)(2))) which is maintained by an organization described in section 501(c) which is exempt from tax under section 501(a) shall be treated as a separate organization.

(g) *Treatment of newsletter funds*—(1) *In general.* For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of section 41(c)(2)) for nomination or election to, any Federal, State, or local elective public office for use by such individual exclusively for the preparation and circulation of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) *Additional modifications.* In the case of any fund described in paragraph (1)—

(A) The exempt function shall be only the preparation and circulation of the newsletter, and

(B) The specific deduction provided by subsection (c)(2)(A) shall not be allowed.

(Sec. 527 as added by sec. 10, Act of January 3, 1975 (Pub. L. 93-625, 88 Stat. 2116).)

§ 1.527-1 Tax imposed on political organizations.

(a) *In general.* Under section 527 special tax treatment is provided for a political organization organized and operated primarily for the purpose of accepting contributions or making expenditures in furtherance of its exempt function. Generally, a political organization's exempt function involves the promotion of individuals for election to political office. (See § 1.527-2(a) for a definition of a political organization and § 1.527-2(b) for a description of what constitutes the organization's exempt function). The political organization is not taxed on the receipt of exempt function income. Such income includes contributions of money or other property or the receipt of dues or assessments from members of the organization. (See § 1.527-3(b) for a definition of the term "exempt function income".) The political organization is taxed on all income received by it other than exempt function income. Thus, where assets are invested or the political organizations engages in a trade or business, the organization is subject to taxation on income realized from such activities under Subtitle A of the Internal Revenue Code, but only to the extent provided in section 527. (See § 1.527-1(b) for rules relating to the taxation of a political organization.) Section 527 also provides that a political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income tax.

(b) *Tax imposed*—(1) *In general.* Section 527 imposes a tax for each taxable year on the political organization taxable income (as described in § 1.527-3) of every political organization. Such tax consists of a normal tax and surtax computed as provided in section 11 (tax on corporations) as though the political organization were a corporation (whether or not the organization is in fact incorporated), and as though the "political organization taxable income" were taxable corporate income. However, in computing the tax of a political organization the surtax exemption provided by section 11 (d) shall not be allowed.

(2) *Alternative tax in case of capital gains*—(i) *In general.* If for any taxable year in a political organization has a net section 1201 gain, then the tax provided for under this section shall be the lesser of the tax computed under paragraph (b)(1) of this section or the sum of—

(A) A partial tax computed under paragraph (b)(1) on the amount which is the difference between the total political organization taxable income and the amount of net section 1201 gain, and

(B) An amount determined as provided in section 1201 (a) on such gain.

(ii) *Limitation on capital losses.* If for any taxable year a political organization has a net capital loss the rules of sections 1211(a) and 1212(a) shall apply.

(iii) *Expenses attributable to the sale of capital assets.* In determining the amount of gain or loss realized by a political organization from the sale of capital assets, the direct expenses attributable to the sale of such assets shall be treated as an addition to basis of the assets disposed of.

§ 1.527-2 Definitions.

(a) *Political organization*—(1) *In general.* For purposes of section 527 and §§ 1.527-1 through 1.527-7, the term "political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function. Accordingly, a political organization includes a committee or other group which accepts contributions or makes expenditures for the purpose of promoting the nomination of an individual for an elective public office in a primary election, or in meeting or caucus of a political party. Where an individual establishes a segregated fund to receive contributions for the purpose of promoting the individual's nomination or election to elective public office such fund will be treated as a political organization. Similarly, a separate segregated fund meeting the requirements of 2 U.S.C. 441(b) shall be treated as a political organization. (See § 1.527-5(e).) A political organization need not be formally chartered or established under articles of incorporation, nor is it necessary that such organizations operate in accordance with normal corporate formalities as ordinarily established in bylaws or under state law.

(2) *Dual purpose organizations.* Where an organization maintains a segregated fund and also has a purpose clearly distinct from the exempt function, such organization will be considered a political organization only to the extent of the segregated fund. Thus, where a committee is established to collect funds for an incumbent's next campaign and to collect funds to help offset the office expenses of the incumbent, the committee will be treated as a political organization only to the extent that it maintains a segregated fund for campaign purposes.

(3) *Segregated fund.* For purposes of these regulations, a segregated fund means a fund which is established separate and apart from the other assets of an organization and dedicated to the exempt function of the organization. Such a fund must be established for the purpose of receiving exempt function income and other amounts (including earnings on such exempt function income or other amounts) for use only for the exempt function. The segregated fund should be clearly identified as established for the purposes intended. The organization maintaining such a fund shall maintain adequate records to allow the verification of receipts into and expenditures out of such fund. A savings or checking account into which all contributions to the political organization are placed and from which only expenditures for the exempt function are made shall be considered a segregated fund if properly identified as such.

(4) *Primary purpose test.* To be treated as a political organization for purposes of section 527, the organization must be organized and operated primarily to accept contributions or make expenditures, or both, for the purpose of carrying on an exempt function as defined in paragraph (b) of this section. In making the determination of whether a political organiza-

tion is "organized and operated primarily to carry on an exempt function" all the facts and circumstances of each case shall be considered. For example, when a political organization provides in its articles of organization (corporate charter, trust instrument, articles of association or other instrument by which the organization is created) that its purpose is to carry on an exempt function, in the absence of other relevant factors, it will be considered to have met the organizational test. In making the determination whether an organization meets the organizational test when there are no formal documents or instruments evidencing such formation, consideration will be given to the statements that the members of such organization intend to operate it only in furtherance of one or more activities constituting an exempt function. A principle factor in determining whether a political organization is operated "primarily to carry on an exempt function" shall be the relationship of the expenditures from the segregated fund for an exempt function (including expenditures to generate exempt function income) to the total expenditures from such fund. Where an organization expends more than an insubstantial amount from its segregated fund on activities which are neither exempt function activities nor qualifying activities (as defined in paragraph (a)(6) of this section) the organization will not be considered operated primarily to carry on an exempt function. Thus, a local political club could expend exempt function income to carry on incidental social activities which are unrelated to its political activities so long as such expenditures are insubstantial in relationship to the club's total expenditures from the segregated fund. (For income tax consequences of such an expenditure, see § 1.527–4.)

(5) *Relationship to sections 41 and 218.* An organization or individual receiving contributions for which a tax credit under section 41 or a deduction under section 218 is allowable must satisfy the requirements of section 527 and this section in order to qualify as a tax-exempt political organization.

(6) *Qualifying activities.* A political organization which had substantially participated in an exempt function immediately preceding or during a political election campaign may participate in qualifying activities after such election without losing its status as a section 527 political organiaztion in a year in which it may not be supporting a specific individual for public office. Qualifying activities include activities which the political organization engages in after an election which reasonably relate to the selection, nomination, or election of individuals for the next applicable political campaign. For example, if a local political organization between elections prepares for the next party convention, engages in fundraising activities, or transacts fundraising activities, or transacts intraparty organizational business, such organization will be engaging in qualifying activities. In addition, where a political organization is established for a single campaign, it may continue to qualify as a political organization after the election to wind up the campaign, pay off its debts, or put its records in order.

(b) *Exempt function.* The term "exempt function" (for the purpose of section 527 and the regulations thereunder) means the function of influencing, or attempting to influence, the selection, nomination, election, or appointment of any individual or individuals to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors whether or not such indiivdual or electors are selected, nominated, elected or appointed.

(c) *Expenditures.* The term "expenditures" has the meaning given to such term by section 271(b)(3). That is, the term "expenditure" includes a contract, promise, or agreement to make an expenditure whether or not legally enforceable. Expenditures which are either illegal or for judicially determined illegal activity shall not be considered expenditures in furtherance of the exempt function even though such expenditures are expended in the process of influencing or attempting to influence the selection, nomination, election, or appointment of an individual.

§ 1.527–3 Political organization taxable income.

(a) *In general.* As used in this section the term "political organization taxable income" of a political organization means the excess (if any) of—

(1) The gross income for the taxable year (excluding any exempt function income as defined in paragraph (b) of this section), less

(2) The deductions allowed by chapter 1 of the Code which are directly connected with the production of gross income (other than exempt function income) computed with the modifications provided in paragraph (c)(3) of this section.

(b) *Exempt function income defined*—(1) *In general.* For purposes of section 527 and these regulations the term "exempt function income" means any amount received as—

(i) A contribution of money or other property;

(ii) Membership dues, fees, or assessments from a member of a political organization; and

(iii) Proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business, to the extent such amount is segregated for use only for the exempt function of the political organization. (See also § 1.527–4 regarding the treatment of expenditures for a judicially determined illegal activity.)

(2) *Contributions.* In determining whether the transfer of money or other property constitutes a contribution the rules of section 271(b)(2) shall apply. That is, the term "contributions" includes a gift, subscription, loan, advance, or deposit of money or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable. Generally, individual contributions of money or other property, whether solicited personally, by mail or through advertising, will qualify as contributions. In addition, to the extent that political organizations receive Federal, State, or local funds under the $1 "checkoff" provision (sections 9001–9013), or any other provision for financing of campaigns, such amounts are to be treated as contributions.

(3) *Dues, fees and assessments.* For purposes of section 527 and this section amounts received as membership dues or membership fees and assessments from members of the political organization constitute exempt function income to such organization to the extent such amounts are not received in consideration for services, goods, or other items of value. Filing fees paid by an individual directly or indirectly to a political party in order that the individual may run as a candidate in a primary election of the party (or run in a general election as a candidate of that party) are to be treated as exempt function income. For example, some States provide that a certain percentage of the first year's salary of the office sought must be paid to the State as a filing (or "qualifying") fee and party assessment. The State then transfers part of this fee to the candidate's party. In such a case, the entire amount transferred to the party is to be treated as exempt function income. Amounts paid by an individual directly to the party as a qualification fee will be treated similarly.

(4) *Fundraising events*—(i) *In general.* For purposes of section 527 and this section, proceeds from casual and sporadic political fundraising or entertainment events (such as an annual political dinner) and the sale of campaign materials shall be considered exempt function income, but only if such events are:

(A) Substantially related to the exempt function, and

(B) Not carried on in the ordinary course of a trade or business.

(ii) *Substantially related*—(A) *In general.* Gross income derives from a trade or business within the meaning of section 527, if the conduct of the activities which produce the income is not substantially related (other than through the production of funds) to the exempt function. The presence of this requirement necessitates an examination of the relationship between the activities which generate the particular income in question and the accomplishment of the organization's exempt function.

(B) *Type of relationship required.* Activities are "related" to the exempt function in the relevant sense only where the conduct of the activities has a causal relationship to the achievement of the exempt function (other than through the production of funds) and is substantially related for purposes of this section only if the causal relationship is a substantial

one. Thus, for the activities from which gross income is derived to be substantially related to the exempt function, the production or distribution of the goods or the performance of services from which the gross income is derived must contribute importantly to the accomplishment of those purposes. Where the activities do not contribute importantly to the exempt function the income from such activities is not substantially related to the exempt function. Whether the activities productive of gross income contribute importantly to the accomplishment of the exempt function depends in each case upon the facts and circumstances involved.

(C) *Size and extent of activities.* In determining whether activities contribute importantly to the accomplishment of the exempt function, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function which they purport to serve. Thus, where the income is realized by a political organization from activities which are in part related to the performance of its exempt function but which are conducted on a larger scale than necessary for the performance of such functions, the gross income attributable to that portion of activities in excess of the needs of the exempt function constitutes gross income from the conduct of a trade or business. Such income is not derived from activities which contribute importantly to the accomplishment of the exempt function of the political organization.

(D) *Activities substantially related to exempt function.* Fundraising events such as breakfasts, receptions, picnics, dances, and other similar activities will be considered substantially related to the exempt function where undertaken in an effort to encourage support for an individual seeking political office or for a political organization. Similarly, the sale of political memorabilia, bumper stickers, campaign buttons, hats, shirts, political posters, stationery, jewelry or cookbooks are substantially related where such items can be identified as closely relating to the other activities of the political organization, such as distributing political literature or organizing voters.

(iii) *Ordinary course of a trade or business.* The term "trade or business", has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. However, in determining whether amounts are received in the "ordinary course" of a trade or business regard must be given to the frequency and continuity with which the activities are conducted and the manner in which they are pursued. In this regard the provisions of § 1.513–1(c) (determination as to whether an unrelated business is "regularly" carried on) shall apply in principle to the determination of whether amounts are received in the "ordinary course of a trade or business".

(c) *Deductions*—(1) *In general.* Except as provided in § 1.527–3(c)(3), the deductions allowed under § 1.527–3(a)(2) are those allowed by chapter 1 of the Code which are directly connected with the production of gross income (excluding exempt function income). Thus, to be deductible in computing political organization taxable income expenses, depreciation, and similar items must not only qualify as deductions allowed by chapter 1 of the Code, but must also be directly connected with the production of gross income (excluding exempt function income).

(2) *"Directly connected with" defined.* For purposes of § 1.527–3(c)(1) an item of deduction is "directly connected with" the production of gross income if such item is incurred solely as a result of the activities giving rise to such income. Thus, expenses, depreciation and similar items attributable solely to the production of gross income are directly connected to that gross income, and therefore qualify for deduction to the extent they meet the requirements of section 162, section 167, or other relevant provisions of the Internal Revenue Code. Where expenses are attributable in part to the production of exempt function income, and in part to the production of political organization taxable income, such expenses are not directly connected with the production of political organization taxable income and are, therefore, not deductible. Thus, for example, assume a political organization subject to the provisions of section 527 derives gross income from a fundraising activity which is not substantially related, as defined in § 1.527–3(b)(4)(ii), to an exempt function. The organization pays its executive officer $20,000 a year. The officer is in charge of overseeing all the activities of the organization. For purposes of this paragraph, no portion of the officer's salary expense shall be allocated to and deductible from the gross income produced from the fundraising activity.

(3) *Modifications of political organization taxable income.* In computing political organization taxable income, the excess of the gross income of the political organization less the deductions allowed by this section shall be reduced by $100, but not below zero. However, no deduction shall be allowed under:

(i) Section 172 with respect to net operating losses, and

(ii) Part VIII of subchapter B (relating to special deductions for corporations).

§ 1.527–4 Expenditures treated as income to an individual or political organization.

(a) *In general*—(1) *General rule.* Amounts expended by a political organization for its exempt function are not income to the individual or individuals on whose behalf such expenditures are made. However, where the political organization expends amounts for the personal use of any person, the person on whose behalf the funds were spent will be in receipt of income. Amounts are expended for the personal use of a person where a direct or indirect financial benefit accrues to such person. For example, where the political organization pays a private legal obligation of an individual seeking public office, such as the individual's Federal income tax liability, the individual is in receipt of gross income. Similarly, where the political organization pays for a vacation trip for the campaign manager's spouse in most cases either the campaign manager or the spouse will be in receipt of income. This paragraph also applies where the expenditure by the political organization confers a financial benefit on the organization that is not related to the organization's exempt function. Thus, where a political organization uses its exempt function income for either making improvements or additions to its facilities or for equipment which are not necessary for or used in carrying out its exempt function, the political organization will be in receipt of taxable income. However, where a political organization expends its exempt function income to make ordinary and necessary repairs on the offices from which the political organization conducts its activities or on equipment that it uses in carrying out its exempt function, such amounts are not to be included in the political organization's taxable income.

(2) *Expenditure for an illegal activity.* Expenditures by a political organization that are judicially determined to be illegal or for an activity that is judicially determined to be illegal shall be treated as amounts not segregated for use only for the exempt function and shall be included in the political organization's taxable income under § 1.527–3. However, not all amounts expended by the political organization in connection with a judicially determined illegal expenditure or activity will be considered to be includible in the organization's income. For example, expenses incurred in defense of civil or criminal suits against the organization or for fines or penalties imposed on the organization as a direct result of the illegal expenditure or activity will not be treated as taxable to the organization. Similarly, voluntary reimbursement to the participants in the illegal activity for similar expenses incurred by them will not be taxable to the organization if the organization can demonstrate that such payments do not constitute a part of the inducement to engage in the illegal activity or part of the agreed upon compensation therefor. However, if the organization entered into an agreement with the participants to defray such expenses as part of the inducement, such payments would be treated as an expenditure for the illegal activity. Except where necessary to prevent the period of limitation for assessment and collection of a tax from expiring, a notice of deficiency will not generally be issued until after there has been a final determination of illegality by an appropriate court in a criminal proceeding.

(b) *Certain uses not treated as income to a candidate*—(1) *In general.* If any political organization:

(i) Contributes any amount to or for the use of any political organization described in section 527(e);

(ii) Contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt under section 501(a); or

(iii) Deposits any amount in the general fund of the Treasury or in the general fund of any State or local government,

such amount shall not be treated as an amount expended for the personal use of a candidate, or any other person, provided the contribution or deposit is not in satisfaction of a personal legal obligation as described in § 1.527–4(a). No deduction shall be allowed to any person under the Internal Revenue Code of 1954 for the contribution or deposit of any amount to which the preceding sentence applies.

(2) *Incidental expenditures.* Incidental amounts expended by a political organization to benefit an individual not directly related to the individual's campaign for office are not to be treated as amounts expended for the personal benefit of the individual, but only if the amounts so expended:

(i) Are minor when compared to the overall expenses of the organization; and

(ii) Have some relationship to the conduct of exempt functions.

For example, where a political organization pays the expenses incurred by a candidate in the candidate's transition to office (e.g., expenses of preparing to take office, including staff salaries), or provides the candidate and the candidate's staff with meals during a campaign, these expenses are not to be considered as expenditures for the personal benefit of the candidate if the requirements of this paragraph are satisfied.

(c) *Unexpended funds*—(1)—*In general.* Unexpended funds held by a political organization which has ceased to engage in any exempt function, may be treated as expended for the personal use of a candidate, or any other person having control over the ultimate use of such funds, unless distributed as provided in paragraph (b)(1) of this section within a reasonable time. Where a candidate who establishes a segregated fund dies and directs such fund to go to the candidate's estate or to any other person, a reasonable period of time will be allowed for such funds to be transferred as provided in paragraph (b)(1) of this section. Any funds not transferred will constitute income of the decedent and be included in the decedent's gross estate. Where no provision is made for the disposition of such unexpended funds by the candidate and such funds go to the candidate's estate or any other person, such amounts will constitute income in respect of the decedent unless the estate disposes of the funds as provided in paragraph (b)(1) of this section within a reasonable period of time.

(2) *Interim periods.* Funds held by a political organization after a campaign, or election, will not be treated as unexpended funds for purposes of this paragraph if held in reasonable anticipation of being used by the organization for other exempt functions. For example, if funds are held by an organization following the election of its candidate, such funds will not be treated as unexpended funds if held for the candidate's re-election campaign.

§ 1.527–5 Inclusion of certain amounts in the gross income of an exempt organization which is not a political organization.

(a) *In general*—(1) *Inclusion in gross income.* If an organization described in section 501(c) which is exempt from tax under section 501(a) expends any amount during the taxable year directly (or through another organization) for an exempt function, as described in § 1.527–2(b), then there shall be included in the gross income of such organization for the taxable year and shall be subject to tax as if it constituted political organization taxable income an amount equal to the lesser of:

(i) The net investment income, as defined in paragraph (b) of this section, of such organization for the taxable year; or

(ii) The aggregate amount so expended directly or indirectly during the taxable year on exempt functions within the meaning of § 1.527–2(b).

(2) *Determination of tax.* The items of income included in gross income of the organization, to which paragraph (a)(1) of this section applies, shall retain their character as ordinary income or capital gain for purpose of determining the amount of tax imposed under section 527. If the amount to be included in gross income is determined by the aggregate amount expended during the taxable year for political purposes, as provided in paragraph (a)(1)(ii) of this section, the character of the items of income shall be determined by multiplying the total amount included in income under paragraph (a)(1)(ii) of this section times a fraction the numerator of which is the portion of the organization's net investment income that would be gain from the sale or exchange of a capital asset, and the denominator of which would be the organization's net investment income. For example, if $5,000 is included in the gross income of an exempt organization under paragraph (a)(1)(ii) of this section, and the organization had $100,000 of net investment income of which $10,000 is long term capital gain, then $500 would be treated as long term capital gain:

$$\frac{\text{Capital gain net income}}{\text{Net investment income}} \times \text{Amount expended on political activities} = \text{Portion of income subject to tax under sec. 1201}$$

$$\frac{\$10,000}{\$100,000} \times \$5,000 = \$500$$

(b) *Net investment income*—(1) *In general.* For purposes of section 527 and § 1.527–5, the term "net investment income" means:

(i) The gross amount received by an organization described in section 501(c) which is exempt from tax under section 501(a), from interest, dividends, rents, and royalties, plus the excess (if any) of gains from the sale or exchange of assets over the losses from the sale or exchange of assets,

(ii) The deductions allowed by chapter 1 of the Code which are directly connected with the production of such income. In determining the deductions directly connected with the production of income the rules of paragraph (c) of § 1.527–3 shall apply.

(A) A net loss determined under section 1231(a) (property used by the trade or business and involuntary conversions) shall be allowed as a deduction in computing net investment income.

(B) Losses incurred in carrying on any trade or business described in paragraph (e) of § 1.513–2, shall not be allowed as a deduction in computing net investment income.

(2) If an organization described in paragraph (b)(1)(i) of this section is liable for tax under section 527 on its net investment income, in determining the amount of tax it pays, that portion of the net investment income which represents gain from the sale or exchange of capital assets, shall retain its character as capital gain.

(3) *Section 511 tax.* For purposes of this paragraph, there shall not be taken into account items taken into account for purposes of the tax imposed by section 511 (relating to tax on unrelated business income).

(c) *Modifications.* The modifications prescribed by section 527(c)(2) and § 1.527–3(c)(3) shall apply in computing the tax imposed under section 527 and determined under paragraph (a)(2) of this section. Thus, no net operating loss shall be allowed under section 172, nor shall any deduction be allowed under part VIII of subchapter B. However, there shall be allowed a specific deduction of $100.

(d) *Expenditures for exempt function purposes.* An organization described in section 501(c), that is exempt from tax under section 501(a), shall be considered to have made expenditures for an exempt function (as defined in § 1.527–2(b)) if it provides funds or property, by grant or otherwise, directly or indirectly, to an individual or an organization under circumstances where it might be reasonably expected that such individual or organization will expend, directly or indirectly, those amounts for political purposes. For example, where X, an organization which is described in section 501(c)(4) transfers $100 of its funds to Y, a community organization, and X knows or should know that Y among its other activities supports candidates in local political elections, X should take steps (such as obtaining written guarantees)

to ensure that no portion of the $100 will be used by Y for political purposes. An organization will not be using funds for an exempt function where it publishes nonpartisan information about legislation that has been introduced in any legislative body if such organization routinely publishes such information for the general public.

(e) *Separate segregated fund.* To avoid the application of paragraph (a) of this section, an organization described in section 501(c) that is exempt under section 501(a) may establish, if consistent with its exempt status under section 501, a separate segregated fund to directly receive political contributions and make political expenditures. If the separate segregated fund is maintained independently of the section 501(c) organization that established it, expenditures from the fund will not be attributed to the section 501(c) organization. Rather, such fund will be treated as a political organization within the meaning of § 1.527–2(a). Whether the segregated fund is maintained independently from the section 501(c) organization will be determined from all the facts and circumstances. When a labor union or chamber of commerce establishes a separate segregated fund pursuant to 2 U.S.C. 441(b) or a similar State statute, such labor union or chamber of commerce may receive political contributions or dues directly and immediately transfer such funds to the separate segregated fund established by such organization without having the transfer of such funds treated as a political expenditure. Funds will not be considered immediately transferred, where prior to the transfer of such funds, the labor union or chamber of commerce deposits such funds in an interest bearing account or uses such funds for any purpose of the labor union or chamber of commerce. In addition, the fact that a labor union or chamber of commerce receives political contributions or dues and immediately transfers such funds to the separate segregated fund will not be a factor which tends to indicate that such fund is not maintained independently from the section 501(c) organization.

(f) *Effect of expenditures on exempt status.* Section 527(f) and this section do not sanction attempts to influence legislation by propaganda, or the intervention in any political campaign by an organization described in section 501(c) if such activity is inconsistent with its exempt status under section 501(a). For example, an organization described in section 501(c)(3) is precluded from engaging in any political campaign activities. The fact that section 527 imposes a tax on the political expenditures of section 501(c) organizations and permits such organizations to establish separate segregated funds to make political expenditures does not sanction these activities by section 501(c)(3) organizations.

§ 1.527–6 Newsletter funds.

(a) *In general.* For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of section 41(c)(2)) for nomination or election to, any Federal, State, or local elective public office for the use by such individual exclusively for the preparation and circulation of such individual's newsletter shall be treated as if such fund constituted a political organization for purposes of determining the taxable income of an organization under section 527(c) and § 1.527.3 of the regulations: *Provided,* The assets of such fund are maintained in separate accounts and are used solely in preparing and circulating the newsletter. The cost of preparation is to include (but not be limited to) the cost of secretarial services and the cost of printing, addressing, and mailing the newsletter. Such a newsletter fund will be subject to tax on its political organization taxable income as provided in section 527(b) and § 1.527–1.

(b) *Modification in determining taxable income of newsletter funds.* In determining the taxable income of a newsletter fund:

(1) The "exempt function" shall be only the preparation and circulation of the newsletter; and

(2) The specific $100 deduction provided by section 527(c)(2)(A) shall not be allowed.

(c) *Expenditure for nonexempt purpose.* For purposes of this paragraph, an expenditure for a nonexempt purpose occurs when newsletter fund assets are not used exclusively for the preparation and circulation of the newsletter. Thus, newsletter fund assets may not be used for an exempt function as defined in § 1.527–2(b)(1). If assets of a newsletter fund are used for any purpose other than preparing and circulating a newsletter, such amounts shall be treated as expended for the personal use of the individual who established and maintained the fund. In addition, the amounts remaining in the newsletter funds shall be included in the gross income of the individual who established and maintained the newsletter fund. For example, if newsletter funds are transferred to an organization which is not a newsletter fund, such a transfer shall be an expenditure for a nonexempt purpose since for an organization to qualify as a newsletter fund its assets must be used exclusively for newsletter (and not campaign) activities. The amount transferred shall be treated as expended for the personal use of the individual who established and maintained the fund and amounts remaining in the newsletter fund shall be included in the gross income of such individual.

(d) *Unexpended funds.* Unexpended amounts held by a newsletter fund which has ceased to engage in the preparation and circulation of the newsletter, shall be treated as expended for the personal use of the individual who established such fund unless these unexpended amounts are either:

(i) Contributed to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(ii) Deposited in the general fund of the U.S. Treasury or in the general fund of any State or local government (including the District of Columbia), or

(iii) Contributed to any other newsletter fund as described in paragraph (a) of this section, within a reasonable time. Any unexpended funds so contributed or deposited will not be treated as expended for the personal use of such individual.

§ 1.527–7 Effective date; filing requirements; and miscellaneous provisions.

(a) *Assessment and collections.* Since the taxes imposed by section 527 are taxes imposed by subtitle A of the Code, all provisions of law and of the regulations applicable to the taxes imposed by subtitle A are applicable to the assessment and collection of the taxes imposed by section 527. Organizations subject to the tax imposed by section 527 are subject to the same provisions, including penalties, as are provided for corporations, in general, except that the requirements of section 6154 concerning the payment of estimated tax shall not apply. See, generally section 6151, et. seq., and the regulations prescribed thereunder, for provisions relating to payment of tax.

(b) *Returns.* For requirements of filing annual returns with respect to political organization taxable income, see section 6012(a)(6) and the applicable regulations.

(c) *Taxable years, method of accounting,* etc. The taxable year (fiscal year or calendar year, as the case may be) of an organization shall be determined without regard to the fact that such organization may have been exempt from tax during any prior period. See sections 441 and 446, and the regulations thereunder in this part, and section 7701 and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration). Similarly, in computing political organization taxable income, the determination of the taxable year for which an item of income or expense is taken into account shall be made under the provisions of section 441, 446, 451, 461, and the regulations thereunder, whether or not the item arose during a taxable year beginning before, on, or after the effective date of the provisions imposing a tax upon political organization taxable income. If a method for treating bad debts was selected in a return of income (other than an information return) for a previous taxable year, the taxpayer must follow such method in its returns under section 527, unless such method is changed in accordance with the provisions of § 1.166–1. A taxpayer which has not previously selected a method for treating bad debts may, in its first return under section 527, exercise the option granted in § 1.166–1.

(d) Effective date. Section 527 applies to taxable years beginning after December 31, 1974.

[FR Doc.76–34770 Filed 11–23–76;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 205]

FEDERAL GRANT AND OTHER PROGRAMS

Funding; Letters of Credit; Notice of Proposed Rulemaking

Notice is hereby given that the Department of the Treasury proposes to amend and revise its existing regulations governing the withdrawal of cash from the Treasury for advances under Federal grant and other programs at 31 CFR Part 205 (also appearing as Department Circular 1075, 3rd Revision).

The primary reason for this revision is to promulgate the Letter of Credit—Treasury Regional Disbursing Office (RDO) System, in addition to the existing Letter of Credit—Federal Reserve Bank (FRB) System, as a means of advancing funds. The particular letter-of-credit system to be used will be at the discretion of the Department of the Treasury. The minimum amount necessary where the letter-of-credit method of advancing funds shall be used has been decreased to $120,000 regardless of which System is used. In addition, this revision removes from the existing Circular detailed procedural instructions which will appear later in Volume I of the Treasury Fiscal Requirements Manual.

Federal grant and other programs involing advances to various organizations outside the Federal Government (hereinafter called "recipient organizations") constitute a significant portion of the Federal budget. The timing and amount of these advances are of major concern to the Department of the Treasury because of the substantial impact such advances have on Treasury's financing costs and the level of the public debt. As a result of this concern, the letter-of-credit method was developed by Treasury with specific criteria for its use. If these criteria are not met, advances are made by the direct Treasury check method. Regardless of the particular method used, advances to a recipient organization should be limited to the minimum amounts needed and should be timed to be in accord only with the actual, immediate cash requirements necessary for the recipient organization to carry out the purpose of the approved program or project as stated in the grant, contract or other financing agreement. However, past experience has shown that the Letter of Credit—FRB System did not provide the Federal program agencies or the Department of the Treasury with an effective tool to preclude the premature withdrawal of cash from the Treasury. Therefore, the Department has developed the Letter of Credit—Treasury RDO System to provide an improved mechanism so vital for effective application of cash management relating to advance financing.

Under the Letter of Credit—Treasury RDO System, letters of credit are maintained at the Treasury regional disbursing offices instead of at the Federal Reserve Banks. When a recipient organization determines that cash is needed for immediate disbursements, it submits a request for payment directly to a Treasury regional disbursing office. At the same time the recipient organization forwards an advance copy of each request for payment to the responsible Federal program agency for review. This request for payment form includes a status of Federal funds section which provides information regarding the amount of Federal funds on hand and the estimated number of days until this amount and the amount requested will be disbursed. The Treasury RDO System also establishes a formal communication link between the Treasury and each Federal program agency. This link enables either entity to initiate action to reject a payment request deemed premature or in excess of immediate disbursement needs.

The Letter of Credit—Treasury RDO System was tested for a period of approximately three years with several Federal program agencies that are involved with a cross-section of all types of recipient organizations. Input by these Federal program agencies and analyses by Treasury indicate that the Letter-of-Credit—Treasury RDO System provides improved monitoring capabilities for the Federal program agencies and improved surveillance capabilities for the Department of the Treasury. These objectives were accomplished with no significant problems being experienced by recipient organizations or Federal program agencies. Accordingly, this revision mandates the Letter of Credit—Treasury RDO System except for letter-of-credit recipient organizations under the checks paid, delay of drawdown, and single letter-of-credit techniques. Such recipient organizations utilizing these techniques will continue to be handled through the Letter of Credit—FRB System. Treasury will continue to explore, with the assistance of Federal program agencies, all means of increasing the efficiency of advance financing systems to achieve the optimum in sound cash management of grant programs within the Federal Government.

Presently the criteria for use of the letter-of-credit method are the existence of or expectation of a continuing relationship with a recipient organization for at least one year, involving annual advances aggregating at least $250,000. Funding of recipient organizations not meeting these criteria is accomplished by direct Treasury check payment which constitutes a considerable dollar volume on an aggregate basis throughout the Federal sector. A new minimum of $120,000 was tested under the Letter of Credit—Treasury RDO System. This new minimum of $120,000 is now applicable to both Systems. It is being established to bring more programs under the letter-of-credit method and thereby contributes to consistency in the application of this funding method as utilized by Federal program agencies and recipient organizations. In addition, this will provide greater control of advances related to annual aggregate funding between $120,000 and $250,000.

Interested persons are invited to submit written comments or inquiries to the Commissioner, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, Room 618, Washington, D.C. 20226. All material received on or before December 27, 1976, will be considered in connection with the preparation of the final regulations.

Accordingly, notice is hereby given in accordance with 5 U.S.C. 553 that the Department of the Treasury proposes, pursuant to the authority of 5 U.S.C. 301 and sec. 203, 82 Stat. 1101, 42 U.S.C. 4213, to adopt the following revision and amendments to its regulations:

Sec.
205.1 Purpose.
205.2 Scope of regulations.
205.3 Definitions.
205.4 General regulations.
205.5 Irrevocability of the letter of credit.
205.6 Contract or grant provisions.
205.7 Termination of advance methods of financing grant programs.
205.8 Responsibilities of Federal program agencies.
205.9 Implementing instructions.
205.10 Waivers.

AUTHORITY: 5 U.S.C. 301; sec. 203, 82 Stat. 1101 (42 U.S.C. 4213).

SOURCE: Department Circular 1075, 4th Revision, ------ FR ------, ------, 1976.

§ 205.1 Purpose.

This part prescribes the regulations governing advances to recipient organizations for financing operations under Federal grant and other programs.

§ 205.2 Scope of regulations.

(a) The regulations in this part apply to any Federal program requiring advances to finance the recipient organization's activities in carrying out the program, whether by contract, grant, contribution, or other form of agreement. (Advance payments on procurement contracts are also subject to the provisions of the Federal Procurement Regulations regarding contract financing which appear at 41 CFR Part 1-30 and the provisions of the Armed Services Procurement Regulations regarding defense contracting which appear at 32 CFR Part 163.) The regulations in this part are not generally applicable to loan programs. However, the letter-of-credit method should be considered by Federal program agencies for application to loans carrying interest rates which are lower than Treasury borrowing rates.

(b) These regulations are not intended to apply to Government disbursements made to reimburse an organization for work already performed and financed with the organization's own working capital. However, these regulations do apply to reimbursable grant programs involving nonprofit organizations participating in the single letter-of-credit funding technique. Any other specific application of features of these regula-

tions to reimbursement payments will be considered by the Department of the Treasury if requested by a Federal program agency.

§ 205.3 Definitions.

For the purpose of this part:

(a) *Recipient organization* means an organization outside the Federal Government (including any state and local government, educational institution, international organization and any other public and private organization) receiving cash advances under Federal grant and other programs.

(b) *Primary recipient organization* means a recipient organization receiving cash advances directly from the Federal Government.

(c) *Secondary recipient organization* means a recipient organization receiving cash advances from a primary recipient organization.

(d) *Direct Treasury check method* means the method whereby payment is made directly to a recipient organization by Treasury check authorized by the responsible officer of the Federal program agency.

(e) *Letter of Credit—Treasury Regional Disbursing Office System* means the system whereby the letters of credit are maintained and serviced by Treasury disbursing centers and Treasury regional disbursing offices.

(f) *Letter of Credit—Federal Reserve Bank System* means the system whereby the letters of credit are maintained and serviced by Federal Reserve Banks and Branches.

(g) *Checks paid technique* means the procedure whereby the drawdown on the letter of credit is delayed until the checks issued for program disbursements are presented to the drawee bank for payment.

(h) *Delay of drawdown technique* means the procedure whereby the drawdown on the letter of credit is delayed until after the checks issued for program disbursements have been forwarded to the payees.

(i) *Consolidation of funding to the same recipient organization under one letter of credit* means the procedure whereby, within a single accounting entity, the Federal program agency combines all advance funding to the same recipient organization under one letter of credit. In achieving this objective, the Federal program agency shall include all advance funding to the recipient organization including that which ordinarily would not qualify because it does not meet the criteria established for the letter-of-credit method.

(j) *Single letter-of-credit technique* means the procedure whereby numerous letters of credit issued by different accounting entities within the same Federal department to state agencies, local government agencies, or recipient institutions are replaced by one centrally administered single letter of credit issued to one central organization within that state, local government, or recipient institution.

(k) *Working capital advance basis* means the procedure whereby funds are advanced to the recipient organization to cover its estimated disbursement needs for a given initial period. Thereafter, the recipient organization would be reimbursed for the amount of its actual cash disbursements. The amount of the initial advance shall be geared to the reimbursement cycle so that after the initial period the advance approximately equals the average amount of the recipient organization's unreimbursed program payments.

§ 205.4 General regulations.

(a) Cash advances to a recipient organization shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

(b) If a Federal program agency has, or expects to have, a continuing relationship with a recipient organization for at least one year, involving annual advances aggregating at least $120,000, the agency shall use the letter-of-credit method. Letters of credit will be established with the Treasury disbursing centers and Treasury regional disbursing offices (Letter of Credit—Treasury Regional Disbursing Office System) or the Federal Reserve Banks and Branches (Letter of Credit—Federal Reserve Bank System) as determined by the Commissioner, Bureau of Government Financial Operations, or his designee.

(c) When annual advances to a recipient organization aggregate less than $120,000 or there is not a continuing relationship for at least one year, the cash advances shall ordinarily be made by the direct Treasury check method. Such cash advances shall be made only in amounts necessary to meet current disbursement needs and shall be scheduled so that the funds are available to the recipient orgainzation only immediately prior to their disbursement by the organization.

(d) Each Federal program agency shall work toward the objective of the consolidation of funding to the same recipient organization under one letter of credit. Also, the single letter-of-credit, checks paid, and the delay of drawdown techniques of withdrawing funds under the letter-of-credit method shall be employed wherever feasible under the direction and approval of the Department of the Treasury.

(e) Cash advances made by primary recipient organizations to secondary recipient organizations shall conform substantially to the same standards of timing and amount as apply to cash advances by Federal program agencies to primary recipient organizations. Federal program agencies shall encourage primary recipient organizations to develop procedures, similar to the letter-of-credit method, whereby secondary recipient organizations can draw on the primary recipient organization as funds are needed for disbursement, in lieu of the primary recipient organization advancing funds to the secondary recipient organization(s).

§ 205.5 Irrevocability of the letter of credit.

A letter of credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated funds in good faith thereunder in executing the authorized Federal program in accordance with the grant, contract, or other agreement.

§ 205.6 Contract or grant provisions.

Use of letters of credit shall be covered by a clause in the grant, contract, or other financing agreement whereby the recipient organization commits itself to (a) initiating cash drawdowns only when actually nedeed for its disbursements, (b) timely reporting of cash disbursements and balances as required by the Federal program agency, and (c) the imposition of the same standards of timing and amount upon any secondary recipient organizations including the furnishing of reports of cash disbursements and balances, with the understanding that failure to adhere to these provisions may cause the unobligated portion of the letter of credit to be revoked by the Federal program agency or by the Department of the Treasury. The financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds as stated in Federal Management Circular 74–7 for state and local governments and Office of Management and Budget Circular A–110 for institutions of higher education, hospitals, and other nonprofit organizations.

§ 205.7 Termination of advance methods of financing grant programs.

When a recipient organization receiving cash advances by a letter of credit or by direct Treasury check method has demonstrated to a Federal program agency an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and the disbursement thereof, the Federal program agency unless prohibited by the statutes governing the program(s) in question, shall terminate advance financing and shall require the recipient organization to finance its operations with its own working capital, and payments to the recipient organization shall be made by direct Treasury check method to reimburse it for actual cash disbursements. In those cases in which the reimbursement method is not feasible, arrangements may be made whereby the operations of the recipient organization are financed on a working capital advance basis.

§ 205.8 Responsibilities of Federal program agencies.

Regardless of the particular method used to advance funds, the Federal program agency shall be responsible for (a) making such reviews of the financial practices of recipient organizations, both primary and secondary, as are necessary to ensure that the provisions of this part are being complied with, and (b) instituting such remedial measures as may be necessary in the event that a recipient organization demonstrates its unwillingness or inability to comply with these provisions. Federal program agencies shall formulate procedural instructions which specify the methods employed to carry out these responsibilities and shall forward copies of such instructions to the Commissioner, Bureau of Government Financial Operations, or his designee for approval. Also, each Federal program agency shall furnish the Department of the Treasury such periodic reports showing cash balances in the hands of the recipient organizations and results of reviews of the financial practices of recipient organizations, as are required by the Commissioner, Bureau of Government Financial Operations, or his designee.

§ 205.9 Implementing instructions.

The Commissioner, Bureau of Government Financial Operations, will issue implementing instructions for the regulations established by this part in Volume I of the Treasury Fiscal Requirements Manual.

§ 205.10 Waivers.

Any waivers of the provisions of this part previously granted to Federal program agencies are hereby revoked. Requests for waivers of specific provisions of this part shall be presented in writing to the Commissioner, Bureau of Government Financial Operations, or his designee.

The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

DAVID MASSO,
Fiscal Assistant Secretary.

Dated. November 19, 1976.

[FR Doc.76-34783 Filed 11-23-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

[32 CFR Part 701]

[SECNAVINST 5211.5A]

PRIVACY ACT OF 1974

Proposed Additional Exemptions

In accordance with the public rulemaking requirements of 5 U.S.C. 552a(j), notice is hereby given that the Secretary of the Navy proposes to amend Subpart G of Part 701 of 32 CFR (41 FR 55061, November 17, 1976), entitled "Privacy Act Exemptions," by proposing two provisions under 5 U.S.C. 552a. The first proposed amendment to Subpart G of Part 701 will add a new paragraph (1) to § 701.123 which will exempt portions of a Navy system of records entitled "White House Support Program." The second proposed amendment to Subpart G of Part 701 will add a new paragraph (g) to § 701.124 which will exempt portions of a Marine Corps system of records entitled "Personnel Security Eligibility and Access Information System."

Interested persons are invited to participate in the formulation of these proposed amendments by submitting written data, views, and arguments to the Director, Naval Records Management Division, Office of the Chief of Naval Operations (OP-09B1), Navy Department, Washington, D.C. 20350. Oral presentations are not desired. All written material received on or before December 31, 1976, or received on or before December 27, 1976, which ever day is later, will be considered by the Secretary of the Navy prior to publication of the amendments to Subpart G of Part 701. All comments received in response to these proposed amendments will be available for public inspection during normal working hours at the Law Library of the Office of the Judge Advocate General, room 2527, Navy Annex (Federal Office Building No. 2), Southgate Road and Columbia Pike, Arlington, Virginia.

These amendments are proposed under the authority of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

It is therefore proposed to establish, in Subpart G of Part 701 of 32 CFR, a new paragraph (1) to § 701.123 and a new paragraph (g) to § 701.124, as follows:

§ 701.123 Exemptions of specific Navy records systems.

* * * * *

(1) *Office of the Secretary.*

(1) ID—N31698. WHSP.

Sysname—White House Support Program.

Exemption—Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a (c) (3), (d), (e) (1), (e) (4) (G) through (I), and (f).

Authority—5 U.S.C. 552a(k) (1), (2), (3), and (5).

Reasons—Exempted portions of this system may contain information which has been properly classified under Executive Order 11652, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system may also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information, and which was obtained by providing an express or implied promise to the source that his identity would not be revealed to the subject of the record. Exempted portions of this system may also contain information collected and maintained in connection with providing protective services to the President and other individuals protected pursuant to 18 U.S.C. 3056. Exempted portions of this system may also contain investigative records compiled for law-enforcement purposes, the disclosure of which could reveal the identity of sources who provided information under an express or implied promise of confidentiality, compromise investigative techniques and procedures, jeopardize the life or physical safety of law-enforcement personnel, or otherwise interfere with enforcement proceedings or adjudications.

§ 701.124 Exemptions for specific Marine Corps record systems.

* * * * *

(g) ID—MIN 00001.

Sysname—Personnel Security Eligibility and Access Information System.

Exemption—Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a(c) (3), (d), (e) (1), (e) (4) (G) through (I), and (f).

Authority—5 U.S.C. 552a(k) (2), (3), and (5), as applicable.

Reasons—Exempt portions of this system contain information that has been properly classified under Executive Order 11652, and that is required to be kept secret in the interest of national security or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for federal civilian employment, military service, federal contracts, or access to classified, compartmented, or otherwise sensitive information, and was obtained by providing an expressed or implied assurance to the source that his identity would not be revealed to the subject of the record.

Exempted portions of this system further contain information that identifies sources whose confidentiality must be protected to ensure that the privacy and physical safety of these witnesses and informants are protected.

Dated: November 10, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-34788 Filed 11-23-76;8:45 am]

notices

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

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE TASK FORCE ON PATRIOT VULNERABILITY

Advisory Committee Meeting

The Defense Science Board Task Force on Patriot Vulnerability will meet in closed session on 14, 15, and 16 December 1976 in the Pentagon, Washington, D.C.

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

The task force will provide an analysis of the Patriot vulnerability to current and projected threats and provide related guidance and advice regarding R. & D. action considered appropriate within the Department of Defense.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this task force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

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

NOVEMBER 19, 1976.

[FR Doc.76-34786 Filed 11-23-76;8:45 am]

JOINT STRATEGIC TARGET PLANNING STAFF SCIENTIFIC ADVISORY GROUP

Closed Meeting

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective 5 January 1973, notice is hereby given that a closed meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska during the period Wednesday, 12 January 1977, through Thursday, 13 January 1977.

The entire meeting is devoted to the discussion of classified information within the meaning of Section 552(b)(1), Title 5 of the U.S. Code, and therefore will be closed to the public.

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

NOVEMBER 19, 1976.

[FR Doc.76-34787 Filed 11-23-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A365]

MINNESOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Minnesota Counties as a result of drought.

Dodge	Scott
Fillmore	Steele
Mower	

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b).

Applications for emergency loans must be received by this Department no later than January 10, 1977, for physical losses and May 28, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of November, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76-34758 Filed 11-23-76;8:45 am]

Forest Service

BLACKTAIL LAND USE PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for management of the Blacktail Unit. The Forest Service Report Number is USDA-FS-R2-FES (Adm) FY-76-06.

The environmental statement concerns a proposed land use plan for the Blacktail Unit on the Routt National Forest in Routt and Grand Counties, Colorado. The management proposal emphasizes both non-consumptive values and the production of tangible products on 23,420 acres. The plan will permit a mixture of needed land uses and activities that are environmentally acceptable and compatible with the Area's economic and social potential. The initial activities would consist of constructing four miles of road and harvesting five million board feet of timber. Specific guidance is given to retaining scenic qualities on 8,465 acres and maintaining a dispersed recreation atmosphere on 23,382 acres. The proposed Plan does not retain any of the 15,655 acres of Inventoried Roadless Areas DL and DM (Rock Creek and Blacktail) in a designated roadless status, however, 1,630 acres will be managed to retain their present near-natural condition.

The draft environmental statement was transmitted to CEQ on December 15, 1975.

This final environmental statement was transmitted to CEQ on November 17, 1976.

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

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
USDA Forest Service, 137 10th Street, Steamboat Springs, Colorado 80477.
USDA Forest Service, 11177 West Eight Avenue, Lakewood, Colorado 80225.
USDA Forest Service, 300 Roselawn, Yampa, Colorado 80483.

A limited number of single copies are available upon request to: J. Merle Prince, Forest Supervisor, Routt National Forest, P.O. Box 1198, Steamboat Springs, Colorado 80477.

J. MERLE PRINCE,
Forest Supervisor.

NOVEMBER 17, 1976.

[FR Doc.76-34726 Filed 11-23-76;8:45 am]

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF SEPTEMBER 15, 1976

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of September 15, 1976. Persons interested in a particular action and environmental statement should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organiza-

tional units proposing the action. Statements marked with an asterisk indicate, in total or in part, land use planning, developments, or activities within inventoried roadless areas. National Forest inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wilderness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

R. MAX PETERSON,
Deputy Chief, Forest Service.

NOVEMBER 11, 1976.

—Forest Service environmental statements under preparation as of Sept. 15, 1976

[Forest Service addresses at end of table]

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Washington office:					
Pere Marquette National Scenic River	Manistee National Forest, Mich.	Legislation	Chief	February 1974	
Land Exchange with Lake Forest Enterprises	Superior National Forest, Minn.	do	do	July 1976	January 1977.
An Sable Wild and Scenic River Study	Huron National Forest, Mich.	do	do	August 1977	February 1978.
Manistee Wild and Scenic River Study	Manistee National Forest, Mich.	do	do	February 1978	August 1978.
*Flathead Wild and Scenic River Study	Flathead National Forest, Mont.	do	do	September 1973	
North Fork American River Wild and Scenic	Tahoe National Forest, Calif.	do	do	December 1977	December 1978.
Flaming Gorge National Recreation Area	Ashley National Forest, Utah-Wyo.	Management plan	do	July 1976	December 1976.
Salmon River Wild and Scenic River	Idaho	do	do	June 1975	July 1977.
*Teton Corridor Wilderness Study-Proposal	Bridger-Teton National Forest, Wyo.	do	do	September 1976	December 1976.
Ouachita Wilderness Study Area Report	Ouachita National Forest, Ark.	do	do	January 1977	July 1977.
Phelps Dodge (Copper Basin)	Prescott National Forest, Ariz.	do	do	March 1976	September 1978.
*Granite Timber Sale	Tongass National Forest, Alaska	Resource plan	do	November 1976	July 1977.
*Alaska Lumber and Pulp 1981-86 Operating Period	do	do	do	September 1978	March 1979.
*Ketchikan Pulp 1979-84 Operating Period	do	do	do	December 1977	July 1978.
Tuolumne Wild and Scenic River Study	Stanislaus National Forest, Calif.	Legislation	do	October 1976	October 1977.
St. Joe Wild and Scenic River Study	St. Joe National Forest, Mont.	do	do	Aug. 22, 1975	July 1977.
*Cougar Lake	Gifford Pinchot and Wenatchee National Forests, Wash.	Wilderness study	do	January 1977	Do.
*Skagit Wild and Scienic River Study	Mount Baker-Snoq. National Forest, Wash.	Legislative	do	June 1975	December 1976.
*Illinois River Study	Siskiyou National Forest, Oreg.	do	do	January 1977	July 1977.
Cascade Head Scenic Research Area	Siuslaw National Forest, Oreg.	Management plan	do	March 1976	October 1976.
Oregon Dunes National Recreation Area	do	do	do	September 1974	January 1977.
Do	do	Wilderness study	do	October 1974	Do.
Lower Minam	Wallowa-Whitman National Forest, Oreg.	do	do	January 1977	July 1977.
North Fork American River Wilderness Area	Tahoe National Forest, Calif.	do	do		
*Indian Peaks Wilderness Study	Arapaho and Roosevelt National Forests, Colo.	do	do	February 1977	Do.
*Conejos Wild and Scenic River Study	Rio Grande National Forest, Colo.	Legislation	do	do	June 1977.
Northern region, region 1:					
*Beaverhead National Forest	Beaverhead National Forest, Mont.	Land use plan	Forest supervisor	November 1976	March 1977.
Sapphires	Bitterroot National Forest, Mont.	do	do	December 1976	May 1977.
*Warm Springs-Medicine Trea	do	do	do	September 1976	January 1977.
Timber Management	do	Resource plan	Regional forester	December 1976	May 1977.
Fire Management in the Selway Bitterroot Wilderness—A Proposed Policy Change.	Bitterroot, Lolo, Clearwater, Nezperce National Forests, Mont. and Idaho.	Change in forest fire suppression policy.	do	February 1976	October 1976.
Elk River	Clearwater National Forest, Idaho.	Land use plan	Forest supervisor	August 1976	January 1977.
Lowell	do	do	do	October 1976	April 1977.
*Diamond International Road Easement	do	Access across undeveloped National Forest to private land.	Regional forester	February 1977	June 1977.
Clearwater Working Circle Timber Management Plan.	do	Revised timber management plan.	do	do	July 1977.
Clearwater-St. Joe Divide	Clearwater, Panhandle National Forests, Idaho.	Land use plan	Forest supervisors	August 1977	January 1978.
Big Game Habitat Improvement	Clearwater, Nezperce, Panhandle National Forests, Idaho.	Burning scrub brush fields in northern Idaho.	do	January 1977	March 1977.
Silvicultural Use of Herbicides in Northern Idaho	do	Herbicide use	Regional forester	do	April 1977.
Pryor Mountain Complex	Custer National Forest, Mont.	Land use plan	Forest supervisor		
Ashland	do	do	do	October 1976	March 1977.
Sioux District	Custer National Forest, Mont., S. Dak.	do	do	April 1976	October 1976.
Beartooth Face [1]	Custer, Gallatin National Forests, Mont.	do	Forest supervisors	May 1977	November 1977.
Beartooth Plateau [2]	Custer, Gallatin, Shoshone National Forests, Mont. and Wyo.	do	do	July 1976	December 1976.
Coeur d'Alene	St. Joe National Forest, Idaho	do	Forest supervisor	November 1976	
Siwash	do	do	do	March 1976	October 1976.
Smith Creek	Kaniksu National Forest, Idaho	do	do	July 1975	November 1976.
Lamb Upper West Branch	do	do	do	April 1976	Do.
Boulder	do	do	do	August 1976	December 1976.
Tungsten	do	do	do	December 1976	
Napoleon	Kaniksu, Kootenai National Forests, Idaho and Mont.	do	Forest supervisors	November 1976	
North End	Deerlodge National Forest, Mont.	do	Forest supervisor	June 1975	September 1976.
Upper Rock Creek	do	do	do	October 1976	April 1977.
Little Boulder-Whitetail	do	do	do	May 1977	September 1977.
Eastside-Lockhart-Browns Gulch	do	do	do	October 1977	February 1978.
Highlands	do	do	do	November 1976	
Anaconda/Hamilton Transmission Line	Deerlodge, Bitterroot, Lolo National Forests, Mont.	Powerline	Forest supervisors	November 1976	May 1977.
Anaconda	Deerlodge National Forest, Mont.	Land use plan	Forest supervisor	May 1973	September 1973.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Island	Flathead National Forest, Mont.	do	do	November 1976	May 1977.
Logan	do	do	do	October 1976	April 1977.
East Shore Flathead Lake	do	do	do	December 1976	June 1977
Hungry Horse West	do	do	do	February 1977	August 1977.
Mount Hebgen (Ski Yellowstone)	Gallatin National Forest, Mont.	Winter sports	do	September 1976	March 1977.
West Half Yellowstone	do	Land use plan	do	May 1977	December 1977.
Hilgard-Taylor	do	do	do	January 1978	May 1978.
Buck Creek-Yellow Mule	do	Road construction	do	September 1976	December 1976.
Ophir-Dog-MacDonald Pass	Helena National Forest, Mont.	Land use plan	do	July 1976	November 1976.
Mike Horse	do	do	do	October 1976	February 1977.
Magpie Confederate	do	do	do	July 1976	March 1977.
Colorado-Unionville-Travis	do	do	do	September 1976	April 1977.
East Belt	do	do	do	October 1976	July 1977.
Nevada-Stemple-Little Prickly Pear	do	do	do	October 1977	September 1978
*Keeler	Kootenai National Forest, Mont.	do	do	October 1976	May 1977.
*Hornet	do	do	do	December 1976	July 1977.
Pinkham-Alkali-Fortine	do	do	do	October 1976	June 1977.
*Vermilion-Beaver-Marten	do	do	do	January 1977	August 1977.
*Lick Mountain-Rock Candy	do	do	do	March 1977	December 1977.
*Star	do	do	do	do	Do.
Rocky Mountain Front	Lewis and Clark National Forest, Mont.	do	do	November 1976	April 1977.
Smith River and Logging Pilgrim	do	do	do	January 1977	May 1977.
Yogo-Bear and Dry Wolf	do	do	do	June 1977	February 1978.
Placid-Blanchard	Lolo National Forest, Mont.	do	do	September 1976	March 1977.
*Ninemile	do	do	do	July 1976	April 1977.
*Big Holo	do	do	do	May 1976	Do.
*Prospect Creek	do	do	do	August 1976	March 1977.
Blue Ridge	Nezperce National Forest, Idaho	do	do	December 1976	April 1977.
Crooked Creek-Orogrande	do	do	do	April 1977	June 1977.
Meadow Creek	do	do	do	October 1977	February 1978.
Hot Point	do	do	do	March 1977	September 1977.
West Nezperce	do	do	do	October 1978	
Timber Management Plan	do	do	Regional forester	October 1976	February 1977.
Rocky Mountain region, region 2:					
*Boulder Grand Divide	Arapaho and Roosevelt National Forests, Colo.	do	Forest supervisor	do	March 1977.
East Grand County	Arapaho National Forest, Colo	do	do	June 1977	November 1977.
Norbeck Wildlife Preserve	Black Hills National Forest, S. Dak. and Wyo.	do	do	February 1977	July 1977.
Timber Management	do	Resource plan	Regional forester	April 1976	November 1976.
*East River	Gunnison and White River National Forests, Colo.	Land use plan	Forest supervisors	December 1975 (amended December 1976).	April 1977.
*Grand Mesa-Muddy Creek	Gunnison and Grand Mesa National Forests, Colo.	do	Forest supervisor	July 1978	December 1978.
*Savage Run	Medicine Bow National Forest, Wyo.	do	do	April 1976	December 1976.
*Kennady Peak	do	do	do	January 1977	July 1977.
*Huston Park Area (Proposed Cheyenne Water Diversion Project).	do	Water diversion	do	December 1976	April 1977.
*Southern San Juan	Rio Grande and San Juan National Forests, Colo., Carson National Forest, N. Mex.	Land use plan	do	Deferred—pending coordination with Public Law 93-621 report and completion of USGS minerals report.	
*South Fork	Rio Grande National Forest, Colo	do	do	October 1976	February 1977.
Timber Management Amendment	do	Resource plan	Regional forester	January 1977	
Timber Management	Roosevelt National Forest, Colo	do	do	February 1977	July 1977.
*Bears Ears Unit	Routt National Forest, Colo	Land use plan	Forest supervisor	June 1976	January 1977.
*Blacktail	do	do	do	December 1975	October 1976.
Arkansas Planning Unit	San Isabel National Forest, Colo.	do	do	June 1977	September 1977.
*Dolores	San Juan National Forest, Colo	do	do	September 1976	January 1977.
*Pagosa Springs	do	do	do	June 1977	December 1977.
South Animas	do	do	do	October 1976	February 1977.
*Piedra	do	do	do	September 1977	March 1978.
Beartooth Plateau Unit (with region 1)	Shoshone, Gallatin, and Custer National Forests, Mont. and Wyo.	do	do	July 1976	December 1976.
*Thompson Creek Unit	White River National Forest, Colo.	do	do	August 1976	January 1977.
*Upper Eagle Unit	do	do	do	December 1976	April 1977.
Timber Management	do	Resource plan	Regional forester	February 1976	October 1976.
Eagle-Aspen	do	Land use plan	Forest Supervisor	February 1977	August 1977.
Southwestern region, region 3:					
Black River	Apache-Sitgreaves National Forest, Ariz.	do	do	November 1976	March 1977.
Sitgreaves Timber Management Plan	do	Resource plan	Regional forester	April 1977	November 1977.
Red River Ski Area Expansion	Carson National Forest, N. Mex.	Winter Sports	do	October 1976	May 1977.
Taos Ski Valley Expansion	do	do	do	April 1974	December 1976.
*Manzano Mountain	Cibola National Forest, N. Mex.	Land use plan	Forest Supervisor	October 1976	January 1977.
Woods Unit	Coconino National Forest, Ariz.	do	do	March 1976	September 1977.
Cinder Hills	do	do	do	March 1977	June 1977.
Huachuca	Coronado National Forest, Ariz.	do	do	January 1977	Do.
Swift Trail Highway	do	Road	Regional forester	September 1976	December 1976.
*Timber Management Plan	Gila National Forest, N. Mex.	Resource plan	do	September 1976	Do.
Gillita Unit Plan	do	Land use plan	Forest supervisor	October 1976	February 1977.
Blue Algae Control	do	Weed control	do	September 1976	January 1977.
Eagle Creek Dam and Reservoir	Lincoln National Forest, N. Mex.	City water storage	do	November 1976	February 1977.
Ruidoso Land Use Plan	do	Land use plan	do	January 1977	April 1977.
*White Mountain Wilderness	do	Wilderness addition	do	May 1977	September 1977.
Cloudcroft	do	Land use plan	do	March 1978	June 1978.
Clarkdale-Williams Highway Proposal-Supplement	Prescott National Forest, Ariz.	Road construction	Regional forester	August 1976	September 1976.
Thumb Butte Unit Plan	do	Land use plan	Forest supervisor	September 1977	March 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Gallina Unit Plan	Santa Fe National Forest, N. Mex.	do	do	July 1976	October 1976.
*Pecos Unit Plan	do	do	do	October 1976	April 1977.
*Santa Fe Unit Plan	do	do	do	June 1977	December 1977.
Geothermal Leasing	do	Mineral leasing	do	July 1976	October 1976.
Coronado Project	Tonto National Forest, Ariz.	Land use and power-line easement.	Regional forester	January 1979	June 1979.
Williams	Kaibab National Forest, Ariz.	Land use plan	do	June 1977	December 1977.
South Kaibab Timber Management Plan	do	Resource plan	do	January 1977	May 1977.
Intermountain region, region 4:					
Timber Management Plan	Ashley National Forest, Utah	do	do	December 1976	June 1977.
High Uintas South Slope	do	Land use plan	Forest supervisor.	do	Do.
Timber Management Plan	Boise National Forest, Idaho	Resource plan	Regional forester.	May 1976	December 1976.
*South Fork Salmon River	Boise-Payette National Forests, Idaho.	Land use plan	Forest supervisor.	December 1976	March 1977.
*Union Pass Planning Unit	Bridger-Teton National Forest, Wyo.	do	do	September 1976	November 1976.
*Greys River Planning Unit	do	do	do	October 1976	January 1977.
Timber Management Plan	Boise National Forest, Idaho	Resource plan	Regional forester.	December 1976	May 1977.
*Diamond Creek Planning Unit	Caribou National Forest, Idaho	Land use plan	Forest supervisor.	May 1976	December 1976.
*Bear River Planning Unit	do	do	do	March 1977	July 1977.
Challis-Squaw Creek Planning Unit	Challis National Forest, Idaho	do	do	December 1976	April 1977.
*Markagunt Plateau Planning Unit	Dixie National Forest, Utah	do	do	October 1976	January 1977.
*Paunsaugunt-Sevier Planning Unit	do	do	do	November 1976	April 1977.
Fremont Planning Unit	Fishlake National Forest, Utah	do	do	December 1976	June 1977.
Tushar Mountains Planning Unit	do	do	do	November 1977	May 1978.
*Mount Moriah Planning Unit	Humboldt National Forest, Nev.	do	do	March 1977	September 1977.
*Santa Rosa Planning Unit	do	do	do	June 1976	October 1976.
*Moab Planning Unit	Manti-LaSal National Forest, Colo.-Utah.	do	do	January 1978	April 1978.
*Ferron-Price Planning Unit	Manti-LaSal National Forest, Utah.	do	do	do	July 1978.
*Warren Planning Unit	Payette National Forest, Idaho	do	do	December 1976	March 1977.
• Beartrap-Dutchler Planning	Salmon National Forest, Idaho	do	do	December 1975	November 1976.
• Timber Management Plan	do	Resource plan	Regional forester	December 1976	May 1977.
• Leesburg Planning Unit	do	Land use plan	Forest supervisor	January 1977	June 1977.
• Leadore Planning Unit	do	do	do	February 1977	August 1977.
• Albion Planning Unit	Sawtooth National Forest, Idaho	do	do	do	Do.
• Island Park Planning Unit	Targhee National Forest, Idaho	do	do	November 1976	April 1977.
• Big Hole Mountains Planning Unit	do	do	do	September 1977	January 1978.
• Timber Management Plan	do	Resource plan	Regional forester	April 1977	September 1977.
• Alpine Planning Unit	Toiyabe National Forest, Nev.-Calif.	Land use plan	Forest supervisor	June 1976	November 1976.
• Hobble-Diamond Planning Unit	Uinta National Forest, Utah	do	do	July 1977	December 1977.
Strawberry Mountain Planning Unit	do	do	do	November 1976	February 1977.
*North Slope Planning Unit	Wasatch National Forest, Utah	do	do	March 1976	November 1976.
*Salt Lake Land Use Plan	do	do	do	December 1976	May 1977.
REGIONAL OFFICE					
SAN FRANCISCO CALIFORNIA					
California region, region 5:					
*San Gabriel	Angeles National Forest, Calif.	do	do	March 1977	October 1977.
*Valencia	do	do	do	January 1979	October 1979.
Bouquet Canyon	do	Recreation plan	Regional forester	March 1977	June 1977.
*Trabuco	Cleveland National Forest, Calif.	Land use plan	Forest supervisor	do	January 1978.
*Descanso	do	do	do	June 1979	June 1980.
Volcanoville	Eldorado National Forest, Calif.	do	do	June 1976	October 1976.
Timber Management Plan	do	Resource plan	Regional forester	October 1976	February 1977.
Sierra Ski Ranch	do	Winter sports	Forest supervisor	do	January 1977.
*Mammoth	Inyo National Forest, Calif.	Land use plan	do	March 1977	August 1977.
Mono Basin	do	do	do	February 1977	June 1977.
Bishop Creek	do	do	do	October 1976	February 1977.
Timber Management Plan	do	Resource plan	Regional forester	April 1977	August 1977.
Long Valley KGRA	Inyo National Forest and associated national resource lands.	Geothermal leasing, exploration, and development.	Forest supervisor, Inyo National Forest, and Bakersfield district manager, BLM.	March 1977	September 1977.
*King	Klamath National Forest, Calif.	Land use plan	Forest supervisor	March 1976	October 1976.
*Grider	do	do	do	November 1976	June 1977.
*Almanor	Lassen National Forest, Calif.	do	do	December 1976	May 1977.
Big Sur Coastal	Los Padres National Forest, Calif.	do	do	October 1976	January 1977.
*Mt. Pinos	do	do	do	April 1978	July 1978.
*Middle-Eel	Mendocino National Forest, Calif.	do	do	December 1976	May 1977.
Timber Management Plan	do	Resource plan	Regional forester	November 1976	March 1977.
*Main Eel	do	Land use plan	Forest supervisor	September 1977	February 1978.
*Medicine Lake	Modoc National Forest, Calif.	do	do	November 1976	February 1977.
Warner Mountain	do	do	do	December 1977	May 1978.
*Mohawk Planning Unit	Plumas National Forest, Calif.	do	do	August 1976	February 1977.
Feather River	do	do	do	September 1977	March 1978.
Twins Valley	do	do	do	June 1978	November 1978.
Timber Management Plan	Angeles, Cleveland, Los Padres, and San Bernardino National Forests, Calif.	Resource plan	Regional forester	March 1977	June 1977.
Big Bear Basin	San Bernardino National Forest, Calif.	Land use plan	Forest supervisor	November 1976	February 1977.
North Shore Big Bear Lake	do	Recreation development plan.	do	December 1976	January 1978.
Little Kern	Sequoia National Forest, Calif.	Land use plan	do	November 1976	April 1977.
Plateau	do	do	do	August 1977	January 1978.
Hume	do	do	do	October 1977	March 1978.
Tule	do	do	do	June 1978	November 1978.
Timber Management Plan	do	Resource plan	Regional forester	April 1977	July 1977.
*Girard-McCloud	Shasta-Trinity National Forest, Calif.	Land use plan	Forest supervisor	November 1976	February 1977.
*South Fork Mountain	do	do	do	December 1976	March 1977.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ or estimated date)	Estimated date of final
Rancheria	Sierra National Forest, Calif.	do	do	August 1976	December 1976.
*Kings River	do	do	do	April 1977	September 1977.
*Pineridge-Kaiser	do	do	do	do	Do.
*Chiquito-Bass Lake	do	do	do	do	Do.
*Mariposa	do	do	do	do	Do.
*Upper San Joaquin	do	do	do	do	Do.
Timber Management Plan	do	Resource plan	Regional forester	do	Do.
*Fox Supplement	Six Rivers National Forest, Calif.	Land use plan	Forest supervisor	December 1976	March 1977.
Orleans Red Cap Bridge	do	do	do	November 1976	February 1977.
Timber Management Plan	Tahoe National Forest, Calif.	Resource plan	Regional forester	February 1977	June 1977.
Foresthill-Hell Hole	Tahoe and Eldorado National Forests, Calif.	Land use plan	Forest Supervisor	January 1980	July 1980.
Nevada City	Tahoe National Forest, Calif.	do	do	January 1982	July 1982
Downieville	do	do	do	January 1983	July 1983.
Washo Nation Cultural Center	Lake Tahoe Basin Management Unit.	Educational-recreation.	Lake Tahoe Basin administrator.	February 1977	July 1977.
*Unit Plan	do	Land use plan	do	October 1978	July 1979.
Pacific Northwest region, region 6:					
*East Deer Creek	Colville National Forest, Wash.	do	Forest supervisor	September 1976	August 1976.
*Harvey Creek	do	do	do	November 1976	March 1977.
*Kettle Range	do	do	do	September 1976	January 1977.
*Sullivan-Salmo Planning Unit	do	do	do	December 1976	May 1977.
*10-Yr Timber Management Plan	do	Resource plan	Regional forester	March 1977	October 1977.
*Deschutes	Deschutes National Forest, Oreg.	Land use plan	Forest supervisor	June 1977	December 1977.
*Lakeview	Fremont National Forest, Oreg.	do	do	January 1977	June 1977.
*10-Yr Timber Management Plan	do	Resource plan	Regional forester	December 1976	May 1977.
*Bear Creek	Gifford Pinchot National Forest, Wash.	Land use plan	Forest supervisor	October 1976	January 1977.
*Alsea	Siuslaw National Forest, Oreg.	do	do	August 1977	January 1978.
*Hebo	do	do	do	September 1976	January 1977.
Mary's Peak	do	do	do	March 1976	October 1976.
*Siuslaw	do	do	do	January 1978	October 1978.
*10-Year Timber Management Plan	do	Resource plan	Regional forester	April 1977	December 1977.
*Elgin	Umatilla National Forest, Oreg.	Land use plan	Forest supervisor	December 1976	July 1977.
*Oregon Butte	do	do	do	June 1976	December 1976.
*Grande Ronde	Umatilla and Wallowa-Whitman National Forests, Oreg.	do	Regional forester	August 1976	Do.
*Umpqua	Umpqua National Forest, Oreg.	do	Forest supervisor	February 1977	August 1977.
*10-Year Timber Management Plan	do	Resource plan	Regional forester	October 1976	March 1977.
Burnt Powder	Wallowa-Whitman National Forest, Oreg.	Land use plan	Forest supervisor	April 1977	August 1977.
*10-Year Timber Management Plan	Malheur, Umatilla and Wallowa-Whitman National Forest's, Oreg.	Resource plan	Regional forester	December 1976	June 1977.
Bren Mac Mines	Mt. Baker-Snoq. National Forest, Wash.	Access road and mining.	Forest supervisor	June 1977	March 1978.
*Mt. Baker	do	Land use plan	do	December 1976	May 1977.
*Skykomish	Mt. Baker-Snoq., and Wenatchee National Forest's, Wash.	do	Regional forester	June 1977	April 1978.
*Badger-Jordan	Mt. Hood National Forest, Oreg.	do	Forest supervisor	November 1976	July 1977.
*Bull Run	do	do	do	August 1976	March 1977.
*Mt. Hood Interagency	do	do	do	March 1976	February 1977.
Mt. Hood Meadows	do	Ski area development	do	March 1977	August 1977.
*10-Year Timber Management Plan	do	Resource plan	Regional forester	August 1976	March 1977.
Grassland	Ochoco National Forest, Oreg.	Land use plan	Forest supervisor	February 1978	June 1978.
*Ochoco-Crooked River	do	do	do	April 1977	August 1977.
*10-Year Timber Management Plan	do	Resource plan	Regional forester	December 1976	April 1977.
*Canal Front	Olympic National Forest, Wash.	Land use plan	Forest supervisor	March 1977	December 1977.
*McLoughlin-Klamath	Rogue River and Winema National Forests, Oreg.	do	Regional forester	October 1976	June 1977.
*North Siskiyou	Rogue River and Siskiyou National Forests, Oreg. and Klamath National Forest, Calif.	do	(3)	March 1978	December 1978.
*Chetco-Grayback	Siskiyou National Forest, Oreg.	do	Forest supervisor	December 1976	June 1977.
Coquille	do	do	do	January 1978	December 1978.
*Rogue-Illinois	do	do	do	September 1976	June 1977.
Trapper-Siouxon	Gifford Pinchot National Forest, Wash.	do	do	April 1976	December 1976.
*Upper-Lewis	do	do	do	October 1975	October 1976.
*Naches-Tieton White River	Gifford Pinchot, Mt. Baker-Snoq. and Wenatchee National Forests, Wash.	do	Regional forester	October 1976	June 1977.
*Desolation	Malheur, Umatilla and Wallowa-Whitman National Forests, Oreg.	do	do	April 1977	November 1977.
*John Day	Malheur and Umatilla National Forests, Oreg.	do	do	February 1976	December 1976.
*Silvies-Malheur	Malheur, Ochoco and Wallowa-Whitman National Forests, Oreg.	do	do	February 1977	August 1977.
*South Fork	Malheur and Ochoco National Forests, Oreg.	do	do	May 1976	March 1977.
Kittitas	Wenatchee National Forest, Wash.		Forest supervisor	December 1976	August 1977.
*Wenatchee ORV Plan	do	Off road vehicle regulations.	do	October 1976	December 1976.
*Bellnap Springs	Willamette National Forest, Oreg.	Geothermal development.	do	February 1977	May 1977.
Breitenbush	do		do	October 1976	January 1977.
*Willamette LU/TM Plan	do	Land use plan and resource plan.	Regional forester	July 1975	December 1976.
*Chemult	Winema National Forest, Oreg.	Land use plan	Forest supervisor	January 1976	October 1976.
Southern region, region 8:					
Timber Management Plan	Bankhead National Forest, Ala.	Resource plan	Regional forester	September 1976	December 1976.
Conecuh Unit Plan and Timber Management Plan	Conecuh National Forest, Ala.	Land use and resource plan.	Forest supervisor and regional forester.	do	Do.
Lake Russell Unit	Chattahoochee National Forest, Ga.	Land use plan	Forest supervisor	December 1976	September 1977.
South Slope	do	do	do	do	June 1977.
Oconee	Oconee National Forest, Ga.	do	do	October 1977	July 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ or estimated date)	Estimated date of final
Timber Management Plan	Chattahoochee National Forest, Ga.	Resource plan	Regional forester	February 1977	October 1977.
Do	Cherokee National Forest, Tenn	do	do	March 1976	November 1976.
Unaka Unit	do	Land use plan	Forest supervisor	November 1976	June 1977.
French Broad	do	do	do	July 1977	January 1978.
Greenwood Land & Mining Co	Daniel Boone National Forest, Ky.	Prospecting	do	November 1976	February 1977.
Management of Laurel River Unit	do	Land use plan	do	February 1976	May 1977.
Management of Licking River Unit	do	do	do	February 1977	August 1977.
Management of Cumberland River Unit	do	do	do	June 1977	January 1978.
Big Scrub	Ocala National Forest, Fla	do	do	September 1976	February 1977.
Wakulla Unit	Apalachicola National Forest, Fla	do	do	June 1977	November 1977.
Francis Marion National Forest Unit	Francis Marion National Forest, S.C.	do	do	December 1976	June 1977.
Massanutten Unit	George Washington National Forest, Va.	do	do	July 1976	January 1977.
Forest Land Use Plan	do	do	do	October 1977	July 1978.
Lower Jackson Unit	do	do	do	August 1976	January 1977.
Cave Mountain Lake Unit Plan	Jefferson National Forest, Va	do	do	February 1974	February 1977.
Mount Rogers National Recreation Area	do	do	do	October 1976	January 1977.
South Fourche Unit	Ouachita National Forest, Ark	do	do	August 1976	Do.
Fourche la Fave Plan	do	do	do	January 1977	June 1977.
Maumelle-Saline Unit	do	do	do	November 1976	March 1977.
Tiak Unit	do	do	do	October 1976	February 1977.
Timber Management Plan	Ozark National Forest	Resource plan	Regional forester	do	December 1976.
St. Francis Unit and Timber Management Plan	St. Francis National Forest, Ark	Land use and resource plan.	Forest supervisor and regional forester.	April 1976	October 1976.
Wedington Unit	Ozark National Forest, Ark	Land use plan	Forest supervisor	July 1976	March 1977.
Lee Creek Unit	do	do	do	August 1976	April 1977.
Mulberry Unit	do	do	do	December 1976	October 1977.
High Knob Unit	Jefferson National Forest, Va	do	do	do	March 1977.
Revised 10-Year Timber Management Plan	do	Resource plan	Regional forester	July 1976	February 1977.
Vernon Planning Unit	Kisatchie National Forest, La	Land use plan	Forest supervisor.	August 1976	January 1977.
Kisatchie Unit	do	do	do	March 1977	August 1977.
South Evangeline Unit	do	do	do	do	Do.
Holly Springs-Tombigbee Timber Management Plan.	Holly Springs and Tombigbee National Forests, Miss.	Resource plan	Regional forester	November 1976	February 1977.
Whiskey Creek Unit	Desoto National Forest, Miss	Land use plan	Forest supervisor	do	Do.
South Toe River and Big Ivy Units	Pisgah National Forest, N.C	do	do	January 1977	May 1977.
Timber Management Plan	Croatan National Forest, N.C	Resource plan	Regional forester	December 1976	June 1977.
Sabine Unit & Timber Management Plan	Sabine National Forest, Tex	Land use and resource plan.	Forest supervisor and regional forester.	October 1976	February 1977.
Timber Management Plan	Angelina National Forest, Tex	Resource plan	Regional forester	August 1976	December 1976.
Caribbean Unit	Caribbean National Forest, P.R	Land use plan	Forest supervisor	July 1977	March 1978.
Eastern region, region 9:					
Buzzard Swamp Unit	Allegheny National Forest, Pa	do	do	October 1976	January 1977.
Mill Creek Unit	do	do	do	June 1977	December 1977.
Timber Management Plan	do	Resource plan	Regional forester	October 1976	March 1977.
Off-road Vehicle Use	do	Regulations	Forest supervisor	April 1976	December 1976.
Timber Management Plan	Chequamegon National Forest, Wis.	Resource plan	Regional forester	October 1976	January 1977.
Deerfield River Area	Green Mountain National Forest, Vt.	Land use plan	do	January 1977	December 1976.
Timber Management Plan Revision	do	Resource plan	do	November 1976	June 1977.
Willow Springs Unit	Mark Twain National Forest, Mo	Land use plan	Forest supervisor	September 1976	February 1977.
Monongahela National Forest Land Use Plan	Monongahela National Forest, W. Va.	do	Regional forester	October 1976	March 1977.
Spruce Knob Lakes Recreation Complex	do	Recreation area	do	December 1976	May 1977.
Fluorspar Activities in Lusk Creek	Shawnee National Forest, Ill	Mining related	Forest supervisor	do	July 1977.
Timber Management Plan	Superior National Forest, Minn	Resource plan	Regional forester	April 1977	October 1977.
Evans Notch Unit	White Mountain National Forest, N.H.	Land use plan	Forest supervisor	June 1976	December 1976.
Waterville Unit	do	do	do	February 1977.	June 1977.
Alaska region, region 10:					
*Deer Island	Tongass National Forest, Alaska	do	do	September 1976	December 1976.
*Rocky Pass	do	do	do	July 1977	December 1977.
Herbicide Use	Regionwide	Herbicide	Regional forester	January 1977	May 1977.
*Karta Land Use Plan	Tongass National Forest, Alaska	Land use plan	Forest Supervisor	August 1976	December 1976.
*U.S. Borax Mineral Development	do	Road construction	do	October 1976	February 1977.
*Revilla Land Use Plan	do	Land use plan	do	July 1977	December 1977.
1976-86 Timber Management Plan Revision	Chugach National Forest, Alaska.	Resource plan	do	January 1977	May 1977.
*Cannery Creek	do	do	do	December 1976	April 1977.
*Phase II Upper Prince William Sound	do	Land use plan	do	February 1977	June 1977.
*Shelter Bay	do	Resource plan	do	September 1976	February 1977.
*Kadashan	Tongass National Forest, Alaska	do	Regional forester	January 1977	April 1977.
*Seal Creek	do	do	Forest supervisor	April 1977	July 1977.
*Dangerous River	do	do	do	October 1976	February 1977.
*North Irish Timber Sale	do	do	Regional forester	September 1976	December 1976.
*Valley Timber Sale	Chugach National Forest, Alaska	do	Forest supervisor	do	Do.
*Yakutat Land Management Plan	Tongass National Forest, Alaska	Land use plan	do	December 1978	April 1979.
*Fish Hatcheries (programmetric EIS) (Sandy Bay, Hidden Bay Lake.)	do	Aquaculture	do	February 1977	May 1977.
*Burnett Fish Hatchery	do	do	do	September 1976	December 1976.
*TODAHL	do	Resource plan	Regional forester	December 1976	August 1977.
*Patterson River	do	do	Forest supervisor	June 1977	December 1977.
*Soda Bay Salvage	do	do	do	May 1977	Do.
*Gravina Island	do	Land use plan	do	January 1978	August 1978.
*Dall Island	do	do	do	September 1978	February 1979.
Naked Island	Chugach National Forest, Alaska	Resource plan	do	November 1976	March 1977.
Cowee Creek	Tongass National Forest, Alaska	do	do	January 1977	April 1977.
Siwash Bay	Chugach National Forest, Alaska	do	do	November 1976	March 1977.

[1] Custer National Forest is the lead forest.
[2] Shoshone National Forest, R-2 is lead forest, originally the Beartooth Highway Planning Unit.
[3] Decision as to who is responsible official has not been made as yet.

NOTE.—Forest Service addresses: Washington Office, USDA, Forest Service, 12th St. and Independence Ave., SW., Washington, D.C. 20250. Northern Region, USDA, Forest Service, Federal Building, Missoula, Mont. 59801. Rocky Mountain Region, USDA, Forest Service, 11177 West 8th Ave., P.O. Box 25127, Denver, Colo. 80225. Southwestern Region, USDA, Forest Service, 517 Gold Ave., SW., Albuquerque, N. Mex. 87102. Intermountain Region, USDA, Forest Service, 324 25th St., Ogden, Utah 84401. California Region, USDA, Forest Service, 630 Sansome St., San Francisco, Calif. 94111. Pacific Northwest Region, USDA, Forest Service, 319 Southwest Pine St., Portland, Oreg. 97208. Southern Region, USDA, Forest Service, 1720 Peachtree Rd., NW., Atlanta, Ga. 30309. Eastern Region, USDA, Forest Service, 633 West Wisconsin Ave., Milwaukee, Wis. 53202. Alaska Region, USDA, Forest Service, P.O. Box 1628, Juneau, Alaska 99802.

FOREST SERVICE ADDRESSES

USDA, Forest Service, So. Agriculture Bldg., Rm. 3230, 12th and Independence Ave., SW, Washington, DC 20250.
USDA, Forest Service, Northern Region (R1), Federal Bldg., Missoula, MT 59801.
USDA, Forest Service, Rocky Mountain Region (R2), 11177 West 8th Ave., P.O.B. 25127, Lakewood, CO 80225.
USDA, Forest Service, Southwestern Region (R3), Federal Bldg., 517 Gold Ave., SW, Albuquerque, NM 87102.
USDA, Forest Service, Intermountain Region (R4), 324 25th Street, Ogden, UT 84401.
USDA, Forest Service, California Region (R5), 630 Sansome Street, San Francisco, CA 94111.
USDA, Forest Service, Pacific Northwest Region (R6), 319 SW Pine Street, P.O.B. 3623, Portland, OR 97208.
USDA, Forest Service, Southern Region (R8), 1720 Peachtree Road, NW, Room 901, Atlanta, Ga 30309.
USDA, Forest Service, Eastern Region (R9), 633 W. Wisconsin Ave., Greyhound Bldg., Milwaukee, WI 53203.
USDA, Forest Service, Alaska Region (R10), Federal Office Bldg., P.O.B. 1628, Juneau, AK 99802.
USDA, Forest Service, Northeastern Area—S & PF, 6816 Market Street, Upper Darby, PA 19082.
USDA, Forest Service, Southeastern Area—S & PF, 1720 Peachtree Road, NW, Room 901, Atlanta, Ga 30309.
Intermountain Forest and Range Experiment Station, Forest Service Bldg., 507 25th Street, Ogden, UT 84401.
North Central Forest Experiment Station, Folwell Ave., St. Paul Campus, University of Minnesota, St. Paul, MN 55101.
Northeastern Forest Experiment Station, 6816 Market Street, Upper Darby, PA 19082.
Pacific Northwest Forest and Range, Experiment Station, 809 NE Sixth Ave., P.O.B. 3141, Portland, OR 97208.
Pacific Southwest Forest and Range, Experiment Station, 1960 Addison Street, P.O.B. 245, Berkeley, CA 94701.
Rocky Mountain Forest and Range, Experiment Station, 240 W. Prospect Street, Fort Collins, CO 80521.
Southeastern Forest Experiment Station, Post Office Bldg., P.O.B. 2570, Asheville, NC 28802.
Southern Forest Experiment Station, T-10210 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.
Forest Products Laboratory, P.O.B. 5130, North Walnut Street, Madison, WI 53705.
Institute of Tropical Forestry, USDA, Forest Service, P.O.B. 577 AQ, Rio Piedras, PR 00928.
Institute of Northern Forestry, Fairbanks, AK 99701.
Institute of Pacific Islands Forestry, 1170 Punchbowl Street, Honolulu, HI 96813.

[FR Doc.76-34537 Filed 11-23-76;8:45 am]

STANISLAUS FOREST-WIDE LIVESTOCK ADVISORY BOARD

Meeting

The Stanislaus Forest-Wide Livestock Advisory Board will meet at 7:30 p.m., December 23, 1976 at the Stanislaus National Forest Supervisor's Office, 175 South Fairview Lane, Sonora, California 95370.

The purpose of this meeting is to discuss the following agenda items:

1. New Advisory Board By-laws.
2. Proposed Off-Road Vehicle Plan for the Stanislaus National Forest.
3. Discuss those portions of the Bureau of Land Management Organic Act which apply to Forest Service grazing activities.

The meeting will be open to the public. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

To the extent that time permits members of the public may make oral statements on agenda items following completion of discussion of the agenda by the Advisory Board.

Dated: November 17, 1976.

BLAINE L. CORNELL,
Forest Supervisor.

[FR Doc.76-34797 Filed 11-23-76;8:45 am]

CONDOR ADVISORY COMMITTEE

Meeting

The Condor Advisory Committee will meet December 7, 1976, at 9:00 a.m. at the Peppertree Motor Inn, 3850 State Street, Santa Barbara, California.

The purpose of the meeting is to discuss the current management programs and problems confronting the California Condor and its habitat.

This meeting is open to the public. Persons who wish to attend should notify Mr. Robert D. Nelson, USDA, Forest Service, Fisheries and Wildlife Management Staff, 630 Sansome Street, San Francisco, California 94111 (415-556-8551). Written statements may be filed with the committee before or after the meeting.

A public participation period is scheduled after the regular meeting.

Dated: November 17, 1976.

CURTIS L. SMITH,
Deputy Regional Forester.

[FR Doc.76-34798 Filed 11-23-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 29256]

SEABOARD WORLD AIRLINES, INC. V. OVERSEAS NATIONAL AIRWAYS, INC.

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., November 18, 1976.

ROSS I. NEWMAN,
Chief Administrative Law Judge.

[FR Doc.76-34740 Filed 11-23-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

INDIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and end at 12:00 p.m. on December 12, 1976, and will reconvene at 9:00 a.m. and end at 12:00 noon on December 13, 1976, at the Quality Inn, 1501 East 38th Street, Indianapolis, Indiana. (Capitol Room)

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-western Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to do Committee Re-chartering, discuss past and future projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-34790 Filed 11-23-76;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 1:00 pm. and end at 5:00 pm. on December 10, 1976, at the Directors Room, 163 Madison Avenue, Detroit, Michigan 48226.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-western Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is follow-up to Sault Ste. Marie report, future projects and possible regional employment study.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 22, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-34791 Filed 11-23-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Revised Notice of Open Meeting

FR Doc. 76-34687 appearing in the November 23 issue of the FEDERAL REGISTER, (Vol. 41, No. 227) announced the plans of the Advisory Committee on East-West Trade to hold a meeting on Wednesday, December 8, 1976 at 9:30 a.m. in Rooms 4832 and 4833, U.S. De-

partment of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Revised notice is hereby given that the afternoon session of the aforementioned meeting will be held in Room 4833 from 1:00 p.m. to 3:30 p.m.

EDWARD H. STROH,
Acting Deputy Assistant Secretary for East-West Trade.

[FR Doc.76-34862 Filed 11-23-76;8:45 am]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, December 14, 1976, at 9:00 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may effect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Performance measurement of peripheral equipment as part of computer systems.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the Federal Register on December 5, 1975 (40 FR 56960).

NOVEMBER 19, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-34722 Filed 11-23-76;8:45 am]

CHILDREN'S HOSPITAL MEDICAL CENTER AND STATE LABORATORY INSTITUTE

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereumder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket number: 76-00484. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, Massachusetts 02115. Article: Ultramicrotome, Model LKB 8800A with accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in the ultrastructural study of the developing brain; in particular, the time of synapse formation and three dimensional structure of the cortex retina, and cerebellum. Specifically the article will be used in preparation of serial ultrathin sections of plastic embedded embryonic nervous system tissue. Application received by Commissioner of Customs: July 19, 1976. Advice submitted by the Department of Health, Education, and Welfare: November 4, 1976.

Docket number: 76-00487. Applicant: State Laboratory Institute, 305 South Street, Boston, Mass. 02130. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended used of article: The article is intended to be used as a tool that will permit rapid and accurate diagnosis of selected human and animal virus diseases. The materials to be studied include specimens which will be examined directly for virus and/or viral antigens in skin lesions; vesicle fluid; tissue from organs including brain, liver, lung, spleen, pancreas and other organs; exfoliated cells from throat and the reproductive system; biopsy specimens; leucocytes; exudates; and transudates. Application received by Commissioner of Customs: July 20, 1976. Advice submitted by the Department of Health, Education, and Welfare: November 4, 1976.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model

MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-34775 Filed 11-23-76;8:45 am]

IOWA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00457. Applicant: Iowa State University, College of Veterinary Medicine, Ames, Iowa 50011. Article: Electron Microscope, Model HS-9-1, Haskaris Recirculating Water System, Model RO33SP and Accessories. Manufacturer: Hitachi (Perkin-Elmer), Japan. Intended use of article: The article is intended to be used for teaching undergraduate and graduate courses in veterinary pathology. In the undergraduate courses students will obtain an understanding of the body's response to disease and the pathogenesis of specific diseases in domestic animals. This will include morphological and biochemical changes of organs, tissues and cells produced by disease. Specifically the article will be used to demonstrate and visualize the structural features unique to specific infectious agents and the changes produced by them in the course of disease processes. Graduate students will obtain an in-depth understanding of the disease processes in general in inflammation, degenerative processes, hearing, etc., as well as the pathogenesis of specific diseases. The article will also be used for research which will involve the study of changes in cells and tissues of animals produced by nutritional, metabolic, toxicological, infectious or parasitic diseases at the ultrastructural level.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 13, 1976).

Reasons: The foreign article is a relatively-simple, easy to operate, medium resolution electron microscope designed for confident use in teaching beginning students with a minimum of detailed programming. The article provides 6Å point-to-point resolution, an accelerating voltage of 75 kilovolts, and low distortion magnification from 500X through 100,000X plus 200X for scanning which permits an overlap of light and electron microscopy.

The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU-4C supplied by the Adam David Company. The Model EMU-4C is a relatively complex instrument vis a vis the article which provides magnifications of 1400X to 240,000X with its standard pole-piece and low distortion magnifications of 500X to 70,000X through the use of a low magnification pole-piece. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 20, 1976 that relative simplicity and ease of operation are pertinent to the applicant's intended educational purposes. HEW also advises that the Model EMU-4C is more complex than the educational work requires.

Adam David Company advertises another model electron microscope, the PA-1. In this regard, we note that a prototype of the PA-1 was first shown by Adam David in November, 1974. The record shows that neither the Department nor its consultants have been able to determine or verify the capabilities of the PA-1 as of the date of this decision. Thus, the Department does not have a sufficient basis for ruling that the Adam David Company was able to supply the PA-1 at the time the foreign article was ordered, or that it is the scientific equivalent of the foreign article. We, therefore, find that the Model EMU-4C was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special
Import Programs Division.

[FR Doc.76-34774 Filed 11-23-76;8:45 am]

UNIVERSITY HOSPITAL OF JACKSONVILLE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00463. Applicant: University Hospital of Jacksonville, 655 West Eighth Street, Jacksonville, FL 32209. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in a cancer research program to study tumors to elucidate their identity and predict their behavior. The article will also be used for clinical studies of renal disease. Experimental studies which might include any experiment where basic morphological alterations must be studied at the ultrastructural level will also be undertaken. Educational uses will include teaching Basic Electron Microscopy to pathology residents, residents

from other medical subspecialties and graduate students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time Customs received this application (June 29, 1976).

Reasons: The foreign article is a relatively simple, easy to operate, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The article provides 7 Angstroms point to point resolution, an accelerating voltage of 60 kilovolts (KV), and low distortion magnifications from 140–60,000X (Magnifications of 140 to 1000X are within the normal, light microscopic range). Thus the article covers the range of light and electron microscopy. The domestic instrument available at the time Customs received this application was Adam David Company's (AD) Model EMU–4C, a more complex instrument vis a vis the article which provides low distortion magnification at 500X and higher. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 20, 1976 that the low distortion, low magnification capabilities available specifically in the optional range at 140X, as well as, simplicity and ease of operation are pertinent to the purposes for which the foreign article is intended to be used. HEW also advises that the EMU–4C did not have equivalent low distortion low magnifications in the optical microscope range and is too complex. Furthermore, we note that AD's Model PA–1 was in a development stage at the time Customs received this application. In this regard, it is noted that a prototype of the PA–1 was first shown by AD in November, 1974. Neither the Department of Commerce nor its consultants have been able to determine or verify the capabilities of the PA–1 as of the date of this decision. Thus, the Department does not have a sufficient basis for ruling that AD was able to supply the PA–1 within a normal delivery time at the time Customs received this application. We, therefore, find that the Model EMU–4C was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time Customs received this application.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which was being manufactured in the United States at the time Customs received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-34777 Filed 11-23-76;8:45 am]

WASHINGTON UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00434. Applicant: Washington University School of Medicine, 660 South Euclid Avenue, St. Louis, MO. 63110. Article: Oscilloscope Continuous Recording Camera, Model PC–2A with Accessories. Manufacturer: Nihon Kohden Kogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used in the study of nerve cells in the mammalian sympathetic system (guinea pig). The basic experiment is the determination of synaptic interactions of cells by stimulating one and recording from another. The objective of this work is the determination of the physiological properties of mammalian neurons and how they are connected to one another.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a light seal between the camera and oscilloscope which makes operation in a lighted room possible. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 19, 1976 that the capability described above is pertinent to the applicant's intended purposes. HEW further advises that it knows of no domestic oscilloscope cameras of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-34776 Filed 11-23-76;8:45 am]

WASHINGTON UNIVERSITY AND UNIVERSITY OF CALIFORNIA AT BERKELEY

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00489. Applicant: Washington University School of Medicine, 660 South Euclid, St. Louis, Mo. 63110. Article: Electron Microscope, Model JEM 100C with Side Entry Goniometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of a variety of biological materials including native and reconstituted lipoproteins, vascular tissues, endocrine tissues, cell membranes, etc. The ultrastructural as well as immunological and biological activity of native and synthetic lipoproteins will be characterized and compared in studies designed to elucidate the structure and function of apoproteins and lipid constituents of lipoproteins and their role in pathogenesis of atherosclerotic vascular disease. The permeability of capillaries and venules of the heart to electron dense markers including ferritin and peroxidase-type markers will be examined in a variety of pathophysiological conditions including diabetes mellitus and ischemic injury in studies designed to investigate the pathogenesis of diabetic microangiopathy and ischemic injury to vessels. Experiments will also be performed to demonstrate and characterize insulin receptor sites on fat cell membranes using ferritin labelled insulin conjugates. Application received by Commissioner of Customs: July 22, 1976. Advice submitted by the Department of Health, Education, and Welfare: November 4, 1976. Date of order: August 11, 1976.

Docket Number: 76–00504. Applicant: University of California, Lawrence Berkeley Laboratory, East End of Hearst Avenue, Berkeley, CA. 94720. Article: Electron Microscope, Model JEM 100C including Water Cooled Water Recirculator, Model EM 100C–MW. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of lipoproteins as biochemical entities specifically to investigate their chemical and physical properties, their structure and ultrastructure, their biochemical and physiological behavior, and their distribution patterns in individuals as related to states of health and disease. Experiments will be conducted to deter-

mine the effects of drugs, hormones, pollutants, heredity on the fine structure of these macromolecules, tissues and membranes. Application received by Commissioner of Customs: August 3, 1976. Advice submitted by the Department of Health, Education, and Welfare: November 4, 1976. Date of order: June 14, 1976.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Each foreign article has a specified resolving capability of 3 Angstroms. The most closely comparable domestic instrument available at the time the articles were ordered was the Model EMU–4C electron microscope which is currently supplied by Adam David Company. The Model EMU–4C has a specified resolving capability of five Angstroms. (Resolving capability bears an inverse relationship to its numerical rating in Angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used.

We, therefore, find that the Model EMU–4C was not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-34778 Filed 11-23-76;8:45 am]

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Thursday, December 16, 1976, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration, approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor products, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of increasing Committee membership.

(4) Discussion of Foreign Availability for digital integrated circuits.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652 dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on December 24, 1975 (40 FR 59461).

Dated: November 8, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.76-34821 Filed 11-23-76;8:45 am]

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Friday, December 17, 1976, at 9:30 a.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) (Supp. V, 1975) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman, Mr. Larry L. Hansen.

(2) Presentation of papers or comments by the public.

(3) Progress reports from the Subcommittee Chairmen:

(a) Pattern Generation and Image Transfer and Inspection Subcommittee—Aubrey C. Tobey, Chairman.

(b) Wafer Processing Subcommittee—George A. Stephan, Chairman.

(c) Assembly, Packaging and Test Subcommittee—William K. Russell, Chairman.

(d) Materials Preparation Subcommittee—Larry L. Hansen, Acting Chairman

(4) Comments by other Committee members.

(5) Establishment of time schedules for completion of our program.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on January 30, 1976 (41 FR 4623).

Dated: November 12, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.76-34822 Filed 11-23-76;8:45 am]

National Oceanic and Atmospheric Administration

RIO GRANDE ZOOLOGICAL PARK

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Rio Grande Zoological Park, P.O. Box 1293, 903 Tenth Street, S.W., Albuguerque, New Mexico 87102, to take three (3) California sea lions (Zalophus californianus) for public display.

The requested animals will be captured by a professional collector on or near Santa Cruz or San Miguel Islands off Santa Barbara, California, with a hoop net on land or with modified gill net in the water. The animals will be shipped to the Rio Grande facility by commercial aircraft and truck.

At the facility the animals will be displayed in a kidney-shaped pool 70 feet long, 40 feet wide, and 10 feet at the greatest depth with an island at one end. The facility provides a shelter area along with a holding pool and haul-out area.

The sea lions are desired to provide recreational and educational benefits to the 225,000 visitors that visit the facility anually. The facility is a non-profit organization.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Gandy Boulevard, Duval Building, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before December 27, 1976. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: November 19, 1976.

HARVEY M. HUTCHINGS,
Acting Assistant, Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76-34753 Filed 11-23-76;8:45 am]

Office of the Secretary

ECONOMIC ADVISORY BOARD

Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)) and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, it has been determined that the renewal of the Economic Advisory Board is in the public interest.

The Advisory Board was first established by the Secretary of Commerce on October 5, 1967. Its purpose is to advise the Secretary of Commerce on economic policy issues. It has discharged this mission regularly by convening quarterly to discuss various specific industry situations in terms of consumer spending, capital spending, and inventory status; the near-term outlook policies; and the outlook, in terms of output and employment, for the forthcoming several quarters.

In renewing the Advisory Board, the Secretary has reaffirmed the importance of the timely and accurate information it has provided concerning business conditions and the current state of the economy. He has also requested for the 1977 meetings that members of the Advisory Board, in addition to presenting their individual forecasts, also provide him with their analyses of specific economic issues as designated by the chairman, the Chief Economist for the Department of Commerce.

As initially chartered under the Federal Advisory Committee Act in January 1973, the Economic Advisory Board will continue with a balanced representation of 16 members, with the Chief Economist for the Department of Commerce serving as chairman, and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Dominic R. Quinn, Office of the Chief Economist, Room 4854, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3884.

Dated: November 18, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-34695 Filed 11-23-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXEMPT TEXTILE PRODUCTS EXPORTED TO U.S. FROM PAKISTAN

Additional Officials Authorized To Issue Visas and Certifications

NOVEMBER 19, 1976.

On July 7, 1972, there was published in the FEDERAL REGISTER (37 FR 13365) a letter dated June 28, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products produced or manufactured in Pakistan and exported to the United States for which the Government of Pakistan had not issued a visa. One of the requirements is that each visa include the signature of an official authorized by the Government of Pakistan to issue visas.

On May 30, 1973 and January 18, 1974, there were published in the FEDERAL REGISTER (38 FR 14184 and 39 FR 2293) letters dated May 16, 1973 and January 15, 1974, respectively, from the Chairman of the Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, announcing an administrative mechanism to certify for exemption from the levels of restraint established under the bilateral cotton textile agreement between the Governments of the United States and Pakistan certain handloomed and folklore products of the cottage industry of Pakistan. To qualify for exemption each shipment of exempt cotton textile products must be accompanied by a signed certification.

The purpose of this notice is to announce that, at the request of the Government of Pakistan, the names of the following officials are being added to the lists of those previously authorized to issue export visas and certifications for exempt textile products exported to the United States:

Shabbir Ahmad
S. A. Aziz
S. Asif Ali Bokhari
Moinul Hasan
Niamat Shah
Asif Ali Shaikh
I. H. Siddiqi
M. Adil Siddiqui

Accordingly, there is published below a letter of November 19, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the indicated officials also be authorized to issue export visas and certifications for exempt textile products, produced or manufactured in Pakistan and exported to the United States. Complete lists of officials currently so authorized are published as enclosures to that letter.

Effective date: November 23, 1976.

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS
November 19, 1976.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of June 28, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64 produced or manufactured in Pakistan for which the Government of Pakistan had not issued an export visa. It further amends, but does not cancel, the directives of May 16, 1973 and January 15, 1974 which established a certification requirement for entry into the United States for consumption and withdrawal from warehouse for consumption of designated handloomed and folklore products of the cottage industry of Pakistan. It also amends, but does not cancel, the directives of March 3 and October 7, 1976, which named the Government of Pakistan officials authorized to issue export visas and certifications for exempt textile products.

Under the terms of the Arrangement Regarding International Trade in Textiles, pursuant to the Bilateral Cotton Textile Agreement of May 6, 1976, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the aforesaid directives are amended to include the names of the following officials who are authorized to issue export visas and certifications for exempt cotton textile products, produced or manufactured in Pakistan. Complete lists of officials currently so authorized are enclosed:

Shabbir Ahmad
S. A. Aziz
S. Asif Ali Bokhari
Moinul Hasan
Niamat Shah
Asif Ali Shaikh
I. H. Siddiqi
M. Adil Siddiqui

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements.

GOVERNMENT OF PAKISTAN OFFICIALS AUTHORIZED TO ISSUE EXPORT VISAS FOR COTTON TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES

Ejaz Ahmad
Shabbir Ahmad
S. M. Anwar
S. A. Aziz
S. Asif Ali Bokhari
Moinul Hasan
Pir Mohammad Khan
Ghulam Mustafa
Sajjad Hussain Naqvi
Tariq Iqbal Puri
Abdul Ghaffar Qureshi
Mujib-ur-Rehman
Asig Ali Shaikh
Niamat Shah
I. H. Siddiqi
M. Adil Siddiqui
S. A. Zaidi

GOVERNMENT OF PAKISTAN OFFICIALS AUTHORIZED TO ISSUE CERTIFICATIONS FOR EXEMPT TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES

Riaz Ahmad
Shabbir Ahmad
Mohammad Mahmood Alam
Mian Mahmud Ali
Mohammad Aslam
S. A. Aziz
S. Asif Ali Bokhari
Israr-Ul-Haque
Moinul Hasan
S. M. Z. Hasan
Mohammad Ishaq
Abdul Wahab Khan
M. Salim Khan
M. Zafar Umar Khan
Mohammad Younus Khan
Taj Mohammad Khan
Abdul Malik
Mohammad Mohsin
Khalid Mahmood Mughal
Ghalib Mustafa
M. Z. I. Naz
Abdul Qayyum
Allah Rakha
Niamat Shah
Asif Ali Shaikh
I. H. Siddiqi
M. Adil Siddiqui

[FR Doc.76-34773 Filed 11-23-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 620-3]

PUBLIC PARTICIPATION IN THE REGULATORY PROCESS

Invitation To Participate In Development of Major EPA Environmental Regulations

The Environmental Protection Agency encourages participation by interested members of the public in the development of regulations. The purpose of this notice is to identify rulemaking actions presently under consideration by the Agency and to invite interested parties to contribute to the decision-making process.

EPA prepares and promulgates regulations to implement environmental programs in the areas of air and water pollution abatement, drinking water protection, noise abatement, radiation protection, solid waste management, control of toxic substances, and pesticide control. These regulations include general regulations for the implementation and enforcement of major programs as well as specific emission limitations for individual industrial categories.

Regulations are prepared by the EPA staff and are subjected to a number of internal and public reviews prior to final approval and promulgation. In addition to the formal opportunities for public comment provided by FEDERAL REGISTER notices and public hearings, EPA encourages informal public participation through direct contacts between Agency staff personnel and interested members of the public.

The following list indicates the subjects for which regulations are now being

considered by EPA and provides a brief description, schedule, and point of contact within the Agency. Interested parties are encouraged to contact these individuals to provide comments and information and to obtain information about regulations with which they are concerned. Participation may include such alternatives as informal meetings, review of draft documents, and provision of data and information to EPA.

Additional information concerning this notice or EPA's regulatory procedures may be obtained from:

Director, Standards and Regulations Division (PM-223), U.S. Environmental Protection Agency, Washington, D.C 20460.

This notice will be revised and republished periodically. Other notices will be published after the Administrator determines that an environmental problem should be considered for rulemaking action.

Dated: November 17, 1976.

PAUL A. BRANDS,
Acting Assistant Administrator for Planning and Management.

Major EPA regulations under consideration

Name	Description	Expected publication date	Contact person and address
THE CLEAN AIR ACT			
(Proposed) air quality monitoring site placement regulation.	Regulation will consider the effect of various siting factors on the accuracy of ambient air quality monitoring data.	Sept. 1977	Robert Neligan (MD-14), Environmental Protection Agency, Research Triangle Park, N.C. 27711.
(Proposed) appendix C to indirect source regulations.	Guidelines for review of highway and airport construction as indirect sources of air pollution.	....do....	Jerry Kurtzweg (AW-443), Environmental Protection Agency, Washington, D.C. 20460.
(Final) vapor control regulations (stage II) gasoline marketing.	Regulation to recover hydrocarbon vapor emissions lost in the process of gasoline retail sales.	Mar. 1977	Pete Principe (EN-340), Environmental Protection Agency, Washington, D.C. 20460.
In compliance with the decision in *NRDC et al., v. Train*, S.D.N.Y. 74 Civ. 4617 (upheld on Nov. 10, 1976 by the U.S. Court of Appeals for the Second Circuit, No. 76-6075), the Administrator added lead to the list of air pollutants pursuant to section 108(a)(1). The possibility of further legal action on this subject still exists.			
Air quality criteria for atmospheric lead.	An assessment of the health and welfare effects of atmospheric lead.	Aug. 1977	Orin Stopinski (MD-52), Environmental Protection Agency, Research Triangle Park, N.C. 27711.
(Proposed) ambient air quality standard for lead.	A standard necessary to protect the public from adverse health or welfare effects of atmospheric lead and an appropriate reference method.	....do.....	Joseph Padgett (MD-12), Environmental Protection Agency, Research Triangle Park N.C. 27711.
The Administrator is now considering designating under section 111 the following source categories for control of air pollutants from new and modified facilities. The dates listed in this section are dates by which a decision is expected on whether to designate a particular source category; regulations may be proposed at the same time.			
Organic solvent metal cleaning processing operations.		Aug. 1978	Don Goodwin (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711.
Phosphate rock plants		Feb. 1977	Do.
Iron and steel sintering plants		June 1977	Do.
Lime plants		Mar. 1977	Do.
Asphalt roofing plants		Feb. 1978	Do.
Dry cleaning plants		Sept. 1977	Do.
Gasification of coal		Feb. 1977	Do.
Carbon black plants		Sept. 1977	Do.
Stationary gas turbines		July 1977	Do.
Stationary internal combustion engines.		Aug. 1977	Do.
Grey iron foundries		Apr. 1977	Do.
Steam generators burning municipal refuse in combination with coal.		Mar. 1977	Do.
Quarrying and plant process operations in crushed stone facilities.		May 1977	Do.
Synthetic organic chemical manufacturing facilities.		Apr. 1978	Do.
Byproducts coke oven, charging and topside leaks.		June 1977	Do.
Final new source performance standards are now being developed under Section 111 to control air pollutants from new and modified facilities in the following source categories:			
Grain terminals		July 1977	Don Goodwin (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711.
Sulfur recovery in petroleum refineries.		Sept. 1977	Do.
Lignite-fired steam generators		Aug. 1977	Do.
Kraft pulp millsggg		....do.....	Do.

Guidelines are now being developed under Section 111(d) for the control of pollution from existing sources in the following source categories:

(Proposed) guidelines for primary aluminum plants.	Standards for control of fluorides from existing primary aluminum plants.	Jan. 1977	Don Goodwin (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711.
(Final) guidelines for sulfuric acid mist plants.	Standards to control sulfuric acid mist from existing sulfuric acid plants.	Aug. 1977	Do.
(FINAL) 111(d) Guidelines for Phosphate Fertilizer Plants.	Standards for control of fluorides from existing phosphate fertilizer plants.	Mar. 1977	Do.

Information is now being developed to help the Administrator determine whether to make the following hazardous air pollutant designation under section 112. A decision is expected by December 1977 and regulations may be proposed at the same time.

(Proposed) asbestos from iron ore beneficiation.	Standards to control asbestos emissions from taconite plants.	Dec. 1977	Don Goodwin (MD-13), Environment Protection Agency, Research Triangle Park, N.C. 27711.

The following regulations to control emissions from mobile sources of air pollution are now under development:

(Final) interim heavy duty engines.	Establishes a more stringent heavy duty engine emissions standard based on existing test cycles, to be used until the urban-based test procedures now under development are promulgated.	Apr. 1977	Ernest Rosenberg (AW-455), Environmental Protection Agency, Washington, D.C. 20460.
(Final) aftermarket parts guidelines.	Guidelines establishing a program allowing aftermarket parts manufacturers to demonstrate that their parts do not degrade emissions when used as a replacement or add-on part.	Dec. 1977	Elliott Light (EN-340), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) emissions control (defects) warranty.	Regulations implementing the warranty requiring that manufacturers produce vehicles free from defects at the time of sale that would cause emission standards to be exceeded.	July 1977	Do.
(Proposed) emissions control (performance) warranty.	Regulations specifying a short-cycle emissions test for in-use vehicles to determine whether warranty repair by the manufacturer is required.	Apr. 1977	Do.
(Reproposed) emission standards for large in-use aircraft.	Emission standards for large in-use aircraft which may require retrofit of engines to reduce HC, NOx, and CO.	July 1977	George Kittredge (AW-455), Environmental Protection Agency.
THE MOTOR VEHICLE INFORMATION AND COSTS SAVINGS ACT			
(Final) fuel economy calculation for compliance, 1979 model year.	Regulations to measure fuel economy and calculate each manufacturer's average fuel economy in compliance with the fuel economy standards for 1979 and later models.	June 1977	Ernest Rosenberg (AW-455), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) test retofit devices for fuel economy.	Provides EPA evaluation of manufacturers' claims for fuel economy retrofit devices.	Mid-1977	Do.
THE FEDERAL WATER POLLUTION CONTROL ACT			
(Final) wastewater treatment ponds/secondary treatment.	Regulation will allow exemption from the suspended solids standard for ponds, allowing them to meet secondary treatment standards.	Jan. 1977	Alan Hais (WH-547), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) pretreatment standards for new and existing sources.	A new general pretreatment regulation covering both existing sources and new sources discharging into publicly-owned treatment works.	Feb. 1977	Swep Davis (WH-586), Environmental Protection Agency, Washington, D.C. 20460.
(Final) hazardous substances—designation/removability.	This regulation will designate chemicals hazardous to the environment when discharged in spill situations; a determination of actual removability will accompany any such designation.	Jan. 1977	Allen Jennings (WH-585), Environmental Protection Agency, Washington, D.C. 20460.
(Final) hazardous substances—rate of penalty.	Provides the rate of penalty based on the damage potential of the spilled substance and the quantity spilled.	....do.....	Do.
(Final) hazardous substances—harmful quantity.	When a harmful quantity of hazardous material is spilled, notification of the Federal Government is mandatory. Spillage of harmful quantity can result in a civil penalty assessed by the Coast Guard; this regulation will define that quantity.	....do.....	Do.
(Proposed) oil removal.....	Regulations will establish recommended methods and procedures for the removal of discharged oil. They will broaden the scope of the National Contingency Plan, which applies only to the actions of Federal agencies.	Early 1978	Hal Snyder (WH-549), Environmental Protection Agency, Washington, D.C. 20460.

(Interim final) ocean discharge criteria	Criteria established pursuant to Section 403 to determine acceptability of discharges from ocean outfalls.	Jan. 1977	Tom O'Farrell (WH-546) Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) general permits	Regulations pursuant to Section 402 establishing procedures for the issuance of general permits for discharge from separate storm sewers and agricultural point sources.	Dec. 1976	Kathryn Anderson (EN-338), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) modification of quarterly noncompliance reporting requirements.	Amends 40 CFR 124.44(d) and 125.23(c) to change the type of information NPDES permit-issuing agencies must report concerning non-compliance by permittees.	do	Roseanne Light (EN-338), Environmental Protection Agency, Washington, D.C. 20460.
(Final) modification of adjudicatory hearing procedures.	Comprehensive amendment of public notice and adjudicatory hearing procedures in 40 CFR 125.	Apr. 1977	Barry Stanoff (EN-338), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) modifications regulations.	Regulations setting forth procedures for modifying Federally-issued NPDES permits.	Dec. 1976	Christopher Duncky (EN-338), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) variance regulations.	Regulations establishing procedures for obtaining variances from best practicable treatment requirements in adopted effluent guidelines.	do	William Jordan (EN-336), Environmental Protection Agency, Washington, D.C. 20460.

Final pretreatment standards for discharges to publicly-owned treatment works are now being prepared for the following source categories:

Leather tanning and finishing	Feb. 1977	Harold Coughlin (WH-552), Environmental Protection Agency, Washington, D.C. 20460.
Petroleum refining	do	Do.
Steam electric power plants	do	Do.
Electroplating	May 1977	Do.
Textile mills	do	Do.
Inorganic chemicals manufacturing.	do	Do.

Proposed effluent guidelines are now being revised for review of best available technology in the following source categories:

Timber products processing	Mar. 1978	Harold Coughlin (WH-552), Environmental Protection Agency, Washington, D.C. 20460.
Leather tanning and finishing	do	Do.
Steam electric power plants	do	Do.
Iron and steel manufacturing	June 1978	Do.
Petroleum refining	do	Do.
Nonferrous metals	Sept. 1978	Do.
Paving and roofing	do	Do.
Paint and ink	do	Do.
Ore mining	do	Do.
Coal mining	do	Do.
Organic chemicals manufacturing.	Mar. 1979	Do.
Inorganic chemicals manufacturing.	do	Do.
Textile mills	do	Do.
Plastic and synthetic	do	Do.
Pulp and Paperboard Mills	do	Do.
Rubber processing	do	Do.
Soap and detergents	June 1979	Do.
Auto and other laundries	do	Do.
Macellaneous chemicals	do	Do.
Machinery and mechanical products.	do	Do.
Electroplating	do	Do.

THE SAFE DRINKING WATER ACT

(Proposed) revised national drinking water regulations.	Regulations to establish treatment techniques or maximum contaminant levels for contaminants in drinking water.	May 1977	Joe Cotruvo (WH-550) Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) national secondary drinking water guidelines.	Guidelines on aesthetic drinking water quality.	Jan. 1977	Do.
(Final) State program and grant regulations for underground injection control.	Regulations on underground injection affecting drinking water supplies.	Apr. 1977	Thomas Belk (WH-550), Environmental Protection Agency, Washington, D.C. 20460.

THE NOISE CONTROL ACT

(Proposed) major noise sources—motorcycles.	EPA will establish noise emission standards applicable to new motorcycles.	Mar. 1977	William Roper (AW-471), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) major noise sources—solid waste compactors.	EPA will establish noise emission standards applicable to new truck-mounted solid waste compactors.	Feb. 1977	Kenneth Feith (AW-471), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) major noise sources—truck transport refrigeration units.	EPA will establish noise emission standards applicable to new truck transport refrigeration units.	do	Do.
(Proposed) major noise sources—wheel and track dozers.	EPA will establish noise emission standards applicable to new wheel and track dozers.	do	Do.
(Proposed) major noise sources—wheel and track loaders.	EPA will establish noise emission standards applicable to new wheel and track loaders.	do	Do.
(Proposed) major noise sources—buses.	EPA will establish noise emission standards applicable to new buses.	Mar. 1977	William Roper (AW-471), Environmental Protection Agency, Washington, D.C. 20460.

(Proposed) labeling: hearing protectors.	Regulations to require the labeling of hearing protectors with information on noise attenuation characteristics.	Feb. 1977	Henry Thomas (AW-471), Environmental Protection Agency, Washington, D.C. 20460.
(Final) special local determinations—interstate motor carriers. (Final) special local determinations—railroad noise emission standards.	To establish procedures permitting adoption of otherwise pre-empted State and local rail and motor carrier noise regulations when they are necessitated by special local conditions and not in conflict with Federal railroad and motor carrier noise regulations.	Mar. 1977	William Roper (AW-471), Environmental Protection Agency, Washington, D.C. 20460.
THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT			
(Proposed) pesticide registration data compensation.	Regulations to provide for compensation of a pesticide registration applicant by users of the data in support of other applications.	Apr. 1977	Doug Campt (WH-567), Environmental Protection Agency, Washington, D.C. 20460.
(Final) registration guidelines and appendix—hazard evaluation section.	Guidelines on information required to support registration requests.	do	Bill Preston (WH-568), Environmental Protection Agency, Washington, D.C. 20460.
(Final) State issuance of experimental use permits.	Regulations describing state responsibilities for the issuance of experimental use permits to generate data in support of State registration of pesticides.	do	Charles Smith (WH-567), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) custom blending of pesticides.	This regulation provides relief from the necessity of registration for combinations of a specific pesticide with a fertilizer under certain conditions.	do	Dave Brandwein (WH-566), Environmental Protection Agency, Washington, D.C. 20460.
(Final) registration by State agencies.	A State may issue registration for pesticides products formulated for distribution and use within that State.	do	Doug Campt (WH-567), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) special packaging	Establishes standards for pesticide containers in order to protect children from accidental poisoning.	do	William Wells (WH-567), Environmental Protection Agency, Washington, D.C. 20460.
THE ATOMIC ENERGY ACT			
(Proposed) guidelines for plutonium cleanup.	Guidelines for the cleanup of plutonium and other transuranium elements and restoration of contaminated areas; Objective is to set a level or levels of soil contamination above which cleanup is recommended.	do	Gordon Burley (AW-460), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) nuclear accident protective action guides for airborne release of radioactive gases and particulates.	Protective Action Guides for the use of Federal agencies and States in emergency planning for accidents at fixed nuclear facilities and during transportation of nuclear materials.	July 1978	Harry Calley (AW-461), Environmental Protection Agency, Washington, D.C. 20460.
(Proposed) medical radiation guidance.	Guidelines on the prescription of x-rays in diagnosis and on the techniques used in administering x-rays will be developed to limit medical radiation exposure.	Feb. 1977	Jim Martin (AW-460), Environmental Protection Agency Washington, D.C. 20460.
(Proposed) occupational limits for radiation protection.	The need for downward revision of existing Federal radiation guidance for occupational exposure will be examined.	Mid 1977	Luis Garcia (AW-460), Environmental Protection Agency, Washington, D.C. 20460.

[FR Doc.76-34628 Filed 11-23-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

INDUSTRIAL ENERGY CONSERVATION

Criteria for Establishment of Voluntary Reporting Programs

On September 8, 1976, the Federal Energy Administration (FEA) issued proposed criteria for the establishment of voluntary reporting programs, pursuant to section 376(g) of Part D, Title III of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6346(g)) for use by corporations required to report their progress toward improving their energy efficiency to FEA under section 375(a) of the EPCA (42 U.S.C. 6345(a)), but subject to exemption in accordance with section 376(g) (41 FR 38819, September 13, 1976). Eighty comments were submitted in response to the proposal, and FEA has now completed its evaluation of these comments and other relevant information available to it. Accordingly, FEA hereby adopts the criteria as proposed, with certain revisions as set forth below.

BACKGROUND

Part D of Title III of the EPCA requires that FEA establish a program to promote increased energy efficiency in American industry and establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive manufacturing industries in the United States. Corporations identified in accordance with section 373 of the EPCA (42 U.S.C. 6343), which are in industries for which targets have been set by FEA, are required by section 375(a) of the EPCA to report to FEA on their progress in improving their energy efficiency, except where they are in industries which have adequate voluntary reporting programs, as defined by section 376(g).

Pursuant to section 376(g), a corporation may be exempted from the mandatory reporting requirements under section 375(a) only where it fully participates in a voluntary reporting program, which annually has been determined to be adequate by FEA after notice and opportunity for public comment. Under section 376(g), an industry's voluntary reporting program shall be determined to be adequate only if each corporation within the industry identified pursuant to section 373 fully participates in the program; all information deemed necessary by FEA for purposes of evaluating the progress made by the industry in achieving its industrial energy efficiency improvement target is provided to FEA; and reports made to a trade association or other person in connection with the voluntary reporting program are retained for a reasonable period of time and are available to FEA. Section 376(g) further provides that if FEA determines that an industry's voluntary reporting program is not adequate solely because any corporation within the industry is not fully participating in the program, then only those corporations which are fully participating shall be exempted from reporting as required by section 375(a).

COMMENTS

The proposed criteria generally treated all corporations participating in a voluntary program under section 376(g) of the EPCA the same, whether they were corporations identified under section 373 or were other corporations. As discussed in detail below with respect to the various specific provisions in the proposed criteria, many comments indicated that attaching to all participating corporations the full range of responsibilities applicable to section 373 corporations would materially discourage participation in voluntary reporting by these other corporations. Since one of the goals of the EPCA industrial energy conservation program is to encourage participation by corporations other than those few required to participate in the program, FEA was generally sympathetic, as indicated at various points in the discussion below, to a somewhat more relaxed treatment of corporations other than section 373 corporations. Since, however, this treatment could lead to a variation in the quality of data as between the two groups of corporations, FEA is modifying Criterion A to require that the trade association or other person provide aggregate data to FEA not only with respect to all participating corporations but also with respect to participating corporations identified under section 373. This one added level of detail in information to be provided by the trade association or other person, FEA believes, will provide adequate opportunity for assuring that it is valid to combine information on all section 373 corporations in a given industry in determining that industry's progress in meeting its energy efficiency improvement target.

In Criterion A, FEA proposed that the trade association or other person implementing a voluntary program, must be able to provide semi-annually sufficient information for FEA to evaluate industry progress toward achieving industrial energy efficiency improvement targets. Several comments objected to semi-annual reporting, suggesting that FEA did

not have authority to require reporting more frequently than annually and that industry characteristics in some cases would be incompatible with semi-annual reporting (e.g., two-thirds of all processing in the beet sugar industry is accomplished in one four-month period). FEA believes both that it has authority under the EPCA and other law to establish semi-annual reporting as a criterion for adequate voluntary reporting programs and that semi-annual reporting would be useful for purposes of measuring industrial progress in energy efficiency. FEA notes that most reporting in previous and existing voluntary industrial energy conservation programs is done on a semi-annual basis, and intends to make appropriate allowance for seasonal fluctuations in energy consumption by certain industries in its use of reported data. Accordingly, the criterion regarding semi-annual reporting has been retained.

FEA also proposed in Criterion A that the trade association or other person must provide the necessary information to FEA not later than March 31, 1977. Several comments recommended an extension of this deadline for the initial reports for a period of one to three months. This extension was requested to ease the time restraints on the collection of consumption data for the initial reporting period. FEA has determined that it is appropriate to extend the proposed date by one month to April 30, 1977, which coincides with the reporting date for several existing voluntary programs.

As proposed, subparagraph (1) of Criterion A required that energy consumption information be provided by energy source. Several comments objected to this requirement, arguing that increased detail in reported data might increase risk to confidential corporate data and questioning FEA's authority to collect energy consumption data by energy source. FEA has considered these comments and is retaining this criterion as proposed. FEA believes that it has authority under the EPCA and other law to establish reporting of energy consumption by energy source as a criterion for adequate voluntary reporting programs. Moreover, since the inception of voluntary energy conservation reporting prior to enactment of the EPCA, FEA has considered it important to receive data by energy source in order to monitor effectively the consumption and conservation patterns in specific energy-intensive industries. Indeed, the approach to the energy efficiency improvement targets required by section 374 of the EPCA includes a focus on industry actions to reduce consumption of certain specific energy sources. FEA expects any corporation identified under section 373 of the EPCA which is concerned with possible disclosure of energy consumption information it deems confidential to make its own assessment of the risks involved and to take any appropriate steps it deems advisable in order to minimize such risks.

As proposed, subparagraph (1) also required that energy consumption information be provided by 2-digit SIC code. Many comments expressed confusion regarding the relationship between 3- or 4-digit SIC industries and the appropriate 2-digit SIC industry. Three- and 4-digit SIC industries are industries within the larger 2-digit SIC industries and are the industries for which some trade associations or other persons are likely to establish voluntary reporting programs. Under the EPCA, FEA is required to determine industrial energy efficiency improvement targets and obtain mandatory progress reports by 2-digit SIC industry. FEA must also report to Congress and the President on each 2-digit SIC industry's progress toward those targets. In order for FEA to be able to consolidate information received under both the mandatory and voluntary reporting programs, this 2-digit SIC basis must be a uniform requirement in both programs.

FEA wishes to clarify that the proposed language was not intended to mean that any single trade association must necessarily report for an entire 2-digit SIC industry, and has modified the language in Criterion A(1) slightly to remove any ambiguity in this respect. It is understood that there may be more than one voluntary reporting program within a given 2-digit SIC code industry. Where reporting is to be by 3-digit or 4-digit SIC code, energy consumption should be reported on an aggregated basis under the 2-digit SIC code of which the 3- or 4-digit SIC codes are a part.

Other comments questioned whether consumption of "captive" energy (i.e., energy consumed in manufacturing operations under one 2-digit SIC code which operations might more appropriately be characterized as operations under another 2-digit SIC code, such as some steel production by the automotive industry for use in the production of automobiles) in a given 2-digit SIC code industry is reportable for that industry. While FEA expects the reporting corporation to be guided by the SIC Manual,[1] it also recognizes the problems inherent in measuring and reporting energy consumed in manufacturing operations which are captive, or dedicated, to the production of an end product. Where appropriate, FEA advises that a reporting corporation report such consumption in the 2-digit SIC code industry or industries of the end products involved.

In subparagraph (3) of Criterion A, FEA proposed that a base year of 1972 be used to measure industry progress in improving energy efficiency. Several comments requested more flexibility in determining a base year because of the apparent difficulty in obtaining accurate consumption figures for 1972. FEA selected 1972 as the base year for measuring energy conservation efforts since it is the latest pre-embargo calendar year. In addition, most of the present voluntary reporting programs use 1972 as their base year, and proposed industrial energy efficiency improvement targets are based on 1972. Accordingly, FEA is retaining 1972 as the base year.

In subparagraph (3) of Criterion A, FEA also suggested a method for aggregating energy information to determine an industry's progress toward improving its energy efficiency. Many comments expressed confusion concerning the suggested method of aggregation. FEA has modified the proposed language to delete the suggested method and to build greater consistency into the basic criteria.

In subparagraph (4), FEA proposed that a trade association or other person must provide the names of all member corporations participating in its voluntary reporting program. Many of the comments recommended that this requirement apply only to those corporations identified under section 373 of the EPCA. They stated that an important reason for the smaller corporations' participation in the voluntary reporting programs is the anonymity inherent in aggregation of their energy consumption data through their trade association, and that their identification could cause a decline in their participation. Since FEA's intent is to encourage maximum participation in voluntary reporting programs, this subparagraph has been revised to require only the names of corporations identified under section 373.

In Criterion B, FEA proposed that a trade association or other person must certify in writing to FEA that the corporation reports made to it in connection with its voluntary reporting program would be retained for a period of no less than two years and that such information would be available to FEA upon request and without unreasonable delay during this period. Many comments objected to the required retention of data on all participating corporations for many of the same reasons cited under Criterion A(4). Some also objected to trade association retention of corporate reports due to specific sanctions in their charters or potential consequences under the anti-trust laws. While FEA would prefer that data were retained on all participating corporations, it is prepared to initiate reporting under section 376 (g) with the requirement only that data on section 373 corporations be retained, and Criterion B has been revised accordingly. It has also been revised to provide that a trade association or other person need not retain the reports, as long as the individual corporations retain them. If a trade association or other person does not or cannot retain these reports, any affected section 373 corporation must certify that it will meet the retention requirement.

In Criterion C, FEA proposed that a trade association or other person must agree to provide, upon request by FEA, certification by a qualified and independent organization attesting to the accuracy and completeness of data provided by member corporations and by the trade association or other person and to the full and actual participation in the voluntary reporting program by the appro-

[1] Office of Management and Budget, Standard Industrial Classification Manual (1972).

priate corporations identified pursuant to section 373. Seventy of the commenters were opposed to requiring the associations and corporations to submit to a possible "audit" of this magnitude, and predicted a serious weakening of the voluntary reporting programs through the loss of corporate participation if this requirement remained. Several of the comments proposed that, as a program criterion, participants not be required, on request, to provide for independent third party verification of data but only to provide certification by responsible persons, on request, as to the validity of data. Since the intent of the EPCA is to promote incresed energy efficiency by American industry without adversely, affecting ongoing voluntary efforts, FEA has accepted these recommendations. Accordingly, this criterion has been revised to require, upon request, appropriate certifications by participating corporations identified pursuant to section 373 and by trade associations or other persons.

In any case in which FEA should deem further verification of certain information necessary, FEA plans to allow the organization retaining the information to elect either to have this verification performed under the direction of FEA or to obtain this verification through a qualified and independent organization.

CRITERIA

In acocrdance with the foregoing, in order for a voluntary reporting program by a trade association or other person to be a program under which corporations identified pursuant to section 373 may be eligible for an exemption under section 376(g) from the reporting requirement imposed by section 375(a), such program must, at a minimum, meet the following criteria:

A. The trade association or other person must be able to provide semi-annually sufficient information for FEA to evaluate industry progress toward achieving industrial energy efficiency improvement targets. The trade association or other person must be able to provide at least the following information to FEA not later than April 30, 1977.

(1) Total Btu content, by energy source, of all energy consumed within the United States (other than for feedstock purposes) by all its reporting corporations and as well as by its reporting corporations identified pursuant to section 373, aggregated by calendar year and 2-digit SIC code for calendar years 1976 and 1972.

(2) Description of and rationale for the unit(s) of output or activity to be used in measuring changes in energy efficiency between 1972 and 1976.

(3) Adjusted 1976 energy consumption to reflect 1972 base year energy efficiencies. This figure is obtained by multiplying 1976 output or activity by 1972 base year energy efficiency ratios and represents the energy which would have been consumed in 1976 at 1972 efficiencies.

(4) Aggregated 2-digit industry progress in improving energy efficiency (Btu's/unit of output or activity) for 1976 over 1972, expressed as a percentage (i.e., the percentage change in energy efficiency between 1972 and 1976). This can be calculated by subtracting 1976 energy consumption from 1976 energy consumption adjusted to 1972 efficiencies, dividing by the latter, and multiplying by 100. A separate aggregation of the percentage change attributed to corporations identified pursuant to section 373 should also be reported. Industries which desire to indicate the impact of operational changes (e.g., changes in operation, equipment, or production standards, subsequent to 1972, which were adopted in order to comply with environmental protection, occupational safety and health, or other laws, regulations, standards, or policies which are not directly related to manufacturing efficiencies) may identify and specifically report such impact.

(5) The names of all corporations identified under section 373 participating in its voluntary reporting program.

(6) The location(s), and individual(s) responsible for the control and possession, of corporation reports from corporations identified under section 373 made to the trade association or other person in connection with its voluntary reporting program.

B. All corporation reports made by corporations identified under section 373 in connection with a voluntary reporting program must be retained by the trade association or other person or by the corporation for a period of no less than two years and must be available to FEA upon request and without unreasonable delay during this period. With respect to corporation reports to be retained by a trade association or other person, the chief executive officer of the trade association of other person, or other duly authorized officer of the trade association or other person, must certify that the corporation reports will be retained for a period of no less than two years and will be available to FEA upon request and without undue delay during this period. With respect to any corporation report to be retained by a corporation identified under section 373, the chief executive officer, or other duly authorized corporate officer, must certify that the corporation report will be retained for a period of no less than two years and will be available to FEA upon request and without undue delay during this period.

C. The trade association or other person must provide, upon request by FEA, (1) certification by the chief executive officer, or other duly authorized corporate officer, of each participating corporation identified pursuant to section 373, attesting that information provided to the trade association or other person is true, accurate, and complete to the best of that person's knowledge and (2) certification by the chief executive officer of the trade association or other person, or other duly authorized officer of the trade association or other person, that to the best of that person's knowledge (a) participating corporations identified pursuant to section 373 actually participate fully in the voluntary reporting program and (b) the data provided to FEA by the trade association or other person are true, accurate, and complete.

PROCEDURES

Any trade association or other person desiring to establish a voluntary reporting program whereby corporations identified pursuant to section 373 may obtain exemptions from the initial reports required under section 375(a), must submit a letter to FEA no later than 30 days following publication of this notice, certifying that it is capable of meeting and willing to meet the criteria set out above. Failure to meet this deadline is not intended to preclude a future opportunity for trade associations or other persons to establish voluntary reporting programs under section 376(g).

Any corporation identified pursuant to section 373 which desires an exemption under 376(g) from the initial reporting requirements of section 375(a), must make a written request for an exemption to FEA not later than 30 days following publication of this notice. Such written request shall be signed by the chief executive officer of the corporation, or other duly authorized corporate officer, and certify both that the corporation will fully participate in an industry's adequate voluntary reporting program and that the corporation is agreeable to and will abide by the provisions of Criterion B with respect to the retention and availability to FEA of corporation reports and with the provisions of Criterion C with respect to enabling trade associations or other persons to provide the corporation certification specified in Criterion C. Failure to meet the deadline set out above is not intended to preclude a future opportunity for a corporation to obtain an exemption under section 376(g).

With respect to all certifications by trade associations or other persons or corporations, if the individual who signs and certifies is not the chief executive officer of the organization, the trade association or other person or corporation must file with FEA a letter of authorization signed by the chief executive officer which identifies other officials authorized to sign and certify pursuant to the requirements in this notice.

Letters from trade associations or other persons desiring to establish voluntary reporting programs and written requests from corporations desiring an exemption under section 376(g) should be addressed to Executive Communications, Box JR, Room 3309, Federal Energy Administration, Washington, D.C. 20461, and must be received by the date specified above. Both the information and the outside of the envelope should be identified with the designation "Industrial Energy Conservation—Voluntary Reporting." An original and 15 copies should be submitted.

Issued in Washington D.C., November 22, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-34810 Filed 11-22-76;1:03 pm]

FEDERAL MARITIME COMMISSON

BRAZIL/U.S. GULF PORTS NORTHBOUND POOLING AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. K. D. Thornton, Executive Administrator, Section A, Inter-American Freight Conference, 17 Battery Place, New York, New York 10004.

Agreement No. 10029-3, among the parties to the above-named agreement, modifies the approved basic agreement to provide for admittance of Companhia Maritima Nacional (Nacional) as a Brazilian flag participant.

By order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-34748 Filed 11-23-76; 8:45 am]

EURO-PACIFIC JOINT SERVICE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Edward Schmeltzer, Esquire, Morgan, Lewis & Bockius, 1800 M Street NW., Washington, D.C. 20036.

Agreement No. 9902-5 amends the basic agreement of the above named joint service between Rapag-Lloyd, French Line and Intercontinental Transport by (1) adding a provision to replace the current fleet of six full containerships with an average capacity of 650 TEU's with a fleet of up to eight full containerships with an average capacity of 1,000 TEU's; (2) extending the effective period of the agreement as modified for an additional five years; and (3) reinstating the authority for any party to withdraw on two years advance notice.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34745 Filed 11-23-76;8:45 am]

EURO-PACIFIC JOINT SERVICE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Edward Schmeltzer, Esquire, Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D.C. 20036.

Agreement No. 9902-4 amends the basic agreement of the above named joint service between Hapag-Lloyd, Compagnie Generale Transatlantique and Intercontinental Transport, B.V. by (1) adding a provision to provide that Compagnie Generale Transatlantique and Intercontinental Transport, B.V. may appoint agents to represent their marketing and other interests and Hapag-Lloyd may appoint separate agents to represent its marketing and other interests; (2) extending the expiration for an additional nine months until December 31, 1977; and (3) deleting the authority for any party to withdraw on two years advance notice.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34743 Filed 11-23-76;8:45 am]

GULF/UNITED KINGDOM FREIGHT CONFERENCE AND SEATRAIN INTERNATIONAL S.A.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing,

may be submitted to the Secretary, Federal Maritime Commission Washington, D.C. 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10140–4, among the above-named parties, amends Article 8 of the basic agreement to provide that the Agreement shall remain in effect until terminated by the parties or a date so ordered by the Federal Maritime Commission.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34746 Filed 11-23-76;8:45 am]

MED-GULF CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

David C. Jordan, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No. 9522–29, among the members of the above named conference, modifies the basic agreement by establishing a neutral enforcement authority for self-policing of the conference, and delineates the responsibilities and procedures of said authority.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34747 Filed 11-23-76;8:45 am]

PUERTO RICO MARITIME SHIPPING AUTHORITY MARINE TRANSPORT, INC. AND SEATRAIN GITMO, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Dennis N. Barnes, Esquire, Morgan, Lewis & Bocklus, 1800 M Street, N.W., Washington, D.C. 20036.

Agreement No. DC–83–1, which is between the Puerto Rico Maritime Shipping Authority, Trailer Marine Transport, Inc., and Seatrain Gitmo, Inc., modifies the basic agreement which provides for: (1) The parties' discussion of tariff rates, charges, classifications, practices and related matters to be charged or observed by each in the U.S. Atlantic Coast/Puerto Rico trade; and (2) the parties' discussion exploring the resolution of matters in litigation between the parties before the Federal Maritime Commission. The purpose of the modification is to provide for the admission of Seatrain Gitmo, Inc., to the agreement.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34744 Filed 11-23-76;8:45 am]

SCANDINAVIA BALTIC/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Attorney at Law, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9982–10, among the members of the aforesaid conference, amends the basic agreement to eliminate conflicting provisions within Article XIII of the agreement.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34749 Filed 11-23-76;8:45 am]

THAILAND PACIFIC FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 14, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear an concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No. 9474-3, entered into by the member lines of the Thailand Pacific Freight Conference, amends Articles 1 and 2 of the conference agreement to include the establishment and maintenance of "through and joint rates, charges, rules and regulations entered into with carriers of other transportation modes" in the trade from Thailand ports to ports on the Atlantic and Gulf Coasts of the United States moving by transcontinental routing via Pacific Coast ports of the United States. Member lines may publish their own intermodal tariffs in said trade until such time as the conference files its own intermodal tariff covering the same origins, destinations and tariff commodity descriptions, and shall at all times be fully subject to the conference's self-policing provisions and to the same misrating and statistical reporting as is applicable to the membership as a whole.

By Order of the Federal Maritime Commission.

Dated: November 19, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-34750 Filed 11-23-76;8:45 am]

[Docket No. 76-62]

INDEPENDENT CARRIERS IN FOREIGN COMMERCE OF THE U.S.

Publication of Inactive Tariffs; Order To Show Cause

The independent carriers named in Appendix A, attached hereto have published rates in tariffs on file with the Federal Maritime Commission for the carriage of goods in the foreign commerce of the United States. However, the Commission has reason to believe that the tariffs published by the carriers cited in Appendix A are essentially inoperative, and that the carriers themselves are not actively engaged in the common carriage of goods in the U. S. foreign commerce.

Section 18 of the Shipping Act, 1916, 46 U.S.C. 817, requires every common carrier by water in the U. S. domestic offshore or foreign commerce to file with the Commission in prescribed form the rates charged for its transportation services. However, where a carrier is not actively engaged in service and does not plan to become actively engaged in service in the foreseeable future, the existence of its tariff(s) on file with the Commission holding itself out as a common carrier amounts to a false representation contrary to the letter and spirit of Section 18. Intercoastal Schedules of Hammond Shipping Co., Ltd., 1 U.S.S.B. 606 (1939). The shipping public is misled by a meaningless offer of service. Ghezzi Trucking, Inc.—Cancellation of Inactive Tariffs, 13 F.M.C. 253, 255 (1970). Therefore, the maintenance by common carriers of tariffs indicating the rates for services they do not perform cannot be justified, and the tariffs should be cancelled. Embargo on Cargo, North Atlantic and Gulf Ports 2 U.S.M.C. 464, 465 (1940); Ghezzi Trucking, supra.

In view of the applicable law, the Commission is of the opinion that the tariffs presently on file on behalf of the independent carriers listed in Appendix A should be cancelled, unless the carriers can show cause why their tariffs should not be cancelled.

Any tariff which is cancelled as a result of this Order shall be cancelled without prejudice to the filing of a new tariff should future conditions warrant.

Now, therefore, *it is ordered*, That pursuant to sections 22 and 18 of the Shipping Act, 1916, the carriers named in Appendix A be named respondents in this proceeding, and that they be ordered to show cause why their tariffs indicating rates for the common carriage of goods in the foreign commerce of the United States should not be cancelled as being inactive.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies thereto, and oral arguement, if requested and/or deemed necessary by the Commission. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit. Request for hearing shall be filed on or before December 20, 1976. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties of record no later than the close of business on December 20, 1976. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than the close of business on January 17, 1977. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That a notice of this Order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents.

It is further ordered, That persons other than those already parties to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than the close of business on December 3, 1976.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretray, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Arabian Mediterranean Line, c/o Aqua Steamship Agency, Inc., 509 Petroleum Building, Houston, Texas 77002.

FMC 1. From U.S. Gulf and South Atlantic to all ports (except Spanish Mediterranean and Israeli ports) served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic, Black Sea, and Gulf of Taranto ports and from Casablanca to Port Said inclusive.

Dai Jin Shipping Co., Ltd., C. R. Nickerson, Agent, 9 First Street, San Francisco, California 94105.

FMC 1. Gulf and Pacific/Japan, Hong Kong, Korea, Taiwan, and Vietnam.

D. L. Haynes, Inc., 4757 E. Slauson Avenue, Maywood, California 90270.

FMC 1. From Los Angeles, to Australia, New Zealand, and South Sea Islands.

Fourcom Shipping Corp., Ocean Services Agency, Inc., 886 United Nations Plaza, New York, New York 10017.

FMC 1. Atlantic, Gulf, Great Lakes, and Pacific/Japan, South Korea, Taiwan, Hong Kong, Vietnam, Philippines, Malaysia, Thailand, Indonesia, East Pakistan, and East Coast India.

Glen Enterprises Ltd., c/o T. A. De Witt, Agent, 17 Battery Place, New York, New York 10004.

FMC 1. Between U.S. Atlantic and Gulf and ports in Europe and ports in Africa on the Mediterranean Sea.

Global Container Service, Inc., c/o Global Terminal & Container Services, Inc., 26 Broadway, Room 2800, New York, New York 10004.

FMC 1. From Continental European ports (Hamburg/Lisbon range) to U.S. Atlantic ports (Boston/Miami range).

FMC 2. From U.S. Atlantic ports (Boston/Miami range) to Continental European ports (Hamburg/Lisbon range).

Gulf Ports Shipping Co., c/o Elton Tillery, P.O. Box 8621, Houston, Texas 77009.

FMC 1. Between U.S. Gulf ports and worldwide ports.

IASL Corp., 55 Goodrich Street, Mariners Harbor, Staten Island, New York 10303.

FMC 1. From U.S. Atlantic, Gulf, and Pacific Coast to worldwide destinations.

Imperial Van Lines of California, 2805 Calumbia Street, Torrance, California.

FMC 5. Between U.S. Atlantic, Gulf, and Pacific Coast to worldwide destinations.

Intermodal Freight Forwarding, Inc., 116 Nassau Street, New York, New York.

FMC 1. From Japan, Taiwan, Hong Kong, Singapore to Norfolk, Hampton Roads, and New York.

International Storage & Distribution Co., Inc., 9 First Street, San Francisco, California 94105.

FMC 2. Between Atlantic, Pacific, and Great Lakes ports and worldwide destinations.

Iranian Shipping Lines, S.A. (Stateside address), c/o Keyship Agency, Inc., General Agents, 17 Battery Place, New York, New York 10004.

Iranian Shipping Lines, S.A. (Foreign address), 168 Saadi Avenue, P.O. Box 1693, Teheran, Iran.

FMC 1. From U.S. Atlantic and Gulf ports to Red Sea and Gulf of Aden.

FMC 2. From U.S. Gulf of Mexico and Atlantic ports to Persian/Arabian Gulf ports.

FMC 4. From Persian Gulf ports to U.S. Gulf of Mexico and Atlantic ports.

FMC 5. From Red Sea and Gulf of Aden to U.S. Gulf of Mexico and Atlantic ports.

Lebay International, P.O. Box 52170, Houston, Texas 66052.

FMC 1. From U.S. ports to worldwide ports.

Micronesia Line, Inc., 28 Hillside Avenue, San Anselmo, California 94960.

FMC 1. From U.S. Pacific to Trust Territory of the Pacific Islands.

Overocean Transport Corp., 139 Harvard Avenue, Stamford, Conn.

FMC 1. From New York, Elizabeth, New Jersey, Chicago, and Bridgeport, Conn., to worldwide destinations.

Posey International, P.O. Box 53299, Houston, Texas 77028.

FMC 1. Between U.S. ports and worldwide ports.

Serviocean International, c/o Marine Overseas Services, Inc., 4849 Honestead Road, Suite 232, Houston, Texas 77028.

FMC 1. Between Atlantic and Gulf/Asia, Africa, Middle East.

Specialized Transportation Sales, Inc., 220 Park Road North, Wyomissing, Pa. 19610.

FMC 1. From U.S. Atlantic, Gulf, Pacific, and Great Lakes ports to worldwide ports.

Seaboard Mercantile Trading Co., Inc., c/o Global Maritime Agencies, Inc., 52 Broadway, New York, New York 10004.

FMC 4. From Bulgarian ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 5. From Turkish ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 6. From Moroccan ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 7. From Yugoslavian ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

Seaboard Mercantile Trading Co., Inc., c/o Global Maritime Agencies, Inc., 52 Broadway, New York, New York 10004.

FMC 8. From Tunisian ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 9. From Portuguese ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 10. From Lebanese ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 11. From Spanish ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 12. From Greek ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

FMC 13. From Italian ports to U.S. East Coast, Gulf Coast, Great Lakes, and West Coast ports.

Tancorp Shipping Ltd., Room 313, Windsor House, Hong Kong, B.C.C.

FMC 1. Taiwan/Atlantic, Gulf, and Pacific.

FMC 2. Japan/Atlantic, Gulf, and Pacific.

Tise Philpoe Lines, Union Bank Tower 990, 21515 Hawthorne Blvd., Torrance, California 90503.

FMC 1. Taiwan/Pacific.

FMC 2. Hong Kong/Pacific.

FMC 3. Korea/Pacific.

Torrence Navigation Co., c/o T. A. Dewitt, Agent, 17 Battery Place, New York, New York 10004.

FMC 2. Between Atlantic and Gulf/Red Sea and Persian Gulf.

FMC 4. Between Atlantic and Gulf/West and South Africa.

FMC 3. Atlantic and Gulf/New Zealand and Australia.

Trans-Asia Shipping Co., Ltd., 32-36 Des Voeux Road West, Room 904 Man Cheong Bldg., Hong Kong, B.C.C.

FMC 1. Between Guam, Formosa, Philippines, Thailand/Trust Territories.

Trans-Atlantic Steel Carriers, Inc., 82 Wall Street, New York, New York 10005.

FMC 2. Great Lakes, Atlantic, and Gulf/Far East.

Transcontinental Consolidators, Inc., 19 Iron Way, Little Falls, New Jersey 07643.

FMC 1. From U.S. North Atlantic to worldwide ports.

Trans-Globe Shipping Co., Ltd., No. 7, 3-Chome, Nihanbashitori, Chuo-Ku, Tokyo, Japan.

FMC 1. Taiwan, Hong Kong/United States.

Transocean Container Service, Co., Ltd., No. 2, Shinbashi Ekimae Building, 21-2-Chome, Shinbashi, Minoto-Ky, Tokyo.

FMC 1. From Japan and Korea to U.S. Pacific Coast.

Trans Royal International Pacific Co., Trust Territories of the Pacfic Islands, Saipan, Marianes Islands.

FMC 1. Pacific/Malaysia, Cambodia, and Singapore.

Union Sincerety Corporation, 3rd Floor 185 Shin Yi Rd., Sec. 2 Taipei, Taiwan.

FMC 1. Between Guam, Formosa, Hong Kong, Philippines, Thailand, and Trust Territories.

United Enterprises and Shipping (PTA) Ltd., of Singapore, No. 6 Cecil Street, 5th Floor, Box 3125, Singapore 1.

FMC 2. Far East/Atlantic and Gulf.

FMC 3. Taiwan/Pacific.

FMC 4. Hong Kong, Thailand/Pacific.

FMC 5. Malaysia, Singapore/Pacific.

FMC 6. Great Lakes, Atlantic, Gulf, Pacific/Far East.

FMC 8. Malaysia, Hong Kong, Singapore, Taiwan/Great Lakes.

Venus International Line, c/o Benus Ling and Co, Inc., 80 Broad Street, New York, New York.

Singapore/Atlantic and Gulf.

FMC 1. Taiwan, Hong Kong, Thailand,

FMC 2. Japan/Atlantic and Gulf.

Wan Hai Steamship, P.O. Box 22437, 42, Tai Yuan Road, Taipli, Taiwan.

FMC 1. Between Guam, Trust Territories/Hong Kong.

Wilson Container Co., Inc., 34 Exchange Place, Jersey City, New Jersey 07302.

FMC 1. New York, New York to Danish, Norwegian, and Swedish ports.

World Transport Ltd., c/o Global Maritime Agencies, Inc., 52 Broadway, New York, New York 10004.

FMC 1. From U.S. Great Lakes, East Coast, Gulf and West Coast ports to all ports in the Mediterranean.

FMC 4. From U.S. Great Lakes, East Coast, Gulf Coast, Gulf and West Coast ports to all European ports on the Baltic, North Sea and Atlantic Coast including all ports in Great Britain and Ireland.

FMC 7. From Bulgarian ports to U.S. East Coast, Gulf Coast, and West Coast ports.

FMC 8. From Moroccan ports to U.S. East Coast, Gulf Coast, and West Coast ports.

FMC 9. From Greek ports to U.S. East Coast, Gulf Coast, and West Coast ports.

FMC 10. From Yugoslavian ports to U.S. East Coast, Gulf Coast, and West Coast ports.

FMC 11. From Tunisian ports to U.S. East Coast, Gulf, and West Coast ports.

FMC 12. From Turkish ports to U.S. East Coast, Gulf, and West Coast ports.

FMC 13. From Spanish ports to U.S. East Coast, Gulf, and West Coast ports.

FMC 14. From Italian ports to U.S. East Coast, Gulf, and West Coast ports.

FMC 15. From Lebanese ports to U.S. East Coast, Gulf, and West Coast ports.

FMC 16. From Portuguese ports to U.S. East Coast, Gulf, and West Coast ports.

Worldwide Carriers, c/o Astoria Steamship Agency, Inc., 2 John Street, New York, New York 10038.

FMC 2. Pacific/Far East.
FMC 5. Philippines/Great Lakes.
FMC 6. Taiwan/Great Lakes.
FMC 7. Far East/Atlantic, Gulf, Pacific.
FMC 8. Straits/Great Lakes.
FMC 9. Thailand/Great Lakes.
FMC 10. Indonesia/Great Lakes.
FMC 15. Great Lakes, Gulf/Far East.
FMC 18. Korea, Japan/Great Lakes.

Worldwide Carriers, Ltd., c/o Astoria Steamship Agency Inc., 52 Broadway, New York, New York 10004.

FMC 4. From U.S. East Coast and Gulf ports to all ports in the Mediterranean, including Casablanca to Port Said (including Adriatic and Black Sea ports).

FMC 19. From U.S. Great Lakes ports to all ports in the Mediterranean.

FMC 11. From all ports served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic and Black Sea ports, and from Casablanca to Port Said inclusive to U.S. Great Lakes ports.

FMC 23. From all ports served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic and Black Sea ports, and from Casablanca to Port Said inclusive to U.S. East Coast and Gulf ports.

W. R. Zanes & Co., Louisiana Inc., P.O. Box 2330, New Orleans, La. 70130.

FMC 1. Between U.S. Ports and Worldwide ports.

W. W. Lynch, Inc., 1600 W. 8th Street, Long Beach, California 90813.

FMC 1. Between Japan, Korea, and U.S. Pacific Coast ports.

[FR Doc.76-34751 Filed 11-23-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP76-15 and RP76-98]

ALGONQUIN GAS TRANSMISSION CO.

Filing

NOVEMBER 17, 1976.

Take notice that on October 29, 1976, Algonquin Gas Transmission Company (Algonquin) tendered for filing substitute First Revised Sheet No. 10-A to Algonquin's FPC Gas Tariff, First Revised Volume No. 1.

This tariff sheet was originally tendered for filing by Algonquin on September 15, 1976, but it was rejected by Commission order issued October 15, 1976. Algonquin now refiles such tariff sheet and asks that it be permitted to become effective as of October 16, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34725 Filed 11-23-76;8:45 am]

[Docket No. RP77-13]

ARKANSAS LOUISIANA GAS CO.

Petition for Declaratory Order

NOVEMBER 16, 1976.

Take notice that on November 5, 1976, Arkansas Louisiana Gas Company (Arkla), Post Office Box 21734, Shreveport, Louisiana 71151, filed a Petition for a Declaratory Order under the Natural Gas Act in Docket No. RP77-13. Arkla states that Mobil Oil Corporation (Mobil) sells natural gas to it from the Lassater Field, Marion County, Texas under a gas purchase contract dated September 1, 1973, which is on file with the Commission as Mobil's FPC Gas Rate Schedule No. 255.

Arkla is seeking an order declaring that the "production, severance, or similar taxes" adjustment to the National Base Rate permitted by Commission Opinion Nos. 699-H, 749, and 770, is limited to the taxes actually paid by Mobil. Arkla contends that Mobil has taken the position with Arkla that Commission Opinion No. 699-H permits Mobil to include in the applicable national rate for this sale to Arkla a percentage tax component calculated on the gross sales price at the point of delivery without taking into account the compression and transportation costs that Mobil actually deducts when it computes the tax payable to the state of Texas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 7, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34718 Filed 11-23-76;8:45 am]

[Docket No. RI77-8]

BOB M. LLOYD

Petition for Special Relief

NOVEMBER 16, 1976.

Take Notice that on November 8, 1976 Bob M. Lloyd (Lloyd), 125 North Van Duren, Henderson, Texas, filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretation's (18 CFR 2.76).

Petitioner seeks authorization to charge 136 cents per Mcf for the sale of gas from the Hatch Wells 1, 1-2, 1-34, Richland Parish, Louisiana to Mid-Louisiana Gas Co., 2100 Lykes Center, New Orleans, Louisiana. Petitioner does not state any reason other than to continue present production for its request for the 136 cents per Mcf rate pursuant to 18 CFR 2.76.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 6, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to itervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34717 Filed 11-23-76;8:45 am]

[Docket No. RP76-13]

CITIES SERVICE GAS CO.

Filing of Stipulation and Agreement

NOVEMBER 16, 1976.

Take notice that on November 11, 1976, Cities Service Gas Company (Cities Service) filed a Stipulation and Agreement (Stipulation) applicable to its jurisdictional rates which became effective subject to refund on March 23, 1976, in this proceeding. Cities Service states that the Stipulation would resolve all of the issues in this proceeding, though certain intervenors have reserved the right to file comments objecting to certain aspects of the settlement, and, further, certain issues will be subject to resolution upon final and non-appealable order of the Commission on such substantive rate issues in other proceedings.

Cities Service states that copies of the Stipulation were served on all parties to the above-entitled proceeding.

Any person desiring to comment upon the Stipulation should file initial comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 6, 1976, and reply comments on or before December 27, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34712 Filed 11-23-76;8:45 am]

[Docket No. RP76-59]

EL PASO NATURAL GAS CO.

Certification of Stipulation and Agreement and Settlement of Rate Proceeding

NOVEMBER 16, 1976.

Take notice that on November 9, 1976, Presiding Administrative Law Judge Ernst Liebman certified to the Commission for its consideration and disposition a Stipulation and Agreement in settlement of the above entitled proceeding together with the entire record relating thereto. The settlement, if approved, would resolve all issues in the proceeding except that of rate design.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 3, 1976. Reply comments should be filed on or before December 14, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34702 Filed 11-23-76;8:45 am]

[Docket No. CP73-148]

ENERGY PIPELINE CORP.

Amendment to Application

NOVEMBER 16, 1976.

Take notice that on November 8, 1976, Energy Pipeline Corporation (Applicant), 80 Park Place, Newark, New Jersey 07101, filed in Docket No. CP73-148, an amendment to its application in said docket pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a natural gas pipeline for the transportation of natural gas in interstate commerce all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant proposes to construct a 24-inch transmission line, with a 30-inch looped river crossing, from a point in Rossville, Staten Island, New York, under the Arthur Kill, to a point in Woodbridge, New Jersey, of a total length of approximately 6,000 feet, together with appurtenant metering and regulating facilities, and to transport therein natural gas for Eascogas LNG, Inc., for sale in interstate commerce. Applicant states that the proposed pipeline is necessary to enable delivery of vaporized liquefied natural gas (LNG) to New Jersey customers from the site of the LNG terminal facilities of Energy Terminal Services Corporation on Staten Island.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed in this proceeding need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34715 Filed 11-23-76;8:45 am]

[Docket No. CP74-122]

ENERGY TERMINAL SERVICES CORP.

Amendment to Application

NOVEMBER 16, 1976.

Take notice that on November 8, 1976, Energy Terminal Services Corporation (Applicant), 80 Park Place, Newark, New Jersey 07101, filed an amendment to its application in Docket No. CP74-122 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of terminal facilities at Rossville, Staten Island, New York, for the receipt, terminalling and delivery of liquefied natural gas (LNG), all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.[1]

By the subject application, Applicant requests a certificate of public convenience and necessity for the facility on which construction is largely completed. By Commission Opinion No. 613 and order issued March 9, 1972, Distrigas Corporation, Docket No. CP70-196, et al., (47 FPC 752), rehearing denied June 7, 1972 (47 FPC 1465), the Commission authorized Distrigas Corporation (Distrigas), an affiliate of Applicant, to import up to 14 shiploads of LNG from Algeria to deepwater terminals located at Staten Island and Everett, Massachusetts. At that time the Commission held, inter alia, that the terminal facilities at Staten Island did not require certification; however, on May 25, 1973, in Docket No. CP 73-78, et al., Distrigas Corporation, et al., (49 FPC 1145), rehearing denied June 20, 1973 (49 FPC 1400), the Commission determined that it did have jurisdiction over the subject Staten Island facilities and required Distrigas or its appropriate affiliate to apply for authorization to construct and operate the proposed Staten Island facility. The subject application was originally filed under protest; however, it is stated that the application is no longer under protest as a result of a previously filed amendment which deleted any claim or protest to Commission jurisdiction. Energy Terminal Services Corporation is the new name of Applicant which was formerly known as Distrigas of New York Corporation.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed in this proceeding need not do so again.

KENNETH F. PLUMB,
Secretary.

[1] Importation of LNG from Algeria has been applied for by Eascogas LNG, Inc., in Docket No. CP73-47.

[FR Doc.76-34714 Filed 11-23-76;8:45 am]

[Docket No. CP77-48]

LONE STAR GAS CO.

Notice of Application

NOVEMBER 17, 1976.

Take notice that on November 8, 1976, Lone Star Gas Company, a Division of ENSERCH CORPORATION (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77-48 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the regulations thereunder (18 CFR 157.7 (g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon, during the calendar year 1977, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of proposed construction and abandonment under § 157.7(g) would not exceed $800,000 and no single project would exceed $200,000. Applicant also states that said costs would be financed from working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any

person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34720 Filed 11-23-76;8:45 am]

[Docket No. CP77-49]

LONE STAR GAS CO.

Application

NOVEMBER 16, 1976.

Take notice that on November 8, 1976, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77-49 an application pursuant to section 7(b) of the Natural Gas Act and § 157.7(e) of the regulations thereunder (18 CFR 157.7 (e)) for permission and approval to abandon, during the calendar year 1977, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has not further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34705 Filed 11-23-76;8:45 am]

[Docket No. CP77-50]

LONE STAR GAS CO.

Notice of Application

NOVEMBER 16, 1976.

Take notice that on November 8, 1976, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77-50 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations thereunder (18 CFR 157.7 (c)), for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1977, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000, with costs for single projects having no self-imposed limit. Applicant further states that the cost of the proposed facilities would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 7, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34708 Filed 11-23-76;8:45 am]

[Docket No. CP77-51]

LONE STAR GAS CO.

Application

NOVEMBER 16, 1976.

Take notice that on November 8, 1976, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77-51 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7 (b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully

set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $3,000,000 and that the cost of any single project would not exceed $750,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34709 Filed 11-23-76;8:45 am]

[Project No. 1000]

LOUISVILLE GAS & ELECTRIC CO.

Issuance of Annual License(s)

NOVEMBER 16, 1976.

On October 21, 1974, Louisville Gas & Electric Company, Licensee for Ohio Falls Transmission Line (66 kV) Project No. 1000, located in Louisville, Jefferson County, Kentucky, filed an application for surrender pursuant to the Federal Power Act and Commission regulations thereunder.

The license for Project No. 1000 was issued effective March 12, 1930, for a period ending November 11, 1975. Since expiration of the original license, the project has been maintained and operated under an annual license, which expired November 11, 1976. In order to authorize the continued operation and maintenance of the project pending Commission action on Licensee's application for surrender, it is appropriate and in the public interest to issue an annual license to the Louisville Gas & Electric Company.

Take notice that an annual license is issued to the Louisville Gas & Electric Company for the period November 12, 1976, to November 11, 1977, or until the completion of Commission action on Licensee's application for surrender, for the continued operation and maintenance of Project No. 1000, subject to the terms and conditions of its present license. Take further notice that should the Commission not act on Licensee's application for surrender by November 11, 1977, a new annual license will be issued each year thereafter, effective November 12 of each year, until such time as the Commission acts on the pending application for surrender, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34713 Filed 11-23-76;8:45 am]

[Docket No. ER76-678]

MAINE ELECTRIC POWER CO.

Briefing Schedule

NOVEMBER 16, 1976.

Take notice that during a formal Prehearing Conference held in Washington, D.C. on November 9, 1976, the Presiding Administrative Law Judge established the following Briefing Schedule in this docket: Initial Briefs to be filed by December 17, 1976, and Reply Briefs to be filed by January 7, 1977.

By motion dated November 4, 1976, New England Power Company (NEP) requested that the Presiding Administrative Law Judge proceed to establish procedural dates for hearing regarding the issues raised by NEP's intervention. In support of this motion NEP alleged that the importation and resale of New Brunswick Power under Agreements filed in this docket, in light of an excess capacity situation in New England, would cost New England consumers served by NEP's wholesale customers up to an additional $6,000,000 per year.

The above briefing schedule was established to allow the parties to present their views regarding the contents of NEP's motion and regarding other matters set for briefing by the Presiding Administrative Law Judge.

Notice is hereby given to allow persons who meet the requirements of the Commission's rules and regulations to participate in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34707 Filed 11-23-76;8:45 am]

[Docket No. ER77-48]

MAINE PUBLIC SERVICE CO.

Tariff Change

NOVEMBER 16, 1976.

Take notice that Maine Public Service Company, on November 9, 1976, tendered for filing proposed changes in its Federal Power Commission Electric Service Tariff. The proposed changes will increase base rate revenues from jurisdictional sales and service by $341,408 based upon the twelve month period ending September 30, 1976.

The Company states that the proposed increase is necessary due to increased capacity charges associated with its ownership and receipt of power from its share of Maine Yankee Atomic Power Company effective November 1, 1976. In addition the base rate increase is necessary to offset the effect of recent inflation, higher cost of capital and growth in rate base.

The Company is an operating public utility subject to the jurisdiction of the Federal Power Commission pursuant to Part II of the Federal Power Act, and makes jurisdictional sales for resale to three customers: Houlton Water Company, Van Buren Light & Power District and Eastern Maine Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol St., NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34700 Filed 11-23-76;8:45 am]

[Docket No. CP70-22]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend

NOVEMBER 17, 1976.

Take notice that on November 8, 1976, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP70-22 a petition to amend further

the Commission's Opinion No. 577 and order issued April 30, 1970, pursuant to section 3 of the Natural Gas Act in said docket (43 FPC 635), as amended, by authorizing an increase in the price paid to TransCanada Pipelines Limited (TransCanada) for gas imported into the United States from the current border price of $1.80 per Mcf to $1.94 per Mcf effective January 1, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it currently pays TransCanada $1.80 per Mcf for gas imported pursuant to authorization in the instant docket. Petitioner further states that on June 10, 1976, the Canadian Minister of Energy, Mines and Resources announced a two stage price increase of Canadian natural gas exported to the United States. It is indicated that the price increases which became effective September 10, 1976, increase the price from $1.60 per Mcf to the present $1.80 per Mcf and the second stage which this petition to amend addresses, increases the price from $1.80 to $1.94 per Mcf effective on January 1, 1977.

Petitioner asserts that natural gas imported from Canada forms a vital portion of its gas supply, and that in addition 40,000 Mcf per day of Canadian gas that it purchases from TransCanada, it also purchases 271,000 Mcf per day of Canadian gas from Midwestern Gas Transmission Company and 13,000 Mcf per day from Great Lakes Gas Transmission Company. Petitioner states further that unless its existing import authorization is amended prior to January 1, 1977, to provide for payment of the increased rates prescribed by the Canadian government, it would be faced with the termination of its gas supply from TransCanada. Accordingly, with no alternative domestic supply available, the loss of the Canadian gas would result in another substantial curtailment of Michigan Wisconsin's markets, it is said.

Any person desiring to be heard or to make any protest, with reference to said petition to amend should on or before December 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34719 Filed 11-23-76;8:45 am]

[Docket No. ER77-45]

MISSISSIPPI POWER CO.

Filing of Agreement

NOVEMBER 16, 1976.

Take notice that Mississippi Power Company (MPC) on November 3, 1976, tendered for filing a Supplement Agreement with Coast Electric Power Association (CEPA) under its FPC Electric Tariff Original Volume No. 1. This agreement provides for an increase in the delivery voltage and contracted capacity at the Gay Road delivery point of CEPA on or about January 1, 1977. To effect these changes, MPC and CEPA have entered into a supplemental agreement under the Company's FPC Electric Tariff Original Volume No. 1 (Second Revised Sheet No. 14).

MPC states that the agreement provides for it to deliver up to a maximum of 4,000 kilowatts at 115,000 volts at MPC's 3 pole wooden 115 KV structure installed adjacent to MPC's 115 KV transmission line in the NE¼ of the NW¼ of Section 8, R9W, T7S, Harrison County, Mississippi.

MPC further states that this supplement may not be terminated until January 1, 1981, or until five years after the date the power systems of parties are actually connected, which ever is later.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34722 Filed 11-23-76;8:45 am]

[Docket No. CP76-81]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition To Amend

NOVEMBER 17, 1976.

Take notice that on November 9, 1976, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-81 a petition to amend the Commission's order of December 8, 1975, issued in the subject docket pursuant to section 7 of the Natural Gas Act, as implemented by § 157.7(g) of the Commission's regulations (18 CFR 157.7 (g)), to waive the single project cost limitation of $500,000 prescribed by said order in order to permit the construction of a single project not to exceed a cost of $577,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued December 8, 1975, the Petitioner was authorized under the budget-type application provisions of § 157.7(g) of the Commission's regulations to construct additional field compression and related metering and appurtenant facilities during the twelve month period commencing November 14, 1975. It is further stated that said order limited total expenditures during the year to a maximum of $3,000,000 with no single project to exceed a cost of $500,000.

Petitioner states that it has experienced an increase in construction and installation costs of a 645 horsepower compressor facility located at its Booster Station No. 344, and asserts that the estimated final cost of said compression facilities will be $577,000. Petitioner states that said increase was due to a need for a more substantial foundation which was indicated as necessary as the result of a soil survey of the area.

Petitioner requests amendment of said order and of the single project cost limitations imposed by § 157.7(g) of the Commission's regulations so as to include the construction and installation of its Booster Station No. 344 compression facilities, which facilities have exceeded said cost limitations. Petitioner further states that it will not require any modification of the total expenditure limitation in § 157.7(g).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary

[FR Doc.76-34721 Filed 11-23-76;8:45 am]

[Docket No. ER77-51]

NEW ENGLAND POWER CO.

Rate Schedule

NOVEMBER 17, 1976.

Take notice that on November 10, 1976 New England Power Company (NEPCO)

tendered for filing as an initial rate schedule a System Power—Unreserved Power Contract between NEPCO and the Village of Lyndonville, Vermont, Electric Department (Lyndonville) dated as of September 17, 1976, according to NEPCO.

NEPCO states that the Power Contract provides for NEPCO's supply to Lyndonville of various capacity entitlements of System Power—Unreserved, together with related energy during portions of the period November 1, 1976 through April 31, 1981. NEPCO states that "System Power—Unreserved" is electric power supplied by NEPCO without specification as to the source of generation, without reserves, and various percentages of which are made available for delivery only at such times as, and to the extent that, specified NEPCO generating units are generating power on line or available for such generation.

NEPCO requests waiver of the notice requirements so as to permit the Power Contract to become effective as of November 1, 1976 in accordance with its terms.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34710 Filed 11-23-76;8:45 am]

[Docket No. ER76-818]

NORTHERN STATES POWER CO. (MINNESOTA)

Settlement Conference

NOVEMBER 16, 1976.

On October 8, 1976, Staff Counsel filed "Comments of Commission Staff on Northern States Power Company's Motion for Approval of Settlement Agreement and Motion for Settlement Conference," (Comments and Motion) in the above-designated proceeding. In the Comments and Motion, Staff states that it would be particularly appropriate in the instant docket to allow the parties and Commission Staff to further explore the bases of Northern States Power Company's proposed initial and revised rates with a view to achieving a Settlement Agreement consistent with the standards of the Federal Power Act.

Notice is hereby given that a Settlement Conference in the captioned docket will be convened on Wednesday, December 1, 1976, at 10:00 a.m., in Room 5200 of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34716 Filed 11-23-76;8:45 am]

[Docket No. CP77-46]

NORTHWEST PIPELINE CORP.

Notice of Application

NOVEMBER 16, 1976.

Take notice that on November 5, 1976, Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-46 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the establishment of two (2) new points of delivery for the sale and delivery of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to establish a new point of delivery to Cascade Natural Gas Corporation (Cascade) and a new point of delivery to Northwest Natural Gas Company (Northwest) for the sale and delivery of natural gas for resale. In reference to the Cascade Delivery Point, Applicant states that it has moved its operations to another existing location on its transmission system, and as a result, the original operation site is no longer needed and Applicant proposes to sell it. At such time as the land and building are sold, the new owner will need natural gas service, it is said, and Applicant has requested that Cascade, an existing customer of Applicant and the local distributor company in the area, provide natural gas service to this facility and Cascade has agreed. It is indicated that applicant would provide Cascade with an estimated 16 Mcf on a peak day and 543 Mcf [1] of natural gas annually at the proposed new point of delivery and that an existing 2-inch tap valve located on Applicant's 10¾-inch Wenatchee Lateral in Yakima County, Washington, would be utilized for the delivery to Cascade. All of Applicant's existing measuring and regulating facilities downstream of the aforementioned 2-inch tap valve would be abandoned in place and transferred to cascade at no cost, it is said. In reference to the Northwest Natural Delivery Point, Applicant states that it requested that Northwest Natural, an existing customer and local distribution company, provide the natural gas service requested for three homes sold by the Applicant. It is asserted that these homes had previously been provided natural gas service from Applicant's system use gas on its Camas to Eugene Lateral, to employees at Wachugal, Washington, and that to effectuate the service by Northwest Natural, Applicant proposes to deliver and sell an estimated peak day and annual natural gas requirements of 14 Mcf and 585 Mcf, respectfully, to Northwest Natural for resale and delivery to these homes. The gas would be utilized for space heating and other domestic uses, it is said.

To provide for the delivery of natural gas to Northwest Natural, Applicant proposes to establish a new delivery point for Natural at an existing 2-inch tap valve on its 20-inch Camas to Eugene Lateral located in Clark County, Washington. It is proposed that all of applicant's existing facilities downstream of the aforementioned 20-inch tap, including the 1-inch service line which was previously used by Applicant to provide service to the subject houses would be abandoned in place and transferred to Northwest Natural at no cost.

Applicant states that the grant of the authorization requested herein would not increase the natural gas requirements of Applicant, and that since Applicant has previously provided natural gas services to the houses and warehouse-office facilities it is merely changing a company use requirement to a sale for resale. It is proposed that the additional sale and delivery of natural gas by Applicant to either Cascade or Northwest Natural would be made, under Applicant's Rate Schedule ODL-1, and that Northwest Natural and Cascade would render natural gas service to the houses without increasing its presently authorized firm contract quantity. Applicant further states that it does not require any additional facilities on its transmission system to effectuate the establishment of the new point of delivery for either Cascade or Northwest Natural.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required,

[1] Unless otherwise noted, all volumes are stated at a pressure base of 14.73 psia and 60° F.

further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34704 Filed 11-23-76;8:45 am]

[Docket No. E-9572]

PAPAGO TRIBAL UTILITY AUTHORITY AND ARIZONA ELECTRIC POWER COOPERATIVE, INC. AND ARIZONA PUBLIC SERVICE CO.

Complaint

NOVEMBER 16, 1976.

Take notice that on October 28, 1976, Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc. (complainants) filed a complaint against Arizona Public Service Company (Arizona).

Complainants state, inter alia, as follows:

Pursuant to section 5(a) of the Natural Gas Act and § 1.6 of the rules of practice and procedure, the Papago Tribal Utility Authority (PTUA) and Arizona Electric Power Cooperative, Inc. (AEPCO) hereby jointly file a formal complaint against Arizona Public Service Company (APS) alleging that this public utility has failed to comply with the provisions of the Federal Power Commission's (FPC) September 16, 1975 "Order Approving Stipulation and Offer of Settlement Subject to Conditions," and with the express terms of the settlement agreement thereby approved in the following respects:

(i) APS has flowed through the additional investment tax credit benefits it realized under the Tax Reduction Act of 1976 only from September 16, 1975 forward, rather than from January 1, 1975 forward, as was agreed and ordered.

(ii) APS had failed to implement its flowthrough of these tax benefits by following the procedure specified in the "Corrections of Formulae" provision of its wholesale power supply agreements which require that it will consult with affected jurisdictional customers in order to agree on new formulae to effectuate such flowthrough, as agreed and ordered herein. Instead, APS has unilaterally determined the amount of such tax benefits to be flowed through and has refused to disclose the basis for its computations.

As later explained in detail, APS has recognized that both PTUA and AEPCO are entitled to a flowthrough of additional investment tax credit benefits by virtue of the FPC's Order of September 16, 1975 which * * * approved and adopted * * * that agreement. In fact, APS has made future rate reductions and distributed cash payments for part of the past period involved to both PTUA and AEPCO. The matters complained of relate, therefore, only to the amount of such tax benefits to be flowed through by APS.[1]

[1] AEPCO was a party to Docket Nos. E-8621, et al., in which the FPC's Order and the Settlement Agreement were made. While PTUA was not a party, its standing to complain is clearly established by the fact that paragraph 3 of the Settlement Agreement, found at T. 139 in Docket Nos. E-8621, et al., expressly provides that PTUA shall receive such tax credit benefits.

Complainants request that this Commission issue an order finding and concluding that:

(i) APS is obligated to flow through all additional investment tax credit benefits received from January 1, 1975 forward.[2]

(ii) APS is obligated to determine the amount and method of flowing through refunds attributable to such additional investment tax credit benefits in accordance with the "Corrections of Formulae" provisions of its wholesale power supply agreements with PTUA and AEPCO.

(iii) APS shall disclose fully its federal and state income tax returns and all other data relevant to a determination of such additional investment tax credit benefits.

Complainants further request that:

On the basis of such findings and conclusions, the FPC issue an Order directing APS to immediately meet with its customers so that agreement may be reached upon an appropriate means whereby the entire tax savings accruing to APS by virtue of the additional investment tax credit benefits enacted by the Tax Reduction Act of 1975 will be flowed through to PTUA and AEPCO, starting with January 1, 1975.

Complainants further state:

Issuance of the requested Order will assure compliance by APS with the requirements of the FPC's September 16, 1975 Order approving the settlement agreement which expressly provides that all tax credit benefits be flowed through, rather than only those benefits realized after September 16, 1975. The requested Order will further assure compliance wtih the express provisions of the settlement agreement, approved and adopted by the FPC in that Order, which require that the determination of the amount and manner of making such flow through be mutually determined by APS and its affected wholesale customers.

The suggested procedure is entirely appropriate because the issues raised by this complaint are purely legal in nature, and there are no disputes as to relevant and material facts, so that the substantive issues may be disposed of on the basis of written pleadings. Nor are formal hearings necessary or appropriate, at least in the first instance, because PTUA and AEPCO seek only the rights that are granted by the terms of their wholesale contracts to consultation with APS, and an opportunity to reach mutual agreement. This procedure is entirely consistent with § 1.6 of the rules of practice and procedure which expressly reserves to the agency necessary flexibility to prescribe appropriate procedures on a case-to-case basis by inviting the parties to an informal conference, setting the case for formal hearing, or taking any other action which is appropriate in its judgment.

Pursuant to § 1.6 of the Commission's rules of practice and procedure, a copy of the complaint is being forwarded to Arizona for appropriate response or answer.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 13, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[2] The issues raised with respect to this matter relate only to the period from January 1, 1975 to September 16, 1975.

[FR Doc.76-34706 Filed 11-23-76;8:45 am]

[Docket No. CI77-86]

SOUTH LOUISIANA PRODUCTION COMPANY, INC., ET AL.

Application

NOVEMBER 16, 1976.

Take notice that on November 1, 1976, South Louisiana Production Company, Inc., et al. (Applicant), P.O. Box 52088, Lafayette, Louisiana 70501, filed in Docket No. CI77-86 an application pursuant to section 7(c) of the Natural Gas Act for a limited term certificate of public convenience and necessity, with pregranted abandonment, authorizing the sale for resale of natural gas in interstate commerce to United Gas Pipe Line Company ("United") from the Pilgrim Church Field, Allen Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant entered into a contract with United dated October 13, 1976, for the resale of natural gas by Applicant to United from the Pilgrim Church Field, Allen Parish, Louisiana (1) for a term of one year beginning on the date deliveries of gas commence thereunder, (2) the date seller commences deliveries to Ethyl Corporation, or (3) the date seller finds it necessary to utilize the gas for secondary recovery operations, whichever is earlier. Applicant proposes to sell approximately 30,000 Mcf of gas per month at $1.4484 per Mcf at 15.025 psia.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7

and 15 of the Natural Gas Act and the Commission's rules of practice and procedures, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34701 Filed 11-23-76;8:45 am]

[Docket No. RP76-60 (PGA 76-1)]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Purchased Gas Cost Adjustment Rate Change

NOVEMBER 17, 1976.

Take notice that South Texas Natural Gas Gathering Company ("South Texas"), on November 1, 1976, tendered for filing with the Federal Power Commission its First Revised Exhibit A (First Revised PGA-1) superseding the Original Exhibit A to its Purchased Gas Cost Rate Adjustments Clause. The proposed change reflects an increase in South Texas' rate to Natural Gas Pipeline Company of America of 6.26 cents per Mcf.

Copies of the filing were served by South Texas upon its only affected customer, Natural Gas Pipeline Company of America.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34724 Filed 11-23-76;8:45 am]

[Docket No. RP76-99]

TENNESSEE NATURAL GAS LINES, INC.

Motion To Substitute Tariff Sheets

NOVEMBER 16, 1976.

Take notice that on November 1, 1976, Tennessee Natural Gas Lines, Inc., (Tennessee Natural) tendered for filing the following tariff sheets in substitution for the corresponding sheets attached to its Motion filed October 1, 1976:

Second Substitute Seventeenth Revised Sheet No. PGA-1.
Second Substitute Twelfth Revised Sheet No. PGA-2.
Second Substitute First Revised Sheet No. 4-A.

Tennessee Natural requests that the attached sheets become effective on November 1, 1976, in lieu of the corresponding sheets attached to the motion filed October 1, 1976.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.9, 1.10). All such petitions or protests should be filed on or before November 29, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34711 Filed 11-23-76;8:45 am]

[Docket No. ER76-728]

TUCSON GAS & ELECTRIC CO.

Filing of Revised Rate Schedule

NOVEMBER 17, 1976.

Take notice that on November 9, 1976, Tucson Gas & Electric Company (TGE) tendered for filing revised rate schedule sheets purporting to represent a settlement between TGE and the Commission Staff. The subject rate schedule between TGE and Arizona Electric Power Cooperative (AEPCO) was previously accepted for filing as an initial rate schedule by order issued July 8, 1976, which order instituted an investigation under section 206(a) of the Federal Power Act. TGE states that TGE and the Commission Staff intend to submit a joint motion to dismiss said investigation.

TGE represents that a copy of the filing has been mailed to AEPCO.

Any person desiring to be heard as to said filing should file comment with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 6, 1976. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34703 Filed 11-23-76;8:45 am]

[Docket No. CP76-413, etc.]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheet

NOVEMBER 17, 1976.

Take notice that on November 9, 1976, United Gas Pipe Line Company (United) filed with the Federal Power Commission Fourth Revised Sheet No. 4a as a part of its FPC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of November 16, 1976. The proposed tariff sheet reflects a special surcharge effective for the period November 16, 1976 through March 31, 1977 to recover costs associated under the Limited Term Exchange Agreement, dated June 18, 1976, between United and Tennessee Gas Pipeline Company, as approved by the Commission order issued October 5, 1976 at Docket No. CP76-413, et al.

A copy of the revised tariff sheet and supporting data will be mailed to all of United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-34723 Filed 11-23-76;8:45 am]

FEDERAL RESERVE SYSTEM

COMMERCE BANCSHARES, INC.

Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51.96 per cent or more of the voting shares of Farmers State Bank, St. Joseph, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 17, 1976.

Board of Governors of the Federal Reserve System, November 18, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34692 Filed 11-23-76;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of October 19, 1976

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on October 19, 1976.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services slowed somewhat further in the third quarter. In September retail sales changed little, following a sizable increase in August. Industrial production was unchanged in September; in the latter half of the month output of automobiles and trucks was curtailed by a strike at plants of a major producer. Payroll employment in nonfarm establishments rose further; according to household survey data, the unemployment rate edged down from 7.9 to 7.8 per cent, as total employment and the civilian labor force both declined. The wholesale price index for all commodities rose sharply in September; average prices of farm products and foods increased, after 2 months of substantial declines, and average prices of industrial commodities rose somewhat more than in other recent months. The advance in the index of average wage rates has remained somewhat below the rapid rate of increase during 1975.

The average value of the dollar against leading foreign currencies has remained relatively steady in recent weeks, declining somewhat against the German mark and associated European currencies but rising against the pound sterling and the French franc. On October 18 the mark was revalued by an average of 3 per cent against the associated European currencies. In August the U.S. foreign trade deficit remained larger than the monthly average in the second quarter; overall, the current account had been in surplus in the second quarter.

M_1 was about unchanged in September. However, M_2 and M_3 grew substantially, as inflows of the time and savings deposits included in these broader aggregates were exceptionally strong. Market interest rates generally have declined further in recent weeks.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions that will encourage continued economic expansion, while resisting inflationary pressures and contributing to a sustainable pattern of international transactions.

To implement this policy, while taking account of developments in domestic and international financial markets, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the period ahead.

By order of the Federal Open Market Committee, November 19, 1976.

MURRAY ALTMANN,
Deputy Secretary.

[FR Doc.76-34696 Filed 11-23-76;8:45 am]

[1] The record of Policy Actions of the Committee for the meeting of October 19, 1976, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOREIGN CURRENCY OPERATIONS

Special Authorization

In accordance with its rules regarding availability of information, notice is given that at its meeting on September 21, 1976 the Committee voted to approve the following special authorization:

The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York to arange for repayment of the System's outstanding swap commitments to the Swiss National Bank (concurrent with repayment by the U.S. Treasury of Treasury notes denominated in Swiss francs and held by the Swiss National Bank), within a 3-year period by means of quarterly payments on a schedule that is mutually satisfactory to the Swiss National Bank, the U.S. Treasury, and the Federal Reserve. This authorization shall become effective upon final approval of technical details by the Chairman of the Federal Open Market Committee.

The technical details of the arrangements were approved by Chairman Burns on October 26, 1976, and the authorization became effective on that date.

By order of the Federal Open Market Committee, November 18, 1976.

MURRAY ALTMANN,
Deputy Secretary.

[FR Doc.76-34694 Filed 11-23-76;8:45 am]

HAWKEYE BANCORPORATION

Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 60 per cent or more of the voting shares of Commercial State Bank, Marshalltown, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 16, 1976.

Board of Governors of the Federal Reserve System, November 17, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-34693 Filed 11-23-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1976:

NATIONAL ADVISORY COUNCIL OF ALCOHOL ABUSE AND ALCOHOLISM

December 10; 9:30 a.m., Conference Rooms G and H, Parklawn Building, Rockville, Maryland.

Open—December 10, 9:30–10:00 a.m.
Closed—Otherwise.

Contact Helen F. Osheroff, Parklawn Building, Room 14C-04, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-5173.

Purpose: The National Advisory Council on Alcohol Abuse and Alcoholism advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Alcohol Abuse and Alcoholism, regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: The meeting will be open to the public from 9:30 to 10:00 a.m. for administrative announcements. From 10:00 a.m. to adjournment, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Agenda items are subject to change as priorities dictate.

Substantive program information may be obtained from the contact person listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Council members is Mr. Harry C. Bell, Associate Director for Public Affairs, NIAAA, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306.

Dated: November 18, 1976.

CAROLYN T. EVANS,
Committee Manggement Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-34667 Filed 11-23-76;8:45 am]

Health Resources Administration

NURSING RESEARCH AND EDUCATION ADVISORY COMMITTEE

Correction

In FR Doc. 76-33624, appearing at page 50347 in the issue of Monday, November 15, 1976, the dates for the meeting of the Nursing Research and Education Advisory Committee were erroneously reported as December 4-5, 1976. The correct dates of the meeting are December 2-3, 1976. All other information is correct as it appears.

Dated: November 19, 1976.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.76-34702 Filed 11-23-76;8:45 am]

National Institutes of Health

CHEMICAL/BIOLOGICAL INFORMATION-HANDLING REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Chemical/Biological Information-Handling Review Committee, Division of Research Resources, 8:30 A.M., December 14, 1976, National Institutes of Health, Bldg. 31, Rm. 7A—24, 9000 Rockville Pike, Bethesda, Maryland. This meeting will be open to the public from 8:30 A.M. to 12:00 Noon for (1) introductory remarks, (2) a status report on the PROPHET System central computer facility; and (3) discussion of possible new capabilities for the service version of the PROPHET System that are either under development or in the planning stage. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12:00 Noon to adjournment for the review of research prospectus submitted by organizations seeking access to PROPHET System services. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on these individual research prospectuses which contain information of a proprietary or confidential nature, including research protocols and other technical information on the subject of applications of computers to research in pharmacology and personal information concerning individuals associated with the prospectuses.

Mr. James Augustine, Chief, Office of Science and Health Reports, Division of Research Resources, Bldg. 31, Rm. 5B–39, National Institutes of Health, Bethesda, Maryland 20014, telephone Area Code 301, 496–5545, will provide summaries of meetings and rosters of committee members.

Dr. William F. Raub, Director, Chemical/Biological Information-Handling Program, Division of Research Resources, Bldg. 31, Rm. 6A–04, National Institutes of Health, Bethesda, Maryland 20014, telephone Area Code 301, 496–5903, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.877, National Institutes of Health.)

Dated: November 17, 1976.

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

[FR Doc.76–34672 Filed 11–23–76;8:45 am]

ESTROGENS AND ENDOMETRIAL CANCER WORKSHOP

Meeting

Notice is hereby given of the Workshop on Estrogens and Endometrial Cancer sponsored by the Division of Cancer Control and Rehabilitation, National Cancer Institute, on January 11–12, 1977, Building 1, Wilson Hall.

This meeting will be open to the public on January 11, 1977, from 2:00 p.m. to 5:00 p.m. and on January 12, 1977, from 9:00 a.m. to adjournment to discuss the present state of knowledge about the relationship of estrogens to endometrial cancer. Attendance by the public will be limited to space available.

For additional information contact Margaret H. Sloan, M.D., Special Assistant for Liaison, Division of Cancer Control and Rehabilitation, National Cancer Institute, 8300 Colesville Road, Blair Building, Room 727, Silver Spring, Maryland 20910 (301/427–7968).

Dated: November 17, 1976.

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

[FR Doc.76–34673 Filed 11–23–76;8:45 am]

HIGH BLOOD PRESSURE WORKING GROUP

Meeting

Notice is hereby given of the meeting of the High Blood Pressure Working Group, January 10, 1977 from 8:30 a.m. to 5:00 p.m. to be held in Conference Room 7, Building 31, "C" Wing, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public. Attendance by the public will be limited to space available.

For detailed program information contact: Mr. Graham Ward, Program Coordinator, National High Blood Pressure Education Program, Room D126, Landow Building, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, 20014, (301) 496–2311. For the agenda, lists of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquires and Reports Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, 20014, (Building 31, Room 5A03), (301) 496–4236.

Dated: November 18, 1976.

SUZANNE L. FREEMEAU,
Committee Management Officer, NIH.

[FR Doc.76–34674 Filed 11–23–76;8:45 am]

RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE WORKING GROUP ON SAFER HOSTS AND VECTORS

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of a Working Group on Safer Hosts and Vectors of the Recombinant DNA Molecule Program Advisory Committee on December 13, 1976, 9 a.m., at the National Institutes of Health, Building 1, Room 114, Bethesda, Maryland.

The entire meeting will be open to the public to evaluate putative safer hosts and vectors for research involving recombinant DNA molecules. Attendance by the public will be limited to space available

Dr. William J. Gartland, Executive Secretary, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20014, telephone (301) 496-2323, will provide summaries of the meeting, rosters of committee members and substantive program information.

Dated: November 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–34671 Filed 11–23–76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 1), that the next meeting of the Executive Committee of the National Advisory Council on Indian Education will be held December 17, 18, and 19, 1976, at the Sheraton Denver Hotel, 3535 Quebec Street, Denver, Colorado 80207.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program with which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 810, Title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) Review applications for assistance under Title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of Title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) Evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) To submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indain children and adults participate, or from which they can benefit, which report shall include statement of the National Advisory Council's recommendations to the Commissioner with respect to the funding of any such programs.

The Council, pursuant to the authority contained in section 441(a) of Pub. L. 92-318, (20 U.S.C. 1221f), shall submit a list of nominees from which the Commissioner of Education shall appoint a Deputy Commissioner of Indian Education.

The meeting on December 17, 1976 will be held from 6:00 p.m. to 10:00 p.m. The Executive Committee will adjourn on completion of business on December 18th or 19th. The meeting on December 19, 1976 will be contingent upon unfinished Executive Committee business carried over. The December 17-19, 1976 meeting will be closed to the public to review applications for the position of Deputy Commissioner of the Office of Indian Education that must be held in confidence, under the authority of Section 10 (d) of the Federal Advisory Committee Act (Pub. L. 92-463) and under the exemptions contained in the Freedom of Information Act, Section 552(b) (2) and (6) of Title 5 U.S.C., (Pub. L. 90-23), 45 CFR § 5.71(a) and § 5.71(c). Discussion of the applications will include consideration of the qualifications and fitness of the candidates and will touch upon many matters which would constitute a serious invasion of privacy if conducted in an open session.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on November 11, 1976.

LINCOLN C. WHITE,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.76-34697 Filed 11-23-76;8:45 am]

Public Health Service

HEALTH RESOURCES ADMINISTRATION

Announcement of Application Cycle and Funding Preferences for Health Professions Special Project Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for grants in fiscal year 1977 for Health Professions Special Projects are now being accepted under the authority of Section 772 of the Public Health Service Act, as extended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 772 of the Act provides that the Secretary may make grants to assist public and nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy and podiatry in meeting the costs of special projects to:

(1) Effect significant improvements in the curriculums of any such schools (including projects to shorten the length of time required for training in such schools, with particular emphasis, in the case of schools of medicine or osteopathy, upon the establishment of new, or expansion of existing, programs for training in family medicine;

(2) Develop programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, including projects for training in the use of the team approach to the delivery of health services;

(3) Develop and operate training programs, and train, for new roles, types, or levels of health personnel, including programs for the training of physicians' assistants and other health professions' assistants;

(4) Plan, develop, or establish new programs or innovative modifications of existing programs, of education in such health professions, including the teaching of the organization, delivery, financing, or evaluation of health care;

(5) Research, develop, or demonstrate advances in the various fields related to education in such health professions;

(6) Assist in increasing the supply, or improving the distribution, by geographic area or specialty group, of adequately trained personnel in such health professions needed to meet the health needs of the Nation;

(7) Establish and operate programs at schools of medicine or osteopathy (and where applicable at other health professions schools) (A) providing increased emphasis on, and training in, the science of clinical pharmacology, the prevention, diagnosis, treatment, and rehabilitation of alcoholism and drug dependence, and the assessment of the efficacy of various therapeutic regimens, or (B) providing increased emphasis on, and training and research in, the science of human nutrition and the application of such science to health, or (C) providing increased emphasis on the ethical, social, legal and moral implications of advances in biomedical research and technology with respect to the effects of such advances on individuals and society;

(8) Establish and operate projects designed to identify and increase admissions to and enrollment in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry of individuals whose background and interests make it reasonable to assume that they will engage in the practice of their health profession in rural or other areas having a severe shortage of personnel in such health profession;

(9) Establish and operate projects designed to increase admissions to and enrollment in such schools of qualified individuals from minority or low-income groups:

(10) Plan experimental teaching programs or facilities;

(11) Provide traineeships (including costs of training and fees, stipends, and allowances for the students (including travel and subsistence expenses and dependency allowances)) for full-time students to secure part of their education under a preceptor in family practice, pediatrics, internal medicine or other health fields designated by the Secretary, or in rural or other areas having a severe shortage of physicians (note earlier application deadline);

(12) Utilize health personnel more efficiently, through the use of computer technology and otherwise;

(13) Encourage new or more effective approaches to the organization and delivery of health services through the use of the team approach to delivery of health services and the utilization of computer technology to process biomedical information in the provision of health services;

(14) Establish and operate programs in the interdisciplinary training of health personnel for the provision of emergency medical services, with particular emphasis on the establishment and operation of training programs afforded clinical experience in emergency medical services systems receiving assistance under title XII of this Act.

In addition, grants may be made for (1) the discovery, collection, development, or confirmation of information for, (2) the planning, development, demonstration, establishment or maintenance of, (3) the alteration or renovation of existing facilities for any project specified above.

Section 57.1105(a) of the implementing regulations (42 CFR Part 57, Subpart L) provides that, in making awards for Special Project Grants under Section 772, one of the factors the Secretary will take into consideration is the national need which the particular project proposes to serve. For this purpose, the Secretary has determined that national needs exist in the areas identified below by discipline. Although funding preference will be given to projects addressing the national needs, the other purposes of Section 772 will be received and considered for funding.

Therefore, for Special Project Grants made in fiscal year 1977, preference in funding will be given to applications which propose one of the following projects of national need:

FOR MEDICINE AND OSTEOPATHY

Establishment, expansion and improvement of predoctoral programs for

training in family medicine/primary care.

Establishment of programs of less than one year to prepare clinicians in general practice/family practice/primary care to assume faculty roles.

Preceptorships in family practice, general internal medicine, and/or general pediatrics, especially those in areas having a shortage of physicians, as designated under Section 741(f) of the Public Health Service Act. (Note earlier application deadline.)

Increase in enrollment of those individuals who may practice in underserved areas.

Increase in enrollment and retention from among minorities, women or low-income groups.

Establishment and expansion of integrated predoctoral/undergraduate programs for training in the science of human nutrition and the application of such science to health.

FOR DENTAL

Develop and establish comprehensive programs of recruitment, remote-site training and/or placement which are designed to increase the numbers of students choosing to practice in underserved areas after graduation (Underserved Areas).

Establish advanced undergraduate clinical curriculums in family dentistry which are designed as model practice settings within dental school clinics which incorporate the team approach to the delivery of dental services (Model Family Dentistry).

Establish short-term programs of faculty training which emphasize didactic and clinical performance evaluation (Faculty Training).

Increase in enrollment and retention from among minorities, women, or low-income groups.

Increase in enrollment of those individuals who may practice in underserved areas.

Establishment and expansion of integrated predoctoral/undergraduate programs for training in the science of human nutrition and the application of such science to health.

FOR OPTOMETRY

Meet the increased demand for access to primary care by (a) increasing the number of graduates of optometric training serving in underserved areas; (b) devising, demonstrating and evaluating improved methods for training in a variety of clinical settings, with special emphasis on improving the geographical distribution of optometric services.

Devise, demonstrate, evaluate and implement revisions in curriculum for the education and training of optometric personnel, to the extent that such revisions are necessary to meet changes in duties, functions and responsibilities.

Devise, demonstrate, evaluate projects to develop affiliation between optometric training programs and medical, osteopathic, and other health professions training programs and academic institutions including programs for cooperative training in the use of the team approach to the delivery of health services.

Increase in enrollment and retention from among minorities, women, or low-income groups.

Establishment and expansion of integrated predoctoral/undergraduate programs for training in the science of human nutrition and the application of such science to health.

FOR PHARMACY

Devise, demonstrate, evaluate and implement revisions in curriculums for the education and training of pharmacy personnel, to the extent that such revisions are necessary to (a) meet changes in the duties, functions, and responsibilities, (particularly as they relate to increased needs in the fields of clinical pharmacy, clinical pharmacology, pharmacokinetics and drug information and counseling), or (b) provide for interdisciplinary training which will encourage the utilization of health care teams, with special emphasis on the provision of primary care.

Increase in enrollment and retention from among minorities, women, or low-income groups.

Increase in enrollment of those individuals who may practice in underserved areas.

Establishment and expansion of integrated predoctoral/undergraduate programs for training in the science of human nutrition and the application of such science to health.

FOR PODIATRY

Meet the increased demand for access to primary care by (a) increasing the number of graduates of podiatric training serving in underserved areas; (b) devising, demonstrating and evaluating improved methods for training in a variety of clinical settings, with special emphasis on improving the geographical distribution of podiatric services.

Devise, demonstrate, evaluate and implement revisions in curriculums for the education and training of podiatry personnel, to the extent that such revisions are necessary to meet changes in duties, functions and responsibilities.

Devise, demonstrate, and evaluate projects to develop affiliation between podiatric training programs and medical, osteopathic, and other health professions training programs and academic institutions including programs for cooperative training in the use of the team approach to the delivery of health services.

Increase in enrollment and retention from among minorities, women, or low-income groups.

Establishment and expansion of integrated predoctoral/undergraduate programs for training in the science of human nutrition and the application of such science to health.

FOR VETERINARY MEDICINE

Devise, demonstrate, and evaluate improved methods of providing education and training for veterinarians in the area of human health and environmental health, including the use of multi-disciplinary training programs with shared curriculums with other health disciplines.

Increase in enrollment and retention from among minorities, women, or low-income groups.

Increase in enrollment of those individuals who may practice in underserved areas.

Establishment and expansion of integrated predoctoral/undergraduate programs for training in the science of human nutrition and the application of such science to health.

Application forms and instructions are available from the DHEW Regional Offices (addresses below).

To be considered for fiscal year 1977 funding, completed applications for "Special Project Grants for Preceptorship Training" must be submitted to the appropriate DHEW Regional Office no later than December 1, 1976.

All other applications for Health Professions Special Project Grants must be submitted to the appropriate DHEW Regional Office no later than December 15, 1976.

DHEW Regional Offices	*States Within Regions*
Regional Health Administrator, DHEW Region I—PHS, J. F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.	Connecticut, New Hampshire, Maine, Rhode Island, Vermont, Massachusetts.
Regional Health Administrator, DHEW Region II—PHS, Federal Building, 26 Federal Plaza, New York, New York 10007.	New Jersey, Puerto Rico, New York, Virgin Islands.
Regional Health Administrator, DHEW Region III—PHS, P.O. Box 13716, Philadelphia, Pennsylvania 19101.	Delaware, West Virginia, Maryland, Pennsylvania, Virginia, District of Columbia.
Regional Health Administrator, DHEW Region IV—PHS, Peachtree-Seventh Building, 50 7th Street, N.E., Atlanta, Georgia 30323.	Alabama, Mississippi, Florida, North Carolina, Georgia, South Carolina, Kentucky, Tennessee.
Regional Health Administrator, DHEW Region V—PHS, 300 South Wacker Drive, Chicago, Illinois 60606.	Illinois, Ohio, Indiana, Wisconsin, Michigan, Minnesota.
Regional Health Administrator, DHEW Region VI—PHS, 1200 Main Tower Building, Dallas, Texas 75202.	Arkansas, Texas, Louisiana, Oklahoma, New Mexico.
Regional Health Administrator, DHEW Region VII—PHS, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106.	Iowa, Kansas, Missouri, Nebraska.

Regional Health Administrator, DHEW Region VIII—PHS, Federal Office Building, 19th and Stout Streets, Denver, Colorado 80202.	Colorado, South Dakota, Montana, Utah, North Dakota, Wyoming.
Regional Health Administrator, DHEW Region IX—PHS, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.	Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territory of the Pacific Islands.
Regional Health Administrator, DHEW Region X—PHS, Acade Plaza Building, 1321 Second Avenue, Seattle, Washington, 98101.	Alaska, Oregon, Idaho, Washington.

Dated: November 4, 1976.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.76-34598 Filed 11-23-76;8:45 am]

HEALTH RESOURCES ADMINISTRATION

Announcement of Application Cycle for Special Health Career Opportunity Grants

The Office of Health Resources Opportunity, Health Resources Administration, announces that applications for grants in fiscal year 1977 for Special Health Career Opportunity Projects are now being accepted under authority of section 774(b) of the Public Health Service Act, as extended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 774(b) of the Act provides that the Secretary of Health, Education, and Welfare may make grants to public and nonprofit private health or educational entities to assist in meeting the costs of special projects to:

(1) Establish or operate projects designed to identify, and increase admissions to and enrollment in schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, veterinary medicine, public health, or other health training of individuals whose background and interests make it reasonable to assume that they will engage in the practice of their health profession in rural or other areas having a severe shortage of personnel in such health profession; or

(2) (A) Identify individuals with a potential for education or training in the health professions (including veterans of the Armed Forces of the United States with training or experience in the health field) who due to socioeconomic factors are financially or otherwise disadvantaged, and encourage and assist them (i) to enroll in a school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, public health, or other health training; or (ii) if they are not qualified to enroll in such a school, to undertake such post-secondary education or training as may be required to qualify them to enroll in such a school;

(B) Publicize existing sources of financial aid available to persons enrolled in any such school or who are undertaking training necessary to qualify them to enroll in any such school; or

(C) Establish such programs as the Secretary determines will enhance and facilitate the enrollment, pursuit, and completion of study by individuals referred to in paragraph (A) above in schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, public health or other health training.

A health or educational entity is defined in the implementing regulations (42 CFR Part 57, Subpart S) as "an organization, agency or combination thereof, which has the provision of health or educational programs as one of its major functions." Eligible applicants may request application materials by contacting immediately the Regional Health Administrator of the appropriate DHEW Regional Office (addresses indicated below).

To be considered for fiscal year 1977 funding, applications must be submitted to the appropriate Regional Office no later than January 3, 1977.

DHEW Regional Offices	*States Within Regions*
Regional Health Administrator, DHEW Region I—PHS, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.	Connecticut, New Hampshire, Maine, Rhode Island, Vermont, Massachusetts.
Regional Health Administrator, DHEW Region II—PHS, Federal Building, 26 Federal Plaza, New York, N.Y. 10007.	New Jersey, Puerto Rico, New York, Virgin Islands.
Regional Health Administrator, DHEW Region III—PHS, P.O. Box 13716, Philadelphia, Pa. 19101.	Delaware, West Virginia, Maryland, Pennsylvania, Virginia, District of Columbia.
Regional Health Administrator, DHEW Region IV—PHS, Peachtree-Seventh Bldg., 50 7th St., NE., Atlanta, Ga. 30323.	Alabama, Mississippi, Florida, North Carolina, Georgia, South Carolina, Kentucky, Tennessee.
Regional Health Administrator, DHEW Region V—PHS, 300 South Wacker Dr., Chicago, Ill. 60606.	Illinois, Ohio, Indiana, Wisconsin, Michigan, Minnesota.

Regional Health Administrator, DHEW Region VI—PHS, 1200 Main Tower Bldg., Dallas, Tex. 75202.	Arkansas, Texas, Louisiana, Oklahoma, New Mexico.
Regional Health Administrator, DHEW Region VII—PHS, Federal Office Bldg., 601 East 12th St., Kansas City, Mo. 64106.	Iowa, Kansas, Missouri, Nebraska.
Regional Health Administrator, DHEW Region VIII—PHS, Federal Office Bldg., 19th and Stout St., Denver, Colo. 80202.	Colorado, South Dakota, Montana, Utah, North Dakota, Wyoming.
Regional Health Administrator, DHEW Region IX—PHS, Federal Office Bldg., 50 United Nations Plaza, San Francisco, Calif. 94102.	Arizona, Guam, California, American Samoa, Hawaii, Trust Territory of the Pacific Islands, Nevada.
Regional Health Administrator, DHEW Region X—PHS, Arcade Plaza Building, 1321 Second Ave., Seattle, Wash. 98101.	Alaska, Oregon, Idaho, Washington.

Dated: November 18, 1976.

KENNETH M. ENDICOTT, M.D.,
Administrator, Health Resources Administration.

[FR Doc.76-34760 Filed 11-23-76;8:45 am]

HEALTH RESOURCES ADMINISTRATION

Application Announcement for Grants To Assist Health Professions Schools Which Are In Financial Distress

Correction

In FR Doc. 76-32747, appearing at page 49536 in the FEDERAL REGISTER of Tuesday, November 9, 1976, the deadline date for receipt of applications for Health Professions Schools in Financial Distress in the DHEW Regional Offices is corrected by deleting December 1, 1977, on the last line of column 3, on page 49536 and substituting December 1, 1976.

Dated: November 19, 1976.

JAMES A. WALSH,
Acting Administrator, Health Resources Administration.

[FR Doc.76-34759 Filed 11-23-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 29120]

NEW MEXICO

Application

NOVEMBER 15, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.,
Sec. 1, SE¼SE¼.

This pipeline will convey natural gas across .081 of a mile of national resource land in Eddy County, New Mexico.

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

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

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

[FR Doc.76-34727 Filed 11-23-76;8:45 am]

[NM 29087, 29121 and 29122]

NEW MEXICO

Applications

NOVEMBER 15, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch and one 6⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 12 W.,
Sec. 36, NE¼ and NW¼SE¼.
T. 31 N., R. 13 W.,
Sec. 1, NE¼SE¼;
Sec. 12, S½NE¼, SE¼NW¼, NE¼SW¼ and NW¼SE¼.

These pipelines will convey natural gas across 1.469 miles of national resource lands in San Juan County, New Mexico.

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

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

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

[FR Doc.76-34728 Filed 11-23-76;8:45 am]

Office of the Secretary

[Int Des 76-47]

PROPOSED CRUDE OIL TRANSPORTATION SYSTEM: VALDEZ, ALASKA, TO MIDLAND, TEXAS

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft environmental statement for a proposed crude oil transportation system from Valdez, Alaska to Midland, Texas, and invites your written comments within 45 days of this notice.

The proposal involves tanker shipment of up to 700,000 barrels per day of crude oil from Valdez, Alaska, to Long Beach, California; construction of a marine terminal at the Port of Long Beach for crude oil offloading and storage; construction of new pipeline in California and Texas; and conversion of existing natural gas pipelines in California, Arizona, Texas, and New Mexico to crude oil transportation. Copies of the draft environmental statement are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240. Telephone: 202-343-5717.

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825. Telephone: 916-484-4724.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, 230 N. First Ave., Phoenix, Arizona 85073. Telephone: 602-261-3831.

New Mexico State Office, Bureau of Land Management, Room 2220, U.S. Post Office and Federal Building, South Federal Place, Santa Fe, New Mexico 87501. Telephone: 505-988-6316.

U.S. Army Corps of Engineers, Los Angeles District, Library, Room 6650, 300 N. Los Angeles Street, Los Angeles, California 90053. Telephone 213-688-5405.

Office of Public Information, Federal Power Commission, Room 1000, 825 N. Capitol St., Washington, D.C. 20426. Telephone 202-275-4006.

Port of Long Beach, Environmental Affairs Office, 6th Floor, 925 Harbor Plaza, Long Beach, California 90801. Telephone: 213-437-0041.

Office of Public Affairs, Bureau of Land Management, P.O. Box 660, Los Alamitos, California 90720. Telephone: 213-431-2592.

A limited number of single copies may be obtained from the California State Director, Bureau of Land Management, and from the Office of Public Affairs, Bureau of Land Management, Washington, D.C. 20240.

Notice is also given that public hearings on the draft environmental statement will be held in the following locations:

JANUARY 4, 1977

6th Floor Board Room, Long Beach Harbor Dept., 925 Harbor Plaza, 9:00 a.m. to 5:00 p.m.

Phoenix Civic Plaza, 225 East Adams Street, Phoenix, Arizona, 1:00 p.m. to 9:00 p.m.

JANUARY 5, 1977

Los Angeles County Board of Supervisors, Board Room, Hall of Administration, 500 West Temple Street, Los Angeles, California, 1:00 p.m. to 9:00 p.m.

Pilunis Room, Albuquerque Convention Center, Third and Marquette Street, Albuquerque, New Mexico, 1:00 p.m. to 9:00 p.m.

JANUARY 6, 1977

Seattle Center, Olympic Room North Court, Seattle, Washington, 1:00 p.m. to 9:00 p.m.

City Council Chambers, Midland, Texas, 1:00 p.m. to 9:00 p.m.

JANUARY 7, 1977

City Council Chambers, 220 N. Spring Street, Blythe, California, 1:00 p.m. to 9:00 p.m.

Juarez Room, El Paso Civic Center No. 1, Civic Center Plaze, El Paso, Texas, 1:00 p.m. to 9:00 p.m.

Oral testimony of a 10-minute maximum duration will be accepted from each witness at the hearings in lieu of written comments, or in addition to any written comments submitted by such witness. The 10-minute maximum time limit will be strictly enforced. Complete text of prepared testimony may be filed with the presiding officer at the hearings, whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Written requests to testify orally should be filed with the Project Manager, Bureau of Land Management, P.O. Box 660, Los Alamitos, California 90720, no later than December 30, 1976, for all listed public hearings.

Requests to present testimony should be signed by the prospective witness and should state the approximate time preference for giving oral testimony. The cutoff date is necessary so that a witness list can be made available on the day before the public hearings. Speakers will be heard, if present, in their established order of precedence. After the last listed witness present has been heard, the presiding officer will consider the request of any other persons present and wishing to testify. The presiding officer may continue the hearing into a subsequent session, if necessary, to hear all prospective witnesses. Only one witness will be allowed to represent the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the view or opinion of a private citizen.

Dated: November 22, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-34809 Filed 11-23-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-201-18]

FOOTWEAR

Notice and Order Regarding Public Hearing

A prehearing conference was convened in this matter at 9:30 a.m., on Tuesday, November 16, 1976, in room 336 of the United States International Trade Commission Building, 701 E Street NW., Washington, D.C., for the purposes, among others, or narrowing issues and allocating time among participants at the public hearing in this matter, scheduled to begin on December 7, 1976.

Commissioners Will E. Leonard and Italo H. Ablondi presided. In attendance were:

Name	*Representing*
Thomas F. Shannon and Donald deKieffer.	Various domestic producers.
Ann Canto, Fawn Everson, and Stanley Nehmer.	American Footwear Industry Association.
James M. Goldberg	National Shoe Retailers Association.
David Busby and Theodore R. Gates.	Volume Footwear Retailers Association.
William Kay Daines	American Retail Federation.
Judi Stavisky	Mexican footwear.
Myron Solter	Taiwan Footwear Exporters Association.
Jonathan Russin	Korea Footwear Exports Association.
Flavio Munoz de Leon.	Mexican Embassy Commercial Office.
Stephen Stone	Converse.
R. Christian Berg	American Importers Association Footwear Group.
Noel Hemmendinger	Brazilian footwear producers.
Gunter von Conrad	Italy-American Chamber of Commerce.
George Helm	Swiss imports.
Michael P. Daniels	Federation of European Footwear Industries.
Michael Alexander	Irish footwear.
F. Murray Callahan and Robert E. Ansheles.	CITC Industries, Inc.
Tracy Mullin	National Retail Merchants Association.
Bernard Blankenheimer.	May & Co.
Richard Townsend	Irish Embassy.
Francis H. Craighill and David B. Falk.	VANCO.
James Kuhn	U.S.-Mexico Chamber of Commerce.
George Egge	Spanish Footwear Exporters Group.
Richard Wightman	Fairchild Publications.
Janie N. Hester	U.S. Department of Labor.
Gail Burns, Thomas Donnelly, Charles Ervin, David Foster, William Gearhart, and Bernard Peterson.	United States International Trade Commission staff.

Commissioner Leonard advised the attendees that the Commission is especially interested in receiving information and hearing argument in the course of the public hearing concerning relevant economic data on the period since the Commission's last determination on the same subject matter (see Report to the President on Investigation No. TA-201-7 * * *, USITC Publication 758, February 1976), changes in relevant circumstances since such determinations, and the appropriate remedy in the event the Commission makes an affirmative injury determination. There was no agreement among the attendees with respect to any proposed stipulations or a narrowing of the issues.

Agreement was reached among those present concerning time limitations for presentations during the hearing. It was agreed that proponents of a determination by the Commission of eligibility for relief would have a maximum of 3 hours in which to present their case and cross-question opposing witnesses. It was also agreed, in view of the multiplicity of parties opposing such a determination, that opponents of such determination would have a maximum of 5 hours in which to present their case and cross-question proponent's witnesses. Finally, it was agreed that an additional 1½ hours should be reserved for other persons wishing to appear who cannot be characterized as either proponents or opponents of such a determination. The attendees were advised that limited additional time might be allotted to persons not in attendance at the prehearing conference. The attendees were also advised that time spent during the hearing responding to questions from Commissioners or Commission staff would not be considered a part of the aforementioned time limits and that written submissions of any relevant facts or argument would be received and considered by the Commission. The proponents and opponents are to arrange among themselves for allocation of the total time available to each group; failing this, the Commission will make such allocation.

Notice of the prehearing conference was published in the FEDERAL REGISTER of November 11, 1976 (41 FR 49897), and notice of the investigation and the December 7 hearing was published in the FEDERAL REGISTER on October 12, 1976 (41 FR 44756).

Issued: November 19, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-34771 Filed 11-23-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

COUNCIL MEETING

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held at 425 13th St. Suite 1012, Washington, D.C. on December 10, 1976 from 9:00 a.m.-5:00 p.m. The Committees on Legislation, Adolescence, Mandated Studies and Parent Involvement will meet from 9:00 a.m.-12:00 noon and go over individual drafts of legislation. The afternoon session will consist of Committee reports and further development of sections of the 1977 Annual Report.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and Congress on the effectiveness of compen-

satory education to improve the educational attainment of disadvantaged children.

Because of limited space, all persons wishing to attend should call for reservations by December 6, 1976 area code 202/382-6945.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th St., NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on November 23, 1976.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.76-34845 Filed 11-23-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-106]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON MATERIALS AND STRUCTURES

Meeting

The NASA Research and Technology Advisory Council (RTAC), Committee on Materials and Structures will meet on December 14-15, 1976, at NASA Headquarters in Room 625, 600 Independence Avenue, S.W., Washington, D.C. The meeting is open to the public. Admittance will be on a first-come, first-served basis. The available seating capacity of the room is about 40 persons. Visitors will be admitted on their own identification at Room 625.

The NASA RTAC Committee on Materials and Structures serves in an advisory capacity only. In this capacity, the Committee is concerned with materials science, materials engineering, advanced concepts and materials applications, structural design and analysis, and structural loads and dynamics. The current Chairman is Dr. Holt Ashley. There are 14 members. The following list sets forth the approved agenda and schedule for the December 14 and 15 meeting. For further information, please contact Mr. George C. Deutsch, NASA Headquarters, Washington, D.C. 20546, area code 202, 755-3264.

DECEMBER 14, 1976

9:00 a.m.	Chairman's and Executive Secretary's Reports. (Purpose: These reports will be presented to obtain approval of past meeting minutes, to review results of the July 15-16, 1976, meeting of the Research and Technology Advisory Council, to report recent NASA organization changes, to brief the Committee on new research and technology programs and initiatives and to obtain members' comments and recommendations.)
11:15 a.m.	NASA Composites Program Review. (Purpose: The comments of Committee members on the NASA Composites Program, presented during a previous meeting, will be reported and discussed for Committee recommendations.)
1:30 p.m.	Rotary Wing Research Report. (Purpose: Additional information on Army-NASA rotary wing research will be presented and discussed by the Committee. Recommendations may be proposed in addition to those made at the previous meeting.)
2:30 p.m.	Technology Focal Points Report. (Purpose: The reports of two ad hoc groups on materials and structures will be presented for Committee review, discussion, and recommendations to NASA.)
4:00 p.m.	IPAD Report. (Purpose: A status report on the NASA Integrated Program for Aircraft Design (IPAD) will be provided to the Committee. The Committee will discuss the report and provide recommendations.)
4:15 p.m.	Discussion of NASA-Air Force Interdependency Programs. (Purpose: A status report will be presented by NASA and Air Force representatives concerning particular programs in those Agencies which are interrelated and interdependent. The Committee will make recommendations.)

DECEMBER 15, 1976

8:30 a.m.	Large Space Structures Review. (Purpose: A review of the NASA large space structures program and plans will be presented for Committee discussion and recommendations.)
9:30 a.m.	New Business Items. (Purpose: The Committee will discuss new items identified during Center and member report briefings and other parts of the meeting and determine future action.)
10:45 a.m.	NASA Center Reports. (Purpose: NASA Center representatives on the Committee will report on recent progress on materials and structures technology development programs for Committee information.)
1:30 p.m.	Members' Reports. (Purpose: To present reports of recent accomplishments in research and development programs in members' organizations for Committee information.)
2:30 p.m.	Plans for Next Meeting. (Purpose: To discuss time, place, and agenda for next meeting.)
3:00 p.m.	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.76-34782 Filed 11-23-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

CONTINUING EDUCATION FOR SCIENTISTS AND ENGINEERS

Workshop on Problems

A workshop devoted to discussion of the problems of continuing education for scientists and engineers will be held from 9:00 a.m. to 5:00 p.m. on Monday, December 13, 1976, atthe Foundation's offices, Room 651, at 5225 Wisconsin Avenue, NW., Washington, D.C.

The workshop, involving a small group of invited participants, is part of the Foundation's consideration of whether its current activities in the field of continuing education for scientists and engineers should be expanded, curtailed, or reoriented.

Since the topic may be of interest to the general public, it is announced as a meeting open to public attendance and observation. Because of space limitations, those who wish to attend should make prior arrangements with the Chairman, Mr. Jerome Daen, by calling (202) 282-7900, or by letter to Dr. Daen, Director of the Division of Science Education Development and Research, National Science Foundation, Washington, D.C. 20550.

ALLEN M. SHINN, Jr.,
Deputy Assistant Director for Science Education.

NOVEMBER 18, 1976.

[FR Doc.76-34688 Filed 11-23-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Closed Meeting

Pursuant to Pub. L. No. 92-463, notice is hereby given of a closed meeting of the Commission on Executive, Legislative, and Judicial Salaries to be held in Room 248, Old Executive Office Building, Washington, D.C., 20503, on November 30, 1976.

The Commission on Executive, Legislative, and Judical Salaries was established by Pub. L. 90-206 (81 Stat. 642) approved December 16, 1967. The Commission shall conduct every fourth year a review of the rates of pay of:

1. Senators, Members of the House of Representatives and the Resident Commissioner from Puerto Rico;

2. Offices and positions in the legislative branch referred to in subsections (a), (b), (c), and (d) of section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 415; Public Law 88-426);

3. Justices, judges, and other personnel in the judicial branch referred to in sections 402(d) and 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88-426);

4. Offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code;

5. The Governors of the Board of Governors of the United States Postal Service appointed under section 202 of Title 39.

Such review by the Commission shall be made for the purpose of determining and providing the appropriate pay levels and relationships between and among the respective offices and positions covered by such review, and the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5, United States Code, relating to classification and General Schedule pay rates.

The Commission shall submit to the President a report of the results of each review conducted by the Commisison of the offices and positions stated above together with its recommendations.

The purpose of the closed meeting is to continue the discussions on the options and recommendations of the Commissioners and staff and the preparation of the final report. In order to facilitate the independent development of consensus findings and recommendations, the members must be free to take tentative and subjective positions, to be frank and candid about their views, to experiment with various proposals, and to make assumptions and present conclusions arguendo. Tentative individual options, preliminary judgments and policy positions will be so integrated throughout the deliberations with factual matters that separation would not be feasible. These deliberations of the Commission are analogous to the development of policy within an agency exercising statutory functions. The exposure of this pre-decisional deliberative process would have a "chilling" effect upon the frank and candid exchange of views which is essential to the development of considered independent recommendations.

The Federal Advisory Committee Act (5 U.S.C.A. App. I, Pub. L. 92-463), does not require public participation in the development of the Commission's findings and recommendations. The Freedom of Information Act authorizes the exemption from disclosure of inter- or intra-agency memoranda or letters where the documents are not final determinations and such exemptions are necessary to prevent undue inhibition of pre-decisional processes (5 U.S.C. 552(b)(5)). The deliberative process by which the Commission on Executive, Legislative, and Judicial Salaries arrives at independent judgements to transmit to the President is a predecisional process which must remain uninhibited and thus undisclosed in order that the Commission may supply maximum assistance to the President. This process is therefore with the above exemption of the Freedom of Information Act extended to advisory committees through the Federal Advisory Committee Act.

Therefore, by authority of Section 10(d) of Pub. L. No. 92-463, the Federal Advisory Committee Act, the Director of the Office of Management and Budget has determined that the meeting of the Commission on Executive, Legislative, and Judicial Salaries dealing with the development of its findings and recommendations will concern matters within section 552(b)(5) of Title 5, United States Code, and therefore shall not be open to the public.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.76-34785 Filed 11-23-76;8:45 am]

POSTAL RATE COMMISSION

CHICAGO, ILLINOIS

Notice of Visit to Mail Facilities

NOVEMBER 19, 1976.

Notice is hereby given that employees of the Postal Rate Commission will visit mail facilities of Time, Inc., at Chicago, Illinois, on December 6, 1976, for the purpose of observing the operations of these facilities relating to use of U.S. mail service.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed. A report of the visit will be on file in the Commission's docket room.

By direction of the Commission.

JAMES R. LINDSAY,
Secretary of the Commission.

[FR Doc.76-34800 Filed 11-23-76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

PRIVACY ACT OF 1974

Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, the Privacy Protection Study Commission, hereafter known as the Commission, hereby publishes for comment those systems of records subject to the Privacy Act of 1974 which are maintained by the Commission. These are in addition to the systems of records published on September 17, 1976 (41 FR 40436). Any person interested in commenting on the routine use portions of the system notices may do so by submitting comments in writing to the Executive Director, Suite 424, 2120 L Street NW, Washington, D.C. 20506. Comments should be submitted on or before December 27, 1976. If no comments are received within 30 days (December 27, 1976) these system notices will become effective as published without republication. The Commission's procedures for access to records in the systems are contained in 1 CFR Part 430.

Dated at Washington, D.C., on November 17, 1976.

CAROLE W. PARSONS,
Executive Director.

PPSC-3

System name:

Payroll Records—PPSC-3.

System location:

General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the Privacy Protection Study Commission under contract.)

Categories of records maintained in the system:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for the system:

31 U.S.C., generally. Also, Public Law 93-579.

Routine use of records:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, Suite 424, 2120 L Street NW., Washington, D.C. 20506. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to James Sasser.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social

Security Number, in accordance with Section 7 of the Privacy Act, Pub. L. 93–579.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability and accessing:

Social Security Number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager:

Administrative Officer, Privacy Protection Study Commission, Suite 424, 2120 L Street NW., Washington, D.C. 20506.

Notification procedures:

Refer to Commission access regulations contained in 1 CFR Part 430.

Record access procedures:

Refer to Commission access regulations contained in 1 CFR Part 430.

Contesting records procedures:

Refer to Commission access regulations contained in 1 CFR Part 430.

Categories of sources of records in the system:

The subject individual; the Commission.

PPSC–4

System name:

General Financial Records—PPSC–4.

System location:

General Services Administration, Central Office; copies held by the Commission. (GSA holds records for the Privacy Protection Study Commission under contract.)

Categories of individual covered by the system:

Employees of the Commission and members of the Commission.

Categories of records maintained in the system:

SF–1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for the system:

31 U.S.C., generally; also, Pub. L. 93–579.

Routine use of records:

See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper and tape.

Retrievability and accessing:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

System manager:

Administrative Officer, Privacy Protection Study Commission, Suite 424, 2120 L Street NW., Washington, D.C. 20506.

Notification procedures:

Refer to Commission access regulations contained in 1 CFR Part 430.

Records access procedures:

Refer to Commission access regulations contained in 1 CFR Part 430.

Contesting records procedures:

Refer to Commission access regulations contained in 1 CFR Part 430.

Categories of sources of records in the system:

The subject individual; the Commission.

APPENDIX—PRIVACY PROTECTION STUDY COMMISSION

In the event that a ssytem of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of any employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to any inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.76–34573 Filed 11–23–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on December 13 and 14, 1976 in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of this meeting was published in the FEDERAL REGISTER on October 28, 1976.

The Board will also conduct open meetings on January 17 and 18, 1977 at the same location. The summarized agenda for these meetings will be published in the FEDERAL REGISTER at a later date.

The summarized agenda for the December meeting is as follows:

1. Discussion of off-board principal transactions in listed securities by exchange members;

2. Discussion of the Board's report to the Securities and Exchange Commission regarding the establishment of a composite limit order book;

3. Discussion of the Board's report to the Congress pursuant to Section 11A (d)(3)(B) of the Securities Exchange Act of 1934; and

4. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

Dated: November 18, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–34646 Filed 11–23–76;8:45 am]

[Release No. 34-12990; File No. SR-OCC-76-3]

OPTIONS CLEARING CORP.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 5, 1976, the abovementioned self-regulatory organization filed with the Securities and Exchange Commission amendment No. 2 to proposed rule change SR-OCC-76-3.

The proposed rule change as originally filed on May 25, 1976, would have required clearing members to file with the Options Clearing Corporation ("OCC") copies of Parts I and II of SEC Form X-17A-5 (FOCUS Report). Amendment No. 1, received on August 11, 1976 restricted the requirement to Part I only. Amendment No. 2, received on November 5, 1976, returns the Part II requirement and provides a method for a clearing member to file indirectly by having its designated Examining Authority file the copies with OCC.

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE AS AMENDED BY AMENDMENTS I AND II

The proposed amendment to Rule 305 included in File No. SR-OCC-76-3 as amended by Amendment No. 1 thereto is hereby further amended to read as follows (brackets indicate deletions and italics indicate new material which reflects not only the changes effected by this Amendment No. 2, but also changes included in the previous filings respecting Rule 305, to the extent such changes have not been revised):

Trial Balances [Reports]

Rule 305: Every Clearing Member *which clears or carries customer accounts* shall [file] cause to be filed with the Corporation [at least once monthly, a trial balance including a detailed computation of such Clearing Member's net capital] *a true and complete copy of Part I of Securities and Exchange Commission Form X-17A-5 within 10 business days after the end of each month in which Part I is filed. Every Clearing Member shall cause to be filed with the Corporation a true and complete copy of Part II (or Part IIA in the case of a Clearing Member who files Part IIA with the Securities and Exchange Commission or its designated Examining Authority in lieu of Part II) of Securities and Exchange Commission Form X-17A-5 within 17 business days of the end of each calendar quarter and within 17 business days after the date selected for the annual audit of financial statements when said date is other than the end of a calendar quarter. Notwithstanding the foregoing no Clearing Member shall be required to file with the Corporation Part I or Part II or IIA of Form X-17A-5 prior to the earlier of (i) the date when such Part is filed with the Clearing Member's designated Examining Authority or (ii) the date when such Part is required to be filed with such Examining Authority pursuant to the rules and regulations of the Securities and Exchange Commission and the procedures of such Examining Authority and any extensions of time duly granted to the Clearing Member thereunder. In the event the designated Examining Authority of any Clearing Member shall at any time require such Clearing Member to file any of the foregoing reports with such Examining Authority on a more frequent basis, then such Clearing Member shall file with the Corporation a true and complete copy of each such report at the same time it is filed with the designated Examining Authority. A Clearing Member's obligation to file any report under the preceding provisions of this Rule shall be deemed to have been met if the Clearing Member's designated Examining Authority files such report with the Corporation within four business days after such report is required to be filed with such designated Examining Authority; or, should the designated Examining Authority fail to do so, if the Clearing Member files such report directly with the Corporation not later than 24 hours after the Corporation requests the Clearing Member to do so.* The Corporation may require any Clearing Member at any time to make more frequent net capital computations or to file with the Corporation *the above reports on a more frequent basis or such other reports or* financial statements in such form or detail as may be prescribed by the Corporation.

STATEMENT OF BASIS AND PURPOSE

The proposed amendment to Rule 305 would permit a Clearing Member to satisfy its reporting obligations by authorizing its designated Examining Authority to file copies of its FOCUS Reports (SEC Form X-17A-5) with OCC within four days of the date the Clearing Member is required to file that report with its designated Examining Authority. Where the designated Examining Authority has not filed such report with OCC within four business days after such report is required to be filed, OCC will require the Clearing Member to file such report directly with OCC. This amendment would also require the Clearing Member to file FOCUS Part II with the Clearing Corporation, or cause it to be so filed, for any month for which the Clearing Member was not required to file FOCUS Part I with its designated Examining Authority. The proposed rule change is intended to foster cooperation and coordination with regulatory authorities and other self-regulatory organizations by conforming OCC's reporting requirements to those imposed by Securities and Exchange Commission Rule 17a-5, as amended, and to eliminate the need for duplicative filings by Clearing Members with several self-regulatory organizations. Formal comments were not and are not intended to be solicited with respect to this Amendment No. 2.

OCC does not believe that the proposed rule change, as amended, imposes any burden on competition.

On or before December 29, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 15, 1976.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 18, 1976.

[FR Doc.76-34731 Filed 11-23-76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 18, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Mobil Corporation (Delaware), Common Stock, $7.50 par value, File No. 7-4880.

Upon receipt of a request, on or before December 3, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is

made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34764 Filed 11-23-76;8:45 am]

[SR-MSRB-76-4]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Giving Notice of Cancellation of Public Hearings

The Securities and Exchange Commission today announced the cancellation of the public hearings scheduled to commence on November 22, 1976[1] with respect to proposed Rules G-8, G-9 and G-10 filed by the Municipal Securities Rulemaking Board ("the Board"), Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, to establish recordkeeping and preservation requirements for municipal securities brokers and municipal securities dealers.

As a result of discussions on November 12, 1976 the Commission and the Board reached an understanding in concept as to appropriate recordkeeping requirements for municipal securities brokers and municipal securities dealers which will eliminate the need to comply with more than one set of recordkeeping rules.[2]

[1] Notice of the Public Hearings was given in a Commission Release (Securities Exchange Act Release No. 12957, November 5, 1976), and by publication in the FEDERAL REGISTER (41 FR 49558, November 9, 1976).

[2] This understanding was announced by the Commission in a press release on November 12, 1976. The release stated that:

"As a result of discussions, the Commission and the Municipal Securities Rulemaking Board today reached an understanding respecting the recordkeeping requirements of municipal securities brokers and municipal securities dealers which will eliminate the need to comply with more than one set of recordkeeping rules. Subject to public comment, securities firms will have the option of complying either with the Board's or the Commission's recordkeeping rules and banks will be subject to the Board's rules.

Accordingly, the Commission announced today that it will cancel the hearings scheduled for November 22, 1976, regarding the rules submitted by the Municipal Securities Rulemaking Board relevant to recordkeeping.

Both the Commission and the Municipal Securities Rulemaking Board will promptly issue revisions to their respective rules to reflect this understanding. It is anticipated that the application of the Commission's and the Board's recordkeeping rules, as modified, will be monitored during a one-year period."

It is anticipated that the Board will file amendments to the proposed rules which will reflect the substance of the understanding reached on November 12, 1976 and it is expected that at such time the order of proceedings (Securities Exchange Act Release No. 12933, October 27, 1976) issued with respect to the proposed rules will be withdrawn.

By resolving those issues which were to be the subject of the scheduled hearings, the aforementioned discussions have obviated the need for such hearings, and, accordingly, it is ordered that the hearings scheduled to commence on November 22, 1976 with respect to SR-MSRB-76-4 be, and hereby are, cancelled.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34817 Filed 11-23-76;8:45 am]

[File No. 20-2125A1, 3-4876]

HYCO OIL, INC.

Order Permanently Suspending Regulation B Exemption Regarding Schedule D Offering Sheets

NOVEMBER 18, 1976.

I. On January 13, 1976, the Commission issued an order temporarily suspending the Regulation B exemption in the captioned offering sheet filed by HYCO Oil, Inc., Shreveport, Louisiana, J. C. Maxwell "A" Lease, stating that it had reasonable cause to believe that:

No exemption is available for this offering under Regulation B because the offeror failed to comply with Rule 318(b) (17 CFR 230.318(b)) by utilizing, in addition to the offering sheet, prohibited sales literature in connection with the offering of securities.

II. A hearing was requested by HYCO Oil, Inc. on January 26, 1976. By letter dated February 17, 1976, the request was withdrawn. Therefore, the Commission finds that it is in the public interest and for the protection of investors that the exemption be permanently suspended.

Accordingly, it is ordered, pursuant to Rule 334 of Regulation B under the Securities Act of 1933, that the exemption from registration with respect to HYCO Oil, Inc.'s J. C. Maxwell "A" Lease (20-2125A1) offering be, and hereby is, permanently suspended.

For the Commission, by its Secretary, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34730 Filed 11-23-76;8:45 am]

[70-5929]

THE CONNECTICUT LIGHT AND POWER CO., ET AL.

Notice of Proposal To Sell Interests in Certain Nuclear Fired Generating Facilities

NOVEMBER 19, 1976.

Notice is hereby given that The Connecticut Light and Power Company, Selden Street, Berlin, Connecticut 06037 ("CL&P"), The Hartford Electric Light Company, 176 Cumberland Avenue, Wethersfield, Connecticut 06109 ("HELCO") and Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 ("WMECO"), all of which are electric utility subsidiaries of Northeast Utilities, a registered holding company, have filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended declaration, which is summarized below for a complete statement of the proposed transactions.

CL&P and WMECO own 8.61 percent and 4.63 percent interests, respectively, as tenants in common in Pilgrim Unit No. 2 ("Pilgrim 2"), a nuclear fired electric generating facility currently under construction in Plymouth, Massachusetts. Pilgrim 2 is jointly owned as tenants in common in accordance with specified percentage shares by ten utilities and two municipalities in the New England area. CL&P and WMECO propose to sell their entire interests in Pilgrim 2 to Massachusetts Municipal Wholesale Electric Company, Vermont Electric Cooperative, Inc., and the City of Taunton, Massachusetts Municipal Lighting Plant. The proposed sale is expected to occur in late 1976 or early 1977 at a price equal to the total costs paid or accrued by CL&P and WMECO as of the transfer date, including carrying costs and property taxes. If the transfer were to occur on December 30, 1976, it is estimated that the consideraion would be $11,000,000 for CL&P and $6,000,000 for WMECO. The present interests of CL&P and WMECO in Pilgrim 2 were purchased for $1,250,000 and $675,000, respectively, in November 1974. The total costs paid or accrued by CL&P and WMECO as of August 31, 1976, were approximately $8,500,000 and $4,500,000 respectively.

CL&P, HELCO and WMECO own, respectively, 38.2 percent, 20.2 percent and 13.8 percent undivided joint interests in Millstone Unit No. 3 ("Millstone 3"), a nuclear fired electric generating unit presently under construction in Waterford, Connecticut. CL&P, HELCO and WMECO propose to sell interest of 3.8 percent, 2.0 percent and 1.4 percent, respectively, in Millstone 3 to New England Power Company, Massachusetts Municipal Wholesale Electric Company, United Illuminating Company and Vermont Electric Cooperative, Inc. The proposed sales are expected to occur in late 1976 at a price equal to the total costs paid or accrued by CL&P, HELCO and WMECO as of the transfer date, including carrying costs and property taxes. If the transfers were to occur on December 30, 1976, it is estimated that the consideration would be $13,000,000 for CL&P, $6,500,000 for HELCO and $4,500,000 for WMECO. The total costs, applicable to the interests to be sold, paid

or accrued by CL&P, HELCO and WMECO as of August 31, 1976, were approximately $10,700,000, $5,600,000 and $3,800,000, respectively.

CL&P further proposes to sell its entire 12 percent joint ownership interest in Seabrook Unit Nos. 1 and 2 ("Seabrook 1 and 2") which are nuclear fired electric generating units presently under construction in Seabrook, New Hampshire. CL&P plans to sell its interest in Seabrook 1 and 2 to New England Power Company, Montaup Electric Company, New Bedford Gas and Edison Light Company and Central Maine Power Company. The proposed sale will occur at the same time as the sales by CL&P, HELCO and WMECO of their interests in Millstone 3 at a price equal to the total cost paid or accrued by CL&P as of the transfer date, including carrying costs and property taxes. If the transfer were to occur on December 30, 1976, it is estimated that the consideration would be approximately $19,000,000. CL&P's total paid and accrued costs were approximately $12,500,000 as of August 31, 1976.

The purchases by Massachusetts Municipal Wholesale Electric Cooperative ("Cooperative") of interests in Pilgrim 2 and Millstone 3 have been conditioned, in part, on the Cooperative's entry into certain capacity exchange agreements with CL&P, HELCO and WMECO. As a result, the sales to the Cooperative may be consummated in two separate transactions with the applicable part of the purchase being deferred until the specified condition is satisfied. In addition, all of the transfers of ownership interests are subject to certain shareholder approvals which must be obtained prior to the consummation of the proposed transactions.

CL&P, HELCO and WMECO state that these interests in Pilgrim 2, Millstone 3 and Seabrook 1 and 2 are being sold in order to reduce the capital expenditure programs of the selling companies through the 1970's and to reduce revenue requirements as a result. It is further stated that the anticipated benefits of the sales were weighed against the need for the generating capacity of the units being sold in meeting projected loads in the 1980's. It is stated that the consummation of the proposed sales will achieve a better balance between the needs of the purchasing utilities and those of CL&P, HELCO and WMECO for base load nuclear capacity in the 1980's without impairing the ability of the selling utilities to meet forecasted load demands.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $4,500, including legal fees of $2,000. The sales by CL&P and WMECO of their interests in Pilgrim 2, by CL&P, HELCO and WMECO of their interests in Millstone 3 and by CL&P of its interest in Seabrook 1 and 2 have been approved by the Connecticut Public Utilities Control Authority. The New Hampshire Public Utility Commission has jurisdiction over the sale by CL&P of its interest in Seabrook 1 and 2. The Massachusetts Department of Public Utilities has jurisdiction over the purchase by New England Power Company of its additional interest in Millstone 3 and by New England Power Company, Montaup Electric Company and New Bedford Gas and Edison Light Company of their additional interests in Seabrooks 1 and 2. The United States Nuclear Regulatory Commission has jurisdiction over the transfers of ownership interests in Pilgrim 2, Millstone 3 and Seabrook 1 and 2. It is stated that no other State commission and no other Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 13, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34814 Filed 11-23-76;8:45 am]

[File No. 81-212]

NN INVESTORS LIFE INSURANCE CO., INC.

Application and Opportunity for Hearing

Notice is hereby given that NN Investors Life Insurance Company, Inc., ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended ("the 1934 Act") for an exemption from filing a Form 10-K required by the provisions of Sections 13 and 15(d) of the 1934 Act.

Section 13 provides that each issuer of a security which is registered pursuant to Section 12 of the 1934 Act shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, certain annual, current and quarterly reports.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting, and proxy solicitation provisions under Sections 12, 13 and 14 of the 1934 Act and to grant exemptions from the insider reporting and trading provisions of Section 16 of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Application states, in part:

1. At the end of its fiscal year on December 31, 1975, Applicant, a Wisconsin corporation, had outstanding one class of securities registered pursuant to Section 15(d) of the 1934 Act.

2. As a result of a cash tender offer in June, 1975, NN Corporation ("NN"), then the controlling stockholder of Applicant, increased its equity interest in Applicant to 97.4%.

3. In July, 1975, NN became the Applicant's sole shareholder by means of a reverse stock split.

4. In November, 1975, NN sold its stock ownership in Applicant to Life Investors Insurance Company of America ("Life Investors") a wholly-owned subsidiary of Life Investors Inc.

5. As a result of the above-described transactions, all of Applicant's issued and outstanding shares of common stock are owned by Life Investors.

In the absence of an exemption, Applicant would be required to file an annual report on Form 10-K for the fiscal year ended December 31, 1975.

Applicant argues that no useful purpose would be served in filing said report.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 6, 1976, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol

Street, NW., Washington, D.C. 20549, and should briefly state the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34647 Filed 11-23-76;8:45 am]

CINCINNATI STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 18, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Mobile Corporation (Delaware), $7.50 Par Common, File No. 7-4846.

Upon receipt of a request, on or before December 3, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34763 Filed 11-23-76;8:45 am]

[File No. 20-1887A33, 3-4794, etc.]

DALLAS OIL AND GAS, INC.

Order Permanently Suspending Regulation B Exemption

NOVEMBER 18, 1976.

In the Matter of Schedule D Offering Sheets Filed by Dallas Oil & Gas, Inc. Dallas, Texas, Dallas No. 32, Allan Pickens (File No. 20-1887A33, 3-4794); Dallas No. 40, Schroeder (File No. 20-1887A34, 3-4795); Dallas No. 34, Frank Martin (File No. 20-1887A35, 3-4796); Dallas No. 33, George LeVasser (File No. 20-1887A36, 3-4797); Dallas No. 35, Howard Graves (File No. 20-1887A37, 3-4798); Dallas No. 36, Arthur M. Lamborn (File No. 20-1887A38, 3-4799); Dallas No. 37, Breck Harris (File No. 20-1887A39, 3-4800); Dallas No. 38, Sandy I., C.C. Boles (File No. 20-1887A40, 3-4801); Dallas No. 39, Debbie, Frank Martin (File No. 20-1887A41, 3-4802); Dallas No. 41, Bob Wayne, C.C. Boles (File No, 20-1887A42, 3-4803); Dallas No. 42, Jerry Phillips, C. Boles (File No. 20-1887A43, 3-4804); Dallas No. 50, Michelle, Clifford, John & Sonora Gail Leech Teinert, Donald L. & Elizabeth Koch (File No. 20-1887A44, 3-4805); Dallas No. 34A, Tasca G. Johnson Heirs (File No. 20-1887A45, 3-4806); Dallas No. 43, Darwin E. Peterson, Johnson Heirs (File No. 20-1887A46, 3-4807); and Dallas No. 44, C.B. Long & J.H. Johnson Heirs (File No. 20-1887A47, 3-4808)

On October 23, 1975, the Commission issued an order temporarily suspending the Regulation B exemption in the captioned offering sheets filed by Dallas Oil & Gas, Inc., stating that it has reasonable cause to believe that:

1. No exemption is available for this offering under Regulation B according to Rule 306(a)(2) [17 CFR 230, 306(a)(2)] because Dallas Oil & Gas, Inc. and Ray Griffin, president of Dallas Oil & Gas, Inc., were restrained and enjoined permanently on February 14, 1975, by the Supreme Court of the State of New York, in and for the County of New York, from offering or selling securities within and from the State of New York, including securities in the form of working interests in oil leases, without complying with Article 23-A of the General Business Law; and further were restrained and enjoined from violating the provisions of Article 23-A of the General Business Law of the State of New York.

2. No exemption is available for this offering under Regulation B because the offering sheets used failed to comply with Rules 330(a) and 330(b) of Regulation B [17 CFR 230, 330(a) and 230.330(b)] by failing to disclose that on February 14, 1975, Dallas Oil & Gas, Inc. and Ray Griffin, president of Dallas Oil & Gas, Inc., were restrained and enjoined permanently by the Supreme Court of the State of New York, in and for the County of New York, from offering or selling securities within and from the State of New York, including securities in the form of working interests in oil leases, without complying with Article 23-A of the General Business Law; and further were restrained and enjoined from violating the provisions of Article 23-A of the General Business Law of the State of New York.

II

A hearing was requested by Dallas Oil & Gas, Inc. on November 10, 1975. By letter dated February 25, 1976, the request was withdrawn. Therefore, the Commission finds that it is in the public interest and for the protection of investors that the exemption be permanently suspended.

Accordingly, *It is ordered*, pursuant to Rule 334 of Regulation B under the Securities Act of 1933, that the exemption from registration with respect to Dallas Oil & Gas, Inc.'s Dallas No. 32, Allan Pickens (20-1887A33), Dallas No. 40, Schroeder (20-1887A34), Dallas No. 34, Frank Martin (20-1887A35), Dallas No. 33, George LeVasser (20-1887A36), Dallas No. 35, Howard Graves (20-1887A37), Dallas No. 36, Arthur M. Lamborn (20-1887A38), Dallas No. 37, Breck Harris (20-1887A39), Dallas No. 38, Sandy I., C. C. Boles (20-1887A40), Dallas No. 39, Debbie, Frank Martin (20-1887A41), Dallas No. 41, Bob Wayne, C. C. Boles (20-1887A42), Dallas No. 42, Jerry Phillips, C. Boles (20-1887A43), Dallas No. 50, Michelle, Clifford, John & Sonora Gail Leech Teinert, Donald L. & Elizabeth Koch (20-1887A44), Dallas No. 34A, Tasca G. Johnson Heirs (20-1887A45), Dallas No. 43, Darwin E. Peterson, Johnson Heirs (20-1887A46), and Dallas No. 44, C. B. Long & J. H. Johnson Heirs (20-1887A47) offerings be, and hereby are, permanently suspended.

For the Commission, by its Secretary, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34766 Filed 11-23-76;8:45 am]

PACIFIC STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 18, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Mobil Corporation (Delaware), Common Stock, $7.50 par value, File No. 7-4879.

Upon receipt of a request, on or before December 3, 1976 from any interested

person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addresed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34765 Filed 11-23-76;8:45 am]

[File No. 1-7473]

INDUSTRIAL ACOUSTICS COMPANY, INC.

Application to Withdraw From Listing and Registration

NOVEMBER 19, 1976.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

More than half of the stockholders of the Company reside in the New York City metropolitan area, and the Company anticipates that withdrawal from listing will enable it to obtain savings with respect to certain accounting expenses.

The Boston Stock Exchange has not objected to this application, and the Company will continue to be registered pursuant to section 12(g).

Any interested person may, on or before December 10, 1976 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34815 Filed 11-23-76;8:45 am]

[File No. SR-MSE-76-16]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Changes

On September 3, 1976, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to revise membership qualifications in regard to age, state or country under whose laws an applicant for membership or member may be organized, and a member organization which is a subsidiary of another organization.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of Securities Exchange Act Release No. 12799 (Sept. 14, 1976) and by publication in the FEDERAL REGISTER (41 FR 44776 (Oct. 12, 1976)).

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.[1]

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change by, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34816 Filed 11-23-76;8:45 am]

[70-5928]

NORTHEAST UTILITIES

Proposed Issuance and Sale of Additional Common Stock Pursuant to Dividend Reinvestment and Common Share Purchase Plan

Notice is hereby given that Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act"), regarding the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated October 23, 1974 (HCAR No. 18617), Northeast was authorized to issue and sell from time to time through November 15, 1975, 500,000 shares of its common stock, par value $5.00 per share, under a voluntary dividend reinvestment and common share purchase plan ("Plan"). By order dated September 25, 1975 (HCAR No. 19191), Northeast was authorized to issue and sell an additional 1,000,000 shares from time to time through December 31, 1976. As of November 1, 1976, Northeast had issued and sold 1,285,401 of its authorized common shares pursuant to the Plan. The proceeds have been applied to the repayment of short term borrowings incurred for capital contributions or advances to Northeast's subsidiaries to finance the cost of the continuing construction program of the Northeast System companies.

Northeast proposes to issue and sell from time to time up to April 15, 1977, the 214,599 shares which remain unsold under its current authorization order. Northeast also proposes to issue and sell a maximum of 500,000 additional authorized but unissued shares (the "Additional Common Shares"). It is also proposed that the Plan will be further amended so that shareholders who elect to participate in the revised Plan may invest regular cash dividends and/or optional cash payments of between $25 to $3,000 per quarter in each stock. It is proposed that the purchase price under the revised Plan will be the average of the closing sales price for common shares as reported by the Wall Street Journal as Composite Transactions during the fifteen trading days immediately preceding the dividend payment date. The proceeds from the sale of the balance of the remaining 214,599 shares, and from the proposed issuance and sale of the Additional Common Shares, estimated at approximately $7,861,000, will also be applied to the repayment of short term borrowings incurred for capital contributions or advances to Northeast's subsidiaries to finance the cost of the continuing construction program of the Northeast System companies. For 1976 the construction program expenditures are estimated to be $262,500,000.

The Plan will be administered by The First National Bank of Boston ("Agent"), and all shares purchased will be held for the exclusive benefit of the Plan participants. All record holders of Northeast's outstanding common stock are eligible to participate in the Plan and may join by executing an authorization form and returning it to the Agent. A participant may withdraw from the Plan at any time upon giving written notice to the Agent. Upon withdrawal, certificates for whole shares credited

[1] The Commission's approval of the amendments to the rules is subject, nevertheless, to its review pursuant to Section 31(b) of the Securities Acts Amendments of 1975. See, e.g., Securities Exchange Act Release No. 12157 (Mar. 2, 1976).

to a participant's account will be issued and a cash payment will be made for any fractional shares so credited. The Plan provides that a participant may also request that certificates for any number of full shares credited to his account be issued to him even though he wishes to remain in the Plan.

It is stated that all costs for administering the Plan will be paid by Northeast and that there will be no brokerage fees when shares are purchased under the Plan. However, if a participant withdrawing from the Plan requests the Agent to sell his shares, there will be brokerage commissions.

The Agent will not vote any shares held by it under the Plan. Participants will receive a single proxy with respect to full shares which they own of record or which are credited to their accounts under the Plan. The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transaction will be supplied by amendment. No State commission and no Federal commission other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 14, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations permitted under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34818 Filed 11-23-76;8:45 am]

[File No. 7-4879]

MOBILE CORP. (DELAWARE)

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 18, 1976.

In the matter of an application of Pacific Stock Exchange, Inc., for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Mobile Corporation (Delaware), Common Stock, $7.50 per value, File No. 7-4879.

Upon receipt of a request, on or before December 3, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34819 Filed 11-23-76;8:45 am]

[811-2226]

SPORTS FUND

Proposal To Terminate Registration

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare, by order on its own motion, that Sports Fund ("Fund"), c/o International Research & Management Corp., Suite 420, One Palmer Square, Princeton, New Jersey 08540, registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company as defined in the Act.

Information in the Commission's files indicates that the Fund was organized under Delaware law, and that it registered under the Act on September 7, 1971. Such information also indicates that the Fund has made no offer to sell its securities to the public, that the Fund has no assets or liabilities outstanding, and that its organizers have no intention to operate the Fund as an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 14, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commisison's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-34820 Filed 11-23-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0280]

A B SMALL BUSINESS INVESTMENT CO., INC.

Issuance of License To Operate as a Small Business Investment Company

On July 30, 1976, a notice was published in the Federal Register that A B

Small Business Investment Company, Inc., Schoolhouse Road, Cheshire, Connecticut, 06410, had filed an Application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1976) for a license to operate as a small business investment company.

Interested parties were given until the close of business on August 16, 1976, to submit written comments on the Application to SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0280 on November 17, 1976, to A B Small Business Investment Company, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: November 17, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-34802 Filed 11-23-76;8:45 am]

[License No. 02/02-0241, 04/05-0010]

PREFERRED CAPITAL FOR SMALL BUSINESS, INC., INTO GOLD COAST CAPITAL CORP.

Approval of Application for Merger

Pursuant to the provisions of § 107.903 of the Small Business Administration (SBA) Rules and Regulations governing small business investment companies (SBICs) (13 CFR 107.903 (1976)), a Notice of filing of an application for the merger of Preferred Capital for Small Business, Inc., 16 Court Street, Brooklyn, New York 11241, into Gold Coast Capital Corporation, 3550 Biscayne Boulevard, Miami, Florida 33137, was published in the FEDERAL REGISTER on September 2, 1976, (41 FR 37175).

Interested persons were given an opportunity to send their comments to SBA on the proposed merger. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the merger of the above mentioned SBICs.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 15, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-34803 Filed 11-23-76;8:45 am]

DEPARTMENT OF STATE

[Public Notice 508]

MODEL BILATERAL TREATY ON MUTUAL EXTRADITION OF FUGITIVES

Invitation for Public Comment

Since 1969, the Department of State has initiated a series of negotiations with foreign countries for the purpose of concluding new extradition treaties. A model text has been evolved with suggestions from the Department of Justice and local prosecutors. In addition, the negotiations themselves have given rise to some modifications. While individual negotiations will result in additional changes, it is intended that the current model treaty serve as the basic text for initiation of negotiations. That text is reproduced below for public comment. Any such comments must be in writing and addressed to the Assistant Legal Adviser for Management, Department of State, Washington, D.C. 20520. While agreements already being negotiated may not readily lend themselves to modifications suggested by public comment, all public comments received on or before December 27, 1976, will be considered, and comments subsequent to that time will be taken into account to the extent feasible.

As an aid in understanding the model text below, it should be understood that the U.S. policy on extradition is to: (1) Make no distinction in extradition between U.S. nationals and other persons; (2) Negotiate a mutually agreed list of extraditable offenses which are crimes in both countries concerned; (3) Provide legal representation to the other Government in proceedings here; and (4) Permit retroactive application of new treaties as long as the offense, when committed, was a crime under the laws of both parties. It has also been U.S. policy not to extend such treaties to military or selective service offenses, nor to consider domestic relations offenses as an appropriate subject of extradition.

The policy on extradition of nationals is based upon the genera lack of jurisdiction in the United States to prosecute serious offenses committed by Americans abroad. It is important to have some means by which such offenses can be punished. The reasoning in support of a list of offenses is that such a list permits an advance determination whether an offense is extraditable, thus eliminating costly, disruptive tests in United States and foreign courts to determine whether novel or specialized offenses in one country are extraditable in the other. The policy requiring legal representation of the other country in extradition proceedings is based upon economic considerations since, in most cases, the United States is the moving party. Retroactive application of extradition treaties is considered desirable to reduce the possibility of an evasion of justice based upon technicalities of timing. U.S. policy on military and selective service offenses is founded on the belief that it is inappropriate to use the extradition process to assist another country to enforce military discipline and military obligations. Similarly, extradition is an instrument of criminal law enforcement, and it is believed that it might be frequently misused if applied to domestic relations problems such as custody disputes.

MONROE LEIGH,
Legal Adviser, Department of State.

Dated: November 12, 1976.

DRAFT EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND (NAME OF COUNTRY)

The Government of the United States of America and the Government of (name of country);

Desiring to make a new treaty for the reciprocal extradition of offenders; have agreed as follows:

ARTICLE I

Each Contracting Party agrees, under the conditions and circumstances established by this Convention, reciprocally to deliver up persons found in its territory who have been charged with or convicted of any of the offenses mentioned in Article II of this Convention committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article III of this Convention.

ARTICLE II

Persons shall be delivered up according to the provisions of this Convention for prosecution when they have been charged with, or to undergo sentence when they have been convicted of, any of the following offenses:

1. Murder; assault with intent to commit murder.
2. Manslaughter.
3. Malicious wounding; inflicting grievous bodily harm.
4. Rape; indecent assault; sodomy.
5. Abortion.
6. Unlawful carnal knowledge of children under the age specified by the laws of both the requesting and requested parties.
7. Procuration.
8. Wilful nonsupport or wilful abandonment of a minor or other dependent person when the life of that minor or that dependent person is or is likely to be injured or endangered.
9. Bigamy.
10. Kidnapping; child stealing; abduction; false imprisonment.
11. Robbery.
12. Burglary; housebreaking or shopbreaking.
13. Larceny.
14. Embezzlement.
15. Obtaining property, money or valuable securities by false pretenses or by threat of force or by defrauding the public or any person by deceit or falsehood or other fraudulent means, whether such deceit or falsehood or any fraudulent means would or would not amount to a false pretense.
16. Bribery, including soliciting, offering and accepting.
17. Extortion.
18. Receiving or transporting any money, valuable securities or other property knowing the same to have been unlawfully obtained.
19. Fraud by a bailee, banker, agent, factor, trustee, executor, administrator or by a director or officer of any company.
20. Forgery or uttering what is forged.
21. The forgery or false baking of official documents or public records of the government or public authority or the uttering or fraudulent use of the same.
22. The making or the utterance, circulation or fraudulent use of counterfeit money or counterfeit seals, stamps, dyes and marks of the government or public authority.
23. Knowingly and without lawful authority, making or having in possession any instrument, tool, or machine adopted and intended for the counterfeiting of money, whether coin or paper.
24. Perjury; subornation of perjury.
25. False swearing or making a false statement to a government agency or official.
26. Arson.
27. Any malicious act done with intent to endanger the safety of any person traveling

upon a railway, or in any aircraft or vessel or bus or other means of transportation within the territorial jurisdiction of either party as defined in Article III.

28. Unlawful seizure of an aircraft or vessel.

29. Piracy, by statute or by law of nations; mutiny or revolt on board an aircraft or vessel against the authority of the captain or commander of such aircraft or vessel; any seizure or exercise of control, by force or violence or threat of force or violence, of an aircraft or vessel,

30. Malicious injury to property.

31. Smuggling.

32. Offenses against the bankruptcy laws.

33. Offenses against the laws relating to the traffic in possession, or production or manufacture of, narcotic drugs, cannabis, hallucinogenic drugs, cocaine and its derivatives, and other dangerous drugs and chemicals.

34. Offenses against the laws relating to the illicit manufacture of or traffic in poisonous chemicals or substances injurious to health.

35. Use of the mails or other means of communication in connection with schemes devised or intended to deceive or defraud the public or for the purpose of obtaining money or property by false pretenses.

36. Offenses against the laws relating to the sale or transportation or purchase of securities or commodities.

37. Unlawful manufacture, importation, exportation, transfer, possession, concealment, transportation or receipt of any firearms.

38. Unlawful obstruction of juridical proceedings or proceedings before governmental bodies or interference with an investigation of a violation of a criminal statute by the influencing, bribing, impeding, threatening, or the injuring by any means, any officer of the court, juror, witness, or duly authorized criminal investigator.

39. a. Unlawful abuse of official authority which results in grievous bodily injury or deprivation of the life, liberty or property of any person.

b. Unlawful injury, intimidation or interference with voting or candidacy for public office, jury service, government employment, or the receipt or enjoyment of benefits provided by government agencies.

c. Unlawful injury, intimidation or interference with any person because of his race, religion or national origin and because he is or has been engaged in activities in which discrimination on account of race, color, religion or national origin is prohibited by law.

d. Unlawful injury, intimidation or interference with any person because he is or has been lawfully aiding or encouraging other persons to participate without discrimination on account of race, color, religion, or national origin, in any activity in which such discrimination is prohibited by law.

Extradtion shall also be granted for attempts to commit or conspiracy to commit any of the offenses mentioned in this Article.

Extradition shall also be granted for participation in any of the offenses mentioned in this Article.

ARTICLE III

When the offense has been committed outside the territorial jurisdiction of the requesting Party, extradition need not be granted unless the laws of the requested Party provide for the punishment of such an offense committed in similar circumstances.

The words "territorial jurisdiction" as used in the present Convention mean: Territory, including territorial waters, and the airspace thereover belonging to or under the control of one of the Contracting Parties, and vessels and aircraft belonging to one of the Contracting Parties or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

The words "transporting" and "transportation," as used in Article II of the present Convention, are included in order to grant jurisdiction for prosecution of the enumerated offenses to the United States Government. It is understood that for purposes of this Convention the gravamen of the offense will be the underlying crime.

ARTICLE IV

Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this convention, but the executive authority of each shall have the power to deliver them up, if, in its discretion, it be deemed proper to do so.

ARTICLE V

Extradition shall be granted only if the evidence be found sufficient, according to the laws of the place where the person sought shall be found, either to justify his committal for trial if the offense of which he is accused had been committed in that place or to prove that he is the identical person convicted by the courts of the requesting Party.

ARTICLE V BIS

The person whose extradition has been requested may advise the appropriate authority of the requested State that he waives the necessity for a hearing on his extraditability. The requested State may thereupon cause the issuance of an order authorizing surrender of the person sought to agents of the government of the requesting State.

ARTICLE VI

Extradition shall not be granted in any of the following circumstances:

1. When the person whose surrender is sought is being proceeded against or has been tried and discharged or punished in the territory of the requested Party for the offense for which his extradition is requested.

2. When the person who surrender is sought has been tried and acquitted or has undergone his punishment in a third State for the offense for which his extradition is requested.

3. When the prosecution or the enforcement of the penalty for the offense has become barred by lapse of time according to the laws of the requesting Party or would be barred by lapse of time according to the laws of the requested Party had the offense been committed in its territory.

4. No person shall be surrendered if the offense for which his extradition is requested is of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character. If any question arises as to whether a case comes within the provisions of this article, the authorities of the Government on which the requisition is made shall decide.

5. The provisions of the first sentence of paragraph 4 of this Article shall not be applicable to:

a. A murder or other serious assault, or an attempt to commit such an offense, except in open combat, against the life or physical integrity of a person to whom the requesting State has the duty according to international law to give special protection; or

b. The unlawful seizure of an aircraft engaged in commercial services and carrying passengers.

ARTICLE VII

When the offense for which the extradition is requested is punishable by death under the laws of the requesting Party and the laws of the requested Party do not permit such punishment for that offense, extradition may be refused unless the requesting Party provides such assurances as the requested Party considers sufficient that the death penalty shall not be imposed, or, if imposed, shall not be executed.

ARTICLE VII BIS

When, at the time of the presentation of the request for extradition, the person whose extradition is requested is under the age of eighteen years and has permanent residence in the requested State and the competent authorities of that country determine that the extradition would prejudice the social readjustment and rehabilitation of that person, the requested State may suggest that the request for extradition be withdrawn, specifying the reasons therefor.

ARTICLE VIII

When the person whose extradition is requested is being proceeded against or is serving a sentence in the territory of the requested Party for an offense other than that for which extradition has been requested, his surrender may be deferred until the conclusion of the proceedings and the full execution of any punishment he may be or may have been awarded.

ARTICLE IX

The determination that extradition based upon the request therefor should or should not be granted shall be made in accordance with the domestic law of the requested Party and the person whose extradition is sought shall have the right to use such remedies and recourses as are provided by such law.

ARTICLE X

The request for extradition shall be made through the diplomatic channel.

The request shall be accompanied by a description of the person sought, a statement of the facts of the case, the text of the applicable laws of the requesting Party including the law defining the offense, the law prescribing the punishment for the offense, and the law relating to the limitation of the legal proceedings or the enforcement of the penalty for the offense.

When the request relates to a person who has not yet been convicted, it must also be accompanied by a warrant of arrest issued by a judge or other judicial officer of the requesting Party and by such evidence as, according to the laws of the requested Party, would justify his arrest if the offense had been committed there, including evidence proving the person requested is the person to whom the warrant of arrest refers.

When the request relates to a person already convicted, it must be accompanied by the judgment of conviction and sentence, if any, passed against him in the territory of

the requesting Party, by a statement showing how much of the sentence has not been served, and by evidence proving that the person requested is the person to whom the conviction refers.

The warrant of arrest and deposition or other evidence, given under oath, and the judicial documents establishing the existence of the conviction, or certified copies of these documents, shall be admitted in evidence in the examination of the request for extradition when, in the case of a request emanating from ------, they bear the signature or are accompanied by the attestation of a judge, magistrate or other official or are authenticated by the official seal of the Ministry of Justice and, in any case, are certified by the principal diplomatic or consular officer of the United States in ------, or when, in the case of a request emanating from the United States, they are signed by or certified by a judge, magistrate or officer of the United States and they are sealed by the official seal of the Department of State.

ARTICLE XI

In case of urgency a Contracting Party may apply for the provisional arrest of the person sought pending the presentation of the request for extradition through the diplomatic channel. The application shall contain a description of the person sought, an indication of intention to request the extradition of the person sought and a statement of the existence of a warrant of arrest or a judgment of conviction against that person, and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offense been committed, or the person sought been convicted, in the territory of the requested Party.

On receipt of such an application the requested Party shall take the necessary steps to secure the arrest of the person claimed.

A person arrested upon such an application shall be set at liberty upon the expiration of 45 days from the date of his arrest if a request for his extradition accompanied by the documents specified in Article X shall not have been received. However, this stipulation shall not prevent the institution of proceedings with a view to extraditing the person sought if the request is subsequently received.

ARTICLE XII

If the requested Party requires additional evidence or information to enable it to decide on the request for extradition, such evidence or information shall be submitted to it within such time as that Party shall require.

If the person sought is under arrest and the additional evidence or information submitted as aforesaid is not sufficient or if such evidence or information is not received within the period specified by the requested Party, he shall be discharged from custody. However, such discharge shall not bar the requesting Party from submitting another request in respect of the same offense.

ARTICLE XIII

A person extradited under the present Convention shall not be detained, tried or punished in the territory of the requesting Party for an offense other than that for which extradition has been granted nor be extradited by that Party to a third State unless:

1. He has left the territory of the requesting Party after his extradition and has voluntarily returned to it;

2. He has not left the territory of the requesting Party within 60 days after being free to do so; or

3. The requested Party has consented to his detention, trial, punishment or to his extradition to a third State for an offense other than that for which extradition was granted.

These stipulations shall not apply to offenses committed after the extradition.

ARTICLE XIV

A requested Party upon receiving two or more requests for the extradition of the same person either for the same offense, or for different offenses, shall determine to which of the requesting States it will extradite the person sought, taking into consideration the circumstances and particularly the possibility of a later extradition between the requesting States, the seriousness of each offense, the place where the offense was committed, the nationality of the person sought, the dates upon which the requests were received and the provisions of any extradition agreements between the requested Party and other requesting State or States.

ARTICLE XV

The requested Party shall promptly communicate to the requesting Party through the diplomatic channel the decision on the request for extradition.

If a warrant or order for the extradition of a person sought has been issued by the competent authority and he is not removed from the territory of the requested Party within such time as may be prescribed by the laws of that Party, he may be set at liberty and the requested Party may subsequently refuse to extradite that person for the same offense.

ARTICLE XVI

To the extent permitted under the law of the requested Party and subject to the rights of third parties, which shall be duly respected, all articles acquired as a result of the offense or which may be required as evidence shall, if found, be surrendered if extradition is granted.

ARTICLE XVII

The right to transport through the territory of one of the Contracting Parties a person surrendered to the other Contracting Party by a third State shall be granted on request made through the diplomatic channel provided that conditions are present which would warrant extradition of such person by the State of transit and reasons of public order are not opposed to the transit.

The Party to which the person has been extradited shall reimburse the Party through whose territory such person is transported for any expenses incurred by the latter in connection with such transportation.

ARTICLE XVIII

Expenses related to the transportation of the person sought shall be paid by the requesting Party. The appropriate legal officers of the country in which the extradition proceedings take place shall, by all legal means within their power, assist the officers of the requesting Party before the respective judges and magistrates. No pecuniary claim, arising out of the arrest, detention, examination and surrender of persons sought under the terms of this Convention, shall be made by the requested Party against the requesting Party other than as specified in the second paragraph of this Article and other than for the lodging, maintenance and board of the person sought.

The legal officers, other officers of the requested Party, and court stenographers, if any, of the requested Party who shall, in the usual course of their duty, give assistance and who receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the requesting Party the usual payment for such acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIX

This Convention shall apply to offenses specified in Article II committed before as well as after the date this Convention enters into force: *Provided*, That no extradition shall be granted for an offense committed before the date this Convention enters into force which was not an offense under the laws of both countries at the time of its commission.

ARTICLE XX

This Convention shall be ratified and the ratifications shall be exchanged in ------ as soon as possible.

This Convention shall enter into force upon the exchange of ratifications. It may be terminated by either Contracting Party giving notice of termination to the other Contracting Party at any time and the termination shall be effective six months after the date of receipt of such notice.

[FR Doc.76-34677 Filed 11-23-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

LAPSED FY 1974 INTERSTATE FUNDS

Reapportionment

• *Purpose.* The purpose of this document is to publish an internal Federal Highway Administration Notice stating the reapportionment of lapsed fiscal year 1974 Interstate funds.

Issued: November 17, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

FHWA Notice N 4510.55 (November 3, 1976)
REAPPORTIONMENT OF LAPSED FY 1974 INTERSTATE FUNDS

1. *Purpose.* To transmit the certificate of reapportionment of lapsed Federal-aid Interstate funds authorized for fiscal year 1974 and initially apportioned to Rhode Island. The reapportionment is effective November 3, 1976.

2. *Availability.* a. The reapportioned funds are available effective November 3, 1976, and

may be obligated in accordance with obligation control procedures in force at the time of obligation.

b. The reapportioned funds must be obligated by September 30, 1980, to prevent lapse and are not available for 1½ percent HPR projects.

3. *Action.* Division Administrators should assure that copies of this Notice are furnished to State highway departments, and that the reporting requirements of FHWA Order 4500.1 dated March 19, 1976, relative to submission of Forms SF-424 to State Central Information Reception Agencies are accomplished promptly.

CERTIFICATE OF REAPPORTIONMENT OF THE SUM OF $12,046,963.05 LAPSED FROM THE INTERSTATE APPORTIONMENT TO THE STATE OF RHODE ISLAND FOR THE FISCAL YEAR ENDING JUNE 30, 1974

To—

The Secretary of the Treasury of the United States and the State highway departments:

Pursuant to title 23, U.S.C., entitled "Highways," and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, DOT Order 1100.23A, I certify—

First. That in accordance with 23 U.S.C. 118(b), I have determined that from the sum of $22,459,041 apportioned to the State of Rhode Island for the Interstate System effective September 7, 1973, for the fiscal year ending June 30, 1974, the sum of $12,046,963.05 in Interstate construction funds was not obligated on September 30, 1976, and therefore lapsed.

Second. That I have computed the reapportionment among the several States of the said amount in lapsed Interstate construction funds apportioned to the State of Rhode Island in accordance with the formula set forth in 23 U.S.C. 104(b)(5)(A) and used in making the apportionment for the fiscal year ending September 30, 1978.

Third. That the sums which are reapportioned and made available to each State shall be added to and made a part of the Interstate construction account of that State, and shall be considered as if they were a part of the sum apportioned to that State from the sum apportioned, effective October 1, 1976, from the amount authorized to be appropriated for the fiscal year ending September 30, 1978, and shall be subject to all provisions of law applicable to that apportionment, except the deductions authorized by 23 U.S.C. 140(a), 140(b), and 307(c)(2).

Fourth. That the sums which are hereby reapportioned and made available to each State, effective November 3, 1976, are respectively, as follows:

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

Reapportionment of lapsed fiscal year 1974 interstate funds

State:	*Amount*
Alabama	$283,344.57
Arizona	325,990.82
Arkansas	78,305.26
California	684,147.03
Colorado	273,104.65
Connecticut	354,060.24
Florida	434,774.90
Georgia	333,219.00
Hawaii	152,875.96
Idaho	52,524.76
Illinois	499,828.50
Indiana	109,025.02
Iowa	130,348.14
Kansas	166,609.50
Kentucky	287,320.07
Louisiana	452,483.93
Maine	32,285.86
Maryland	474,409.41
Massachusetts	213,110.78
Michigan	326,593.17
Minnesota	297,078.11
Mississippi	87,581.42
Missouri	209,376.22
Montana	113,120.98
Nebraska	5,180.19
Nevada	62,041.86
New Hampshire	82,521.70
New Jersey	346,832.07
New Mexico	110,109.24
New York	593,794.81
North Carolina	250,456.36
North Dakota	1,204.70
Ohio	334,303.22
Oklahoma	49,633.49
Oregon	330,086.79
Pennsylvania	477,541.62
South Carolina	81,076.06
South Dakota	24,696.27
Tennessee	282,380.81
Texas	514,646.26
Utah	140,226.65
Vermont	44,091.88
Virginia	595,842.79
Washington	381,768.26
West Virginia	270,574.79
Wisconsin	107,820.32
Wyoming	48,428.79
District of Columbia	540,185.82
Total	12,046,963.05

Done at the City of Washington this 3rd day of November 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.76-34678 Filed 11-23-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 31-76]

TREASURY NOTES OF SERIES T-1978

Interest Rates

NOVEMBER 19, 1976.

The Secretary of the Treasury announced on November 18, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 31-76, dated November 12, 1976, will be 5¾ percent per annum. Accordingly, the notes are hereby redesignated 5¾ percent Treasury Notes of Series T-1978. Interest on the notes will be payable at the rate of 5¾ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-34761 Filed 11-23-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 196]

ASSIGNMENT OF HEARINGS

NOVEMBER 19, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138274 Sub 16, Shippers Best Express, Inc., now being assigned January 12, 1977 (1 day), at Salt Lake City, Utah, in a hearing room to be later designated.

MC-F 12787, Brown Trucking Co., Inc.,—Control—Dalgarno Transportation, Inc., now being assigned January 13, 1977 (2 days), at Salt Lake City, Utah, in a hearing room to be later designated.

MC-F 12312, Whitfield Transportation, Inc—Purchase (Portion)—Lee Hawkes Transfer; And Whitfield Transportation, Inc.—Control And Merger—Miller Bros. Truck Line, and MC 108461 Sub 123, Whitfield Transportation, Inc., now being assigned January 17, 1977 (2 weeks), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 133095 (Sub-No. 99), Texas Continental Express, Inc., now being assigned December 1, 1976 (1 day) at Dallas, Texas; in Room 5A15-17 Federal Building, 1100 Commerce Street.

AB 109, Quanah, Acme and Pacific Railway Company, Abandonment between Acme and Floydada, In Hardeman, Cottle Motley and Floyd Counties, Texas, now being assigned for continued hearing on December 6, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.76-34733 Filed 11-23-76;8:45 am]

IRREGULAR-ROUTE COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

NOVEMBER 19, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 6, 1976. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 41406 (Sub-No. E31) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of May 26, 1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from points in the Chicago, Ill., commercial zone, as defined by the Commission in 1 M.C.C. 673, and Portage, Ind., to points in Ohio, south and east of a line beginning at the Ohio-West Virginia State line at Bridgeport, Ohio extending along Interstate Highway 70 to Columbus, Ohio extending along U.S. Highway 62 to Washington Court House, Ohio and to junction U.S. Highway 22 to Cincinnati, Ohio at the Ohio-Kentucky State line, including points in the Cincinnati, Ohio commercial zone, as defined by the Commission. The purpose of this filing is to eliminate the gateway of Middletown, Ohio.

NOTE.—The purpose of this republication is to correct the origin territory.

No. MC 41406 (Sub-No. E51) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of June 9, 1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Joliet, Ill., to points in Ohio on, south, and east of a line beginning at the Ohio-West Virginia State line at Bridgeport, Ohio extending along Interstate Highway 70 to Columbus, Ohio to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 22 to Cincinnati, Ohio at the Ohio-Kentucky State line, including points in the Cincinnati, Ohio, Commercial zone. The purpose of this filing is to eliminate the gateways of Chicago, Ill., commercial zone, as defined by the Commission, (Gary, Ind.) and Middletown, Ohio.

NOTE.—The purpose of this republication is to correctly describe the gateways.

No. MC 41406 (Sub-No. E61) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of June 9, 1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from points in Lackawanna and Hamburg Townships, Erie County, N.Y., to points in that part of Iowa on and east of a line beginning at Keokuk, Iowa and extending along U.S. Highway 218 to Cedar Rapids, Iowa, thence along U.S. Highway 151 to junction Iowa Highway 13, thence along Iowa Highway 13 to Marquette, Iowa. The purpose of this filing is to eliminate the gateways of Sturgis, Mich., and Gary, Ind.

NOTE.—The purpose of this republication is to correct the origin description.

No. MC 41406 (Sub-No. E78) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of June 9, 1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Pekin and Peoria, Ill., to points in Pennsylvania on, south, and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of Gary, Ind., and Middletown, Ohio.

NOTE.—The purpose of this republication is to correct the destination territory description.

No. MC 41406 (Sub-No. E84) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of June 9, 1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Zanesville, Ohio to points in Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Iowa, Jefferson, Lafayette, Kenosha (except points on and east of U.S. Highway 41), Ozaukee, Racine (except points on and east of U.S. Highway 41), Richland, Rock, Sauk, Sheyboygan, Walworth, Washington, and Waukesha Counties, Wis. The purpose of this filing is to eliminate the gateways of Gary, Ind., and Sturgis, Mich.

NOTE.—The purpose of this republication is to correct the destination territory.

No. MC 41406 (Sub-No. E87) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of July 2,

1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from points in Lackawanna and Hamburg Townships, Erie County, New York, to points in Iowa on and west of a line beginning at the Iowa-Illinois State Line at Keokuk, Iowa, and extending along U.S. Highway 218 to junction U.S. Highway 151 thence along U.S. Highway 151 to junction Iowa Highway 13, thence along Iowa Highway 13 to the Iowa-Wisconsin State line. The purpose of this filing is to eliminate the gateways of Sturgis, Mich., Gary, Ind., and plantsite of Jones & Laughlin Steel Corporation located in Putnam County, Ill.

NOTE.—The purpose of this republication is to correct the destination territory.

No. MC 41406 (Sub-No. E97) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of July 24, 1976 and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Portsmouth, Ohio, to points in Illinois except those east of a line beginning at Illinois Highway 37 to junction Illinois Highway 146, thence along Illinois Highway 146 to U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 141, thence along Illinois Highway 141 to the Ohio River. The purpose of this filing is to eliminate the gateway of Middletown, Ohio. The purpose of this republication is to correct the Illinois Highway designation.

No. MC 61825 (Sub-No. E721), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, between points in Tuscarawas County, Ohio, on the one hand, and on the other, Chesapeake, Nansemond, Newport News, Norfolk, Princess Anne, and Virginia Beach, Va., and points in Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Carroll, Charlotte, Chesterfield, Cumberland, Dinwiddie, Floyd, Franklin, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nelson, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Southampton, Surry, and Sussex Counties, Va., and restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E722), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, between points in Jefferson County, Ohio, on the one hand, and, on the other, Chesapeake, Nansemond, Norfolk, Princess Anne, and Virginia Beach, Va., and points in Amelia, Amherst, Appomattox, Bedford, Brunswick, Campbell, Carroll, Charlote, Cumberland, Dinwiddie, Floyd, Franklin, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Prince George, Southampton, Surry, and Sussex Counties, Va., restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E728), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, New funiture and furniture parts*, from points in South Caolina and points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending south along U.S. Highway 1 to junction U.S. Highway 158, thence east along U.S. Highway 158 to junction North Carolina Highway 4, thence south along North Carolina Highway 4 to junction North Carolina Highway 561, thence east along North Carolina Highway 561 to junction North Carolina Highway 48, thence south along North Carolina Highway 48 to junction North Carolina Highway 44, thence southeast along North Carolina Highway 44 to junction U.S. Highway 64, thence southeast along U.S. Highway 64 to junction U.S. Highway 13, thence south along U.S. Highway 13, to junction North Carolina Highway 33, thence southeast along North Carolina Highway 33 to junction U.S. Highway 17, thence south along U.S. Highway 17 to the Pamlico River, thence along the Pamlico River to the Pamlico Sound, thence along the Pamlico Sound to the Ocracoke Inlet, thence through the Ocracoke Inlet to the Atlantic Ocean, thence southwest along the Atlantic Coast to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction U.S. Highway 52, thence north along U.S. Highway 52 to the North Carolina-Virginia State line, and thence east along the North Carolina-Virginia State line to point of beginning, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. Restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of South Boston, Va.

No. MC 61825 (Sub-No. E729), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, New furniture and furniture parts*, from points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending south along North Carolina Highway 35 to junction North Carolina Highway 305, thence southeast along North Carolina Highway 305 to junction U.S. Highway 13, thence south along U.S. Highway 13 to junction U.S. Highway 17, thence east along U.S. Highway 17 to junction North Carolina Highway 45, thence south along North Carolina Highway 45 to junction U.S. Highway 64, thence west along U.S. Highway 64 to junction North Carolina Highway 32, thence south along North Carolina Highway 32 to junction North Carolina Highway 99, thence south along North Carolina Highway 99 to junction U.S. Highway 264, thence east along U.S. Highway 264 to Engelhard, N.C., thence to the Pamlico Sound, thence along the Pamlico Sound to the Pamlico River, thence along the Pamlico River to junction U.S. Highway 17, thence north along U.S. Highway 17 to junction North Carolina Highway 33, thence northwest along North Carolina Highway 33 to junction U.S. Highway 13, thence north along U.S. Highway 13 to junction U.S. Highway 64, thence west along U.S. Highway 64 to junction North Carolina Highway 44, thence northwest along North Carolina Highway 44 to junction North Carolina Highway 48, thence north along North Carolina Highway 48 to junction North Carolina Highway 561, thence west along North Carolina Highway 561 to junction North Carolina Highway 4, thence north along North Carolina Highway 4, to junction U.S. Highway 158, thence west along U.S. Highway 158 to junction U.S. Highway 1, thence north along U.S. Highway 1 to the North Carolina-Virginia State line, and thence east along the North Carolina-Virginia State line to point of beginning, to points in Maine, and points in Massachusetts, New Hampshire, and Vermont on and north of a line beginning at Boston, Mass., and extending north along U.S. Highway 3 to junction New Hampshire Highway 101A, thence west along New Hampshire Highway 101A to junction New Hampshire Highway 101, thence west along New Hampshire Highway 101 to junction New Hampshire

Highway 9, thence west along New Hampshire Highway 9 to junction Vermont Highway 9, thence west along Vermont Highway 9 to the Vermont-New York State line; restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of South Boston, Va.

No. MC 61825 (Sub-No. E730), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture, and furniture parts*, from points in North Carolina on and west of a line beginning at the Virginia-North Carolina State line, and extending south on U.S. Highway 52 to the North Carolina-South Carolina State line, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, restricted against the Transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Lynchburg and Bedford, Va.

No. MC 61825 (Sub-No. E731), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture and furniture parts*, from points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, to points in South Carolina and points in North Carolina on, south and west of a line beginning at the Virginia-North Carolina State line and extending south along North Carolina Highway 39 to junction U.S. Highway 1, thence south along U.S. Highway 1 to junction North Carolina Highway 96, thence south along North Carolina Highway 96 to junction U.S. Highway 701, thence south along U.S. Highway 701 to junction North Carolina Highway 50, thence southeast along North Carolina Highway 50 to junction North Carolina Highway 24, thence east along north Carolina Highway 24 to Cape Carteret, North Carolina, thence to the Bogue Sound to the Bogue Inlet, and thence to the Atlantic Ocean; restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E732), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture and furniture parts*, from points in Maine, New Hampshire, and Vermont, and those points in Massachusetts, and Rhode Island on, north and east of a line beginning at Newport, R.I., and extending west along Rhode Island Highway 138 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Rhode Island Highway 4, thence north along Rhode Island Highway 4 to junction Rhode Island Highway 2, thence north along Rhode Island Highway 2 to junction Rhode Island Highway 5, thence along Rhode Island Highway 5 to junction Rhode Island Highway 104, thence northeast along Rhode Island Highway 104 to junction Rhode Island Highway 146, thence northwest along Rhode Island Highway 146 to junction Massachusetts Highway 146, thence northwest along Massachusetts Highway 146 to junction Massachusetts Highway 122, thence along Massachusetts Highway 122 to junction Massachusetts Highway 2, thence west along Massachusetts Highway 2 to the Massachusetts-New York State line, to points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending along North Carolina Highway 39 to junction U.S. Highway 1, thence south along U.S. Highway 1 to junction North Carolina Highway 96, thence along North Carolina Highway 96 to junction U.S. Highway 701, thence south along U.S. Highway 701 to junction North Carolina Highway 50, thence southeast along North Carolina Highway 50 to junction North Carolina Highway 24, thence east along North Carolina Highway 24 to Cape Carteret, N.C., thence to the Bogue Sound, thence along the Bogue Sound to the Bogue Inlet, thence through the Bogue Inlet to the Atlantic Ocean, thence northeast along the Atlantic Coast to the Drum Inlet, thence through the Drum Inlet to the Pamlico Sound, thence along the Pamlico Sound to the Neuse River, thence along the Neuse River to junction U.S. Highway 17, thence along U.S. Highway 17 to junction North Carolina Highway 43, thence northwest along North Carolina Highway 43 to junction North Carolina Highway 58, thence northwest along North Carolina Highway 58 to junction U.S. Highway 401, thence north along U.S. Highway 401 to junction U.S. Highway 158, thence north along U.S. highway 158 to junction U.S. Highway 1, thence north along U.S. Highway 1 to the North Carolina-Virginia State line, and thence west along the North Carolina-Virginia State line to point of beginning; restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E733), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture* and *furniture parts*, from points in Maine, New Hampshire, and Vermont on and northeast of a line beginning at Portland, Me., and extending northwest along U.S. Highway 302 to junction New Hampshire Highway 18, thence northwest along New Hampshire Highway 18 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Vermont Highway 15, thence along Vermont Highway 15 to Burlington, Vt., thence to Lake Champlain, to points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending south along U.S. Highway 301 to junction U.S. Highway 158, thence along U.S. Highway 158 to junction North Carolina Highway 305, thence southeast along North Carolina Highway 305 to junction U.S. Highway 13, thence south along U.S. Highway 13 to junction U.S. Highway 64, thence east along U.S. Highway 64 to junction North Carolina Highway 171, thence south along North Carolina Highway 171 to junction U.S. Highway 17, thence south along U.S. Highway 17 to the Pamlico River, thence along the Pamlico River to the Pamlico Sound, thence along the Pamlico Sound to the Neuse River, thence along the Neuse River to junction U.S. Highway 17, thence north along U.S. Highway 17 to junction North Carolina Highway 43, thence northwest along North Carolina Highway 43 to junction North Carolina Highway 58, thence northwest along North Carolina Highway 58 to junction U.S. Highway 401, thence north along U.S. Highway 401 to junction U.S. Highway 158, thence west along U.S. Highway 158 to junction U.S. Highway 1, thence north along U.S. Highway 1 to the North Carolina-Virginia State line, and thence east along North Carolina-Virginia State line to point of beginning; restricted against the transportation of Class A and B explosives, commodity in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E734), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture* and *furniture parts*, between points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the Virginia-West Virginia State line extending along West Virginia Highway 39 to junction West Virginia Highway 16, thence south along West Virginia Highway 16 to junction U.S. Highway 60, thence west along U.S. Highway 60 to junction Interstate Highway 64, thence west along Interstate Highway 64 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Ohio State line; restricted against

the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E735), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture* and *furniture parts*, between points in Maine on and northeast of a line beginning at Portland, Me., and extending north along Maine Highway 26 to the Maine-New Hampshire State line, thence north along the Maine-New Hampshire State line to the United States-Canada International Boundary line, on the one hand, and, on the other, points in West Virginia on and bounded by a line beginning at Marlington, W. Va., and extending west along West Virginia Highway 39 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction U.S. Highway 60, thence west along U.S. Highway 60 to junction Interstate Highway 64, thence west along Interstate Highway 64 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Ohio State line, thence north along the West Virginia-Ohio State line to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction U.S. Highway 33, thence east along U.S. Highway 33 to junction West Virginia Highway 16, thence south along West Virginia Highway 16 to junction Interstate Highway 79, thence east along Interstate Highway 79 to junction U.S. Highway 19, thence south along U.S. Highway 19 to junction unnumbered highway, thence along unnumbered highway to Cowen, W. Va., thence northeast along West Virginia Highway 20 to junction West Virginia Highway 15, thence east along West Virginia Highway 15 to junction U.S. Highway 219, thence south along U.S. Highway 219 to point of beginning; restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

By the Commission.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-34734 Filed 11-23-76;8:45 am]

[Notice No. 71]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

NOVEMBER 24, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 14, 1976. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76266. By order entered November 18, 1976 the Motor Carrier Board approved the transfer to Marvin L. Ottman, doing business as Gateway Nucla Express, Grand Junction, Colorado, of the operating rights set forth in Certificates of Registration Nos. MC 121257 (Sub-No. 2) and MC 121468 (Sub-No. 1), issued by the Commission October 19, 1967, and October 4, 1966, respectively, to Thomas G. Litton and Aileen K. Litton, doing business as Litton Warehouse Company, Grand Junction, Colorado, authorizing the transportation of freight, passengers and express, between specified points in Colorado. Richard R. Hunt, 433 South Avenue, Grand Junction, Mesa, Colo., representative for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-34736 Filed 11-23-76;8:45 am]

[Notice No. 156]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 19, 1976.

IMPORTANT NOTICE

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 65941 (Sub-No. 40TA) filed November 11, 1976. Applicant: TOWER LINES, INC., 3rd and Warwood Ave., Box 6010, Wheeling, W. Va. 26003. Applicant's representative: Paul M. Daniell, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hospital and medical supplies* moving in mixed shipments with textile products currently authorized, from the plantsite of Park Davis and Company, at or near Greenwood County, S.C., to McKees Rocks, Pa., for 180 days. Supporting shipper: Park-Davis & Company, Medical-Surgical Products Division, P.O. Box 368, Greenwood, S.C. 29646. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 103993 (Sub-No. 875TA) filed November 12, 1976. Applicant: MORGAN DRIVE-AWAY, INC., 28651 US 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, and sections of buildings*, on undercarriages, from Orange County, N.C., to points in South Carolina, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Redman Mobile Homes, Inc., P.O. Box 340, Mebane, N.C. 27302. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 109584 (Sub-No. 169TA) filed November 12, 1976. Applicant: ARIZONA-PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, Colo. 80207. Applicant's representative: Rick Barker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid graphite*, in bulk, in tank vehicles, from Buckeye, Ariz., to Cucamonga, Calif.; Denver, colo.; Pueblo, Colo.; Provo, Utah; and Houston, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: GLC Corporation, 25301 Baseline Road, Buckeye, Ariz. 85326. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 113678 (Sub-No. 642TA) filed November 11, 1976. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City (Denver), Colo. 80022. Applicant's representative: David Metzler, P.O. Box 16004 Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 add 766, from Hawrden, Iowa, to New York, N.Y., and points in its Commerciao Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tri State Meat Company, Bldg., D, Huntspoints Coop Market, Bronx, N.Y. 10474. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 791 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 113678 (Sub-No. 643TA) filed November 11, 1976. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City (Denver), Colo. 80022. Applicant's representative: David L. Metzler, P.O. Box 16004 Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware*, from Shreveport, La., to Denver, Colo., and points in its Commercial Zone, for 180 days. Supporting shippers: Banner Distributing Co., 4701 E. 50th Ave., Denver, Colo. 80216. Nolul Inc., 110 W. 48th Ave., Denver, Colo. 80217. Westman Commission Company, 4495 Jason St., Denver, Colo. 80211. Carson's Inc., 1301 Wazee St., Denver, Colo. 80207. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs Bldg., 721 19th St., Denver, Colo. 80202.

No. MC 123194 (Sub-No. 8TA) filed November 12, 1976. Applicant: ENTERPRISE TRUCK LINE, INC., 7336 W. 15th Ave., Gary, Ind. 46406. Applicant's representative: Eugene L. Cohn, 1 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, pickled tomatoes and sauerkraut*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite of Calusen Pickle Co., a subsidiary of Oscar Mayer & Co., Inc., at or near Woodstock, Ill., to points in Indiana and Michigan, restricted to traffic originating at the above-named origin and destined to the above-named destinations, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Ave., Madison, Wis. 53704. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 124230 (Sub-No. 29TA) filed November 10, 1976. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, Colo. 81321. Applicant's representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore and ore concentrates*, in bulk, (1) from Creede, Colo., to Pueblo and Canon City, Colo., and East Helena, Mont., and (2) from points in Grant County, N. Mex., to Creede, Colo., for 180 days. Supporting shippers: Minerals Engineering Company, P.O. Box 377, Creede, Colo. 81130. ASARCO, Inc., 405 Montgomery St., San Francisco, Calif. 84104. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 127575 (Sub-No. 5TA) filed November 10, 1976. Applicant: MOUNTAIN MOTORWAY, INC., 4902 Smith Road, Denver, Colo. 80216. Applicant's representative: Edward C. Hastings, Gold Suites, 666 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, in tank vehicles, commodities requiring special equipment and household goods as defined by the Commission), between Silver Plume, Colo., and the East Portal of Eisenhower Memorial Tunnel, on U.S. Interstate Highway No. 70 eleven miles Westerly of Silver Plume, Colo., and return over the same route. Applicant intends to tack its existing authority with MC 127575 at Silver Plume, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kiewit Brown & Root, P.O. Box 248, Georgetown, Colo 80444. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 135410 (Sub-No. 6TA) filed November 12, 1976. Applicant: COURTNEY J. MUNSON, doing business as MUNSON TRUCKING, 700 S. Main St., Monmouth, Ill. 61462. Applicant's representative: Courtney J. Munson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, tallow, shortening, vegetable oil shortening, margarine, and cooking oils*, in packages, from the facilities of Swift Edible Oil Company, located at or near Bradley, Ill., to points in New Jersey, New York, Maryland, Pennsylvania, Massachusetts and the District of Columbia, and the specified points on Manassas, Williamsburg, Richmond and Newport News, Va.; Dover, Rehoboth Beach and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester and Stamford, Conn.; Burlington, Brattleboro, Rutland and White River Jct., Vt.; Dover, Concord and Manchester, N.H.; Fairfield, Lewiston, Portland and August, Maine, and Providence and Cranston, R.I., and the Commercial Zones of the respectively named cities, for 180 days. Supporting shipper: Swift Edible Oil Company, Division of Swift & Company, Arnold A. Johnson, Distribution Manager, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 138000 (Sub-No. 23TA) filed November 15, 1976. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Louisville, Ky., and its commercial zone, to points in Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Falls City Brewing Co., Louisville, Ky. 40201. Send protests to: Forrest H. White, Bureau of Operations, Interstate Commerce Commission, Room 3238 Federal Bldg., 600 Arch St., Philadelphia, Pa. 19106.

No. MC 139310 (Sub-No. 2TA) filed November 9, 1976. Applicant: G. E. BELMORE, doing business as MOTOR TRANSIT COMPANY, 5822 N. Interstate, Portland, Oreg. 97217. Applicant's representative: Earle V. White, 2400 S. W. Fourth Ave., Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Compressed gases*, in cylinders; *cylinders; cylinder trucks; welders' machinery, equipment, kits, accessories, parts, and supplies including metal, cable, calcium carbide, electrodes, hose;* (1) between Portland, Oreg., and Longview, Wash., and (2) between Longview, Wash., on the one hand, and, on the other, points in Columbia and Clatsop Counties, Oreg., and Cowlitz, Wahkiakum and Pacific Counties, Wash., under a continuing contract with Liquid Air, Inc., for 180 days. Supporting shipper: Liquid Air, Inc., 3200 N.W. Y on Ave., Portland, Oreg. 97210. Send protests to: R. V. Dubay, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 139402 (Sub-No. 3TA) filed November 9, 1976. Applicant: H. O. SMESTAD CO., P.O. Box 2904, Great Falls, Mont. 59403. Applicant's representative: G. Robert Crotty, Jr., 400 First National Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt and carbonated beverages and related advertising materials, equipment and supplies*, from Jefferson County, Colo., to points in Montana; *and empty beer containers* on return, from points in Montana, to points in Jefferson County, Colo., for 180 days. Supporting shipper: Lou Bonner, Director of Transportation, Adolph Coors Company, Golden, Colo. 80401. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 141804 (Sub-No. 30TA) filed November 9, 1976. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 69501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electronic storage batteries and parts thereof, battery fluid, battery boxes, battery covers and battery vents*, between the plantsites and distribution facilities of Gould, Inc., at or near Dunmore, Pa.; Lynchburg, Va.; Zanesville, Ohio; Atlanta, Ga.; Orlando, Fla.; Memphis, Tenn.; Shreveport, La.; Farmers Branch, Tex.; Leavenworth, Kans.; St. Paul, Minn.; Denver, Colo.; Phoenix, Ariz.; Hayward and City of Industry, Calif.; Salem, Oreg.; Omaha, Nebr.; Frisco, Tex.; and Philadelphia, Pa., for 180 days. Supporting shipper: Gould, Inc., P.O. Box 3140, St. Paul, Minn. 55165. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141878 (Sub-No. 2TA) (Correction) filed October 26, 1976, published in the FEDERAL REGISTER issue of November 5, 1976, and republished as corrected this issue. Applicant: DIRECT COURIER, INC., 2780 S. Jefferson Davis Highway, Arlington, Va. 22202. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sera, cell and tissue cultures, biological research products and equipment, laboratory equipment and apparatus, medical reagents, plasma and live laboratory animals*, between Montgomery and Frederick Counties, Md., and points in Virginia, on the one hand, and on the other, points in North Carolina, South Carolina and Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Microbiological Associates, Division of Whittaker Corporation, Biggs Ford Road, Walkersville, Md. Meloy Laboratories, Inc., 6715 Electronic Drive, Springfield, Va. SEND PROTESTS TO: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423. The purpose of this republication is to correct the commodity description in this proceeding.

No. MC 142441 (Sub-No. 1TA) (Correction) filed September 14, 1976, published in the FEDERAL REGISTER issue of September 28, 1976, and republished as corrected this issue. Applicant: LARRY DEAN FRIESE, doing business as FRIESE CONSTRUCTION COMPANY, Route 2, Box 190-B, Daphne, Ala. 36526. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, asphalt and road base materials*, in bulk, in dump vehicles, from Baldwin, Mobile, Escambia, Monroe, Conecuh, Clarke and Washington Counties, Ala., to points in Florida on and west of U.S. Highway 231 and points in Mississippi on and south of U.S. Highway 80, for 180 days. Supporting shipper: Rachels-Horton Industries, d/b/a Smith-Kelly Supply Company, Box 1227, Mobile, Ala. 36607. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 142560 (Sub-No. 1TA) filed November 12, 1976. Applicant: B & W CHARTER SERVICE, P.O. Box 94, Reddick, Ill. 60961. Applicant's representative: Walter G. Haas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newspapers, passengers and baggage of passengers*, from Reddick, Ill., in the counties of Kankakee and Grundy and Livingston, Ill., to all areas surrounding Illinois, i.e. Indiana, Wisconsin, Iowa, Kentucky, Missouri and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Owens-Illinois Inc., 901 N. Shabbona St., Doris A. Surrock, Employee Relations Representative, Streator, Ill. 61364. Reddick Senior Citizens Group, Mildred Patchett, Transportation Chairman, Rt. B123, Reddick, Ill. 60961. George H. Ryan, Sr., State Representative, House of Representatives, Springfield, Ill. 62706. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142570TA (Correction) filed October 18, 1976, published in the FEDERAL REGISTER issue of November 8, 1976, and republished as corrected this issue. Applicant: WELDON G. WILSON, doing business as ADVANCE MOVING & STORAGE CO., 120 East "D", Altus, Okla. 73521. Applicant's representative: Weldon G. Wilson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pickup and delivery service, in connection with packing, crating and containerization or unpacking, uncrating and decontainerization* of household goods and military baggage between Beckham, Greer, Harmon, Jackson, Custer, Dewey, Ellis, Roger Mills, Washita and Beaver Counties, Okla.; Childress, Collingsworth, Donley, Hall, Gray, Wheeler, Roberts, Hemphill, Ochiltree and Lipscomb Counties, Tex., under a continuing contract with Chief, Contract Administration, for 180 days. Supporting shipper: Chief, Contract Administration, 443 MAW, Altus AFB, 443 MAW/LGP, Altus AFB, Okla. 73521. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101. The purpose of this republication is to correct the applicant's name.

No. MC 142594 (Sub-No. 1TA) filed November 8, 1976. Applicant: BRAZOS, INC., 1602 Main St., Lubbock, Tex. 79401. Applicant's representative: Richard Hubbert, 1607 Broadway, P.O. Box 2976, Lubbock, Tex. 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Lubbock Regional Airport, located near Lubbock, Tex., and Lubbock, Tex., and DFW Airport, located near Dallas, Tex., and Dallas Tex. restricted to shipments having an immediate prior or subsequent movement by air for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Burlington Northern Air Freight, P.O. Box 1311; and Texas Instruments, Inc., 2301 N. University, Lubbock, Tex. 79408. Profit By Air; and Airborne Air Freight, P.O. Box 61066, DFW Airport, Tex. 75261. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 70101.

PASSENGER APPLICATION

No. MC 115521 (Sub-No. 3TA) filed November 12, 1976. Applicant: MCDERMOTT BUS CORP., 2164 Caton Ave., Brooklyn, N.Y. 11226. Applicant's representative: Sidney J. Leshin, 575 Madison Ave., New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passenger*, beginning and ending in the Boroughs of Brooklyn and Queens, City of New York and extending to the Meadowland Sporting Complex, East Rutherford, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 32 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.76-34737 Filed 11-23-76;8:45 am]

[Notice No. 72]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 24, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under § 212a(b) in connection with transfer application under §212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76823. By application filed November 15, 1976, QUIMBY TRUCKING, INC., P.O. Box 807, Hermiston, OR., 97838, seeks temporary authority to lease the operating rights of HENRY L. CAMPBELL, AN INDIVIDUAL, P.O. Box 307, Helix, OR., 97835, under section 210a(b). The transfer to QUIMBY TRUCKING, INC., of the operating rights of HENRY L. CAMPBELL, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-34735 Filed 11-23-76;8:45 am]

[Notice No. AB 20 (Sub-No. 2)]

TEXAS AND PACIFIC RAILWAY CO.

Abandonment Between Mansura and Marksville, in Avoyelles Parish County, Louisiana

NOVEMBER 11, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of the Texas and Pacific Railway Company branch line from Mansura to Marksville, a distance of 5.1 miles in Avoyelles Parish, La., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the abandonment would not result in significant alterations in the ecology of the area tributary to the branch line. Traffic volumes on the branch line are low, so that the diversion to motor carrier transport would not measurably depreciate regional air quality or substantially increase energy consumption. Local water quality, wildlife, and vegetation would not be significantly impaired by the proposed abandonment. It has been suggested, however, that caution be exercised in the removal of the bridges in order that any alligators inhabiting the bayous crossed by the line are minimally disturbed. No measurable impact upon public safety would be expected. The right-of-way is not particularly suitable for public recreational use.

Although agricultural and industrial development in the area of the proposed abandonment would not be significantly impeded, some large scale manufacturing and retailing enterprises requiring direct rail access may not choose to locate along the Mansura to Marksville corridor as a result of the abandonment. The only plan for rural and community development in the subject area which is related to the continuation of service on the branch line is a master plan for a new Marksville municipal airport and air industrial park. The master plan calls for spurs to connect the air industrial park with the line, but the implementation of the plan is postponed indefinitely due to a lack of local funding. The overall effects of the proposed abandonment on rural and community development are not expected to be serious.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before December 27, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.76-34738 Filed 11-23-76;8:45 am]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 59909 (Sub-No. 1) (Notice of filing of petition to delete restrictions) filed October 20, 1976. Petitioner: JACOBS TRANSFER, INC., 2300 Beaver Rd., Landover, Md. 20785. Petitioner's representatives: Francis W. McInerny, Richard A. Mehley, 1000 16th Street, N.W., Washington, D.C. 20036. Petitioner holds a motor *common carrier* Certificate in No. MC 59909 (Sub-No. 1), issued September 24, 1965, authorizing transportation, as pertinent, over irregular routes of (1) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) from Washington, D.C., to points in Delaware, Maryland and Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal; and (b) from Annapolis, Md., to Washington, D.C., and points in Delaware and Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal; and (2) *returned shipments* of the commodities specified above, from the destination points described above to their respective origin points, restricted such that the authority above shall not be joined or combined with any other authority held by carrier or by any person or persons controlling, controlled by, or under common control with carrier, for the purpose of providing through service from and to points other than those specified above; (3) *general commodities* (except livestock, Classes A and B explosives, and household goods as defined by the Commission), from points in the Washington, D.C., Commercial Zone, as defined by the Commission, to points in St. Marys, Charles, Calvert, Howard, and Anne Arundel Counties, Md., those in Montgomery and Prince Georges Counties, Md., not included in said Commercial Zone, and those in Fairfax, Prince William, and Loudoun Counties, Va.; (4) *returned, rejected, or undelivered shipments* of the above-described commodities, from the destination points specified above to points in the Washington, D.C., Commercial Zone, as defined by the Commission.

(5) *General commodities* (except livestock, explosives, household goods as defined by the Commission, commodities in bulk, in tank, or hopper-type vehicles, bricks and cinder blocks, cement in truckload lots, and building materials in trailerload lots), from Washington, D.C., to Baltimore, Md., points in Baltimore, Carroll, and Frederick Counties, Md., and points in Fauquier, Spotsylvania, and Stafford Counties, Va.; and (6) *returned or undelivered shipments* of the commodities specified immediately above, from the destination points specified immediately above to Washington, D.C.; restricted such that the authority above shall be limited to the transportation of shipments moving from, to, or between warehouses, retail outlets, or other establishments of business houses engaged in the sale of general merchandise.

By the instant petition, petitioner seeks to delete both the restrictions in the authority above. Petitioner moves that the instant petition be consolidated with the proceeding in No. MC-C-9025, *Kane Transfer Company* v. *Jacobs Transfer, Inc.*

No. MC 106001 (Sub-No. 8G) (Notice of filing of petition to modify commodity description), filed October 27, 1976. Petitioner: DEENIS TRUCKING COMPANY, INC., 6951 Norwitch Dr., Philadelphia, Pa. 19153. Petitioner's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, Pa.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

19102. Petitioner holds a motor *common carrier* Certificate in No. MC 106001 (Sub-No. 8G), issued March 31, 1975, authorizing transportation, as pertinent, over irregular routes, of *iron and steel* requiring specialized handling or rigging because of size or weight, from Baltimore, Md., to points in that part of Pennsylvania on, east and south of a line beginning at the Pennsylvania-New York State line and extending south along U.S. Highway 220 thru Sayre, Pa., to junction U.S. Highway 6, thence west along U.S. Highway 6 to junction Pennsylvania Highway 14, thence along Pennsylvania 14 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 64, thence along Pennsylvania Highway 64 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 26, thence south along Pennsylvania Highway 26 to State College, Pa., thence east along U.S. Highway 322 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 16, thence southeast along Pennsylvania Highway 16 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Pennsylvania-Maryland State line (except points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Delaware State line, and extending along U.S. Highway 202 to junction Pennsylvania Turnpike Northeast Extension, thence north along Pennsylvania Turnpike Northeast Extension to junction Interstate Highway 81, thence along Interstate Highway 81 to the Pennsylvania-New York State line, thence east along the Pennsylvania-New York State line to the Delaware River, thence south along the Delaware River to the Pennsylvania-Delaware State line, and thence west along the Pennsylvania-Delaware State line to the point of beginning, including points on the indicated portions of the specified highways), and Wilmington, Del. By the instant petition, petitioner seeks to modify the commodity description above by adding the word "articles" after *iron and steel* and before the qualifying phrase "requiring specialized handling or rigging because of size or weight."

No. MC 108884 (Sub-No. 15) (Notice of filing of petition to modify commodity description) filed October 22, 1976. Petitioner: ROGERS TRANSFER, INC., Route 46, P.O. Box 175, Great Meadows, N.J. 07838. Petitioner's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds a motor *common carrier* Certificate in No. MC 108884 (Sub-No. 15), issued November 25, 1975, authorizing transportation over irregular routes, of *frozen foods*, from New York, N.Y., and points in Hudson and Bergen Counties, N.J., to those points in that part of Pennsylvania on and east of U.S. Highway 15, restricted against the transportation of frozen imported meats having a prior movement by water. By the instant petition, petitioner seeks to modify the commodity description above by deleting "frozen foods" and substituting "refrigerated foods" in lieu thereof.

No. MC 115818 (Sub-No. 13) (Notice of filing of petition to add a contracting shipper) filed November 2, 1976. Petitioner: WESTBURY TRANSPORT, INC., 397 E. 54th St., Elmwood Park, N.J. 07407. Petitioner's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Petitioner holds a motor *contract carrier* Permit in No. MC 115818 (Sub-No. 13), issued July 22, 1976, authorizing transportation over irregular routes, of (1) *such merchandise* as is dealt in by retail department stores (except commodities in bulk), (a) from New York, N.Y., to points in New Jersey, New York, and Connecticut; and (b) from Paterson, N.J., to points in Connecticut, New Jersey (except Paterson) and New York; and (2) *returned shipments* of the commodities described in (1) above, (a) from points in New Jersey, New York, and Connecticut, to New York, N.Y.; and (b) from points in Connecticut, New Jersey (except Paterson), and New York, N.Y., to Paterson, N.J., under a continuing contract, or contracts, with Allied Stores of New York, Inc., of Jamaica, N.Y. By the instant petition, petitioner seeks to add Bedding Showcase, Inc. of Huntington, N.Y. as an additional contracting shipper to the authority above.

No. MC 117852 (Sub-No. 2) (Notice of filing of petition to modify commodity description) filed October 27, 1976. Petitioner: HAROLD'S GARAGE, INC., 19 Holyoke St., Northampton, Mass. 01060. Petitioner's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Petitioner holds a motor *common carrier* Certificate in No. MC 117852 (Sub-No. 2), issued May 21, 1975, authorizing transportation over irregular routes, of *wrecked, disabled, or damaged motor vehicles, dollies, trailers, and semi-trailers* (except house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between Enfield, Suffield, Windsor Locks, and Warehouse Point, Conn., and points in Massachusetts, on the one hand, and, on the other, points in that part of the United States east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. By the instant petition, petitioner seeks to modify the commodity description above by deleting "wrecked, disabled, or damaged motor vehicles," and substituting "motor vehicles" in lieu thereof.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 263 (Sub-No. 220) (republication), filed February 5, 1975, and published in the FR issues of March 6, 1975, and July 22, 1976, and republished this issue. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, Idaho 83201. Applicant's representative: Wayne S. Green (same address as applicant). An Order of the Commission, Division 1, Acting as an Appellate Division, dated October 20, 1976 and served November 8, 1976, finds that the present and future public convenience and necessity required operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes in the transportation of *foodstuffs*, between the facilities of the Green Giant Company located at Glencoe and Lesueur, Minn., on the one hand, and, on the other, Billings, Mont.; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate applicant's unrestricted service authorized at Billings, Mont.

No. MC 141340 (republication), filed September 11, 1975, published in the FR issue of October 9, 1975, and republished as granted this issue. Applicant: HENDERSON TRANSFER, INC., Henderson, Nebr. 68371. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. An Order by the Commission, Review Board Number 3, dated October 26, 1976 and served November 10, 1976, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes in the transportation of (1) *Irrigation equipment, materials and supplies*, from Henderson, Nebr., to points in Montana, Idaho, Utah, New Mexico, Missouri, Minnesota, South Dakota, Wyoming, Oregon, Washington, Arizona, Iowa, Louisiana, Kansas, Oklahoma, Colorado, Nevada, California, Arkansas, Texas, North Dakota, Wisconsin, Indiana, Tennessee, Alabama, New York, South Carolina, Ohio, Mississippi, Georgia, Pennsylvania, Virginia, Illinois, Kentucky, Michigan and North Carolina; and (2) *materials, equipment and supplies* used in the manufacture, production, and distribution of irrigation equipment, materials, and supplies (except commodities in bulk), from points in Kentucky, New

York, Pennsylvania, Alabama, Iowa, Illinois, Oregon, Georgia, Minnesota, Washington, California, and Idaho, to Henderson, Nebr., under a continuing contract, or contracts, with Midwest Irrigation, Inc., located at Henderson, Nebr.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant in (1) above of "irrigation equipment, materials and supplies" in lieu of "irrigation pipe".

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant of no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 730 (Sub-No. 397), filed October 28, 1976. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles, from Pima and Maricopa Counties, Ariz., to points in California, Nevada and Utah; and (2) *crude fish oil*, in bulk, in tank vehicles, from Terminal Island, Calif., to Colorado Spring, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles or San Francisco, Calif.

No. MC 4405 (Sub-No. 535), filed October 12, 1976. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Enterprise Bldg., Tulsa, Okla. 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rail car moving equipment;* (2) *overhead material handling equipment;* (3) *foundry and steel melting equipment;* (4) *railroad maintenance and operational equipment;* (5) *evaporators, crystallizers, filters, centrifuges, pulpwashers, and spray or rotary dryers;* and (6) *parts and accessories* for items described in (1) through (5) above, (a) between the plantsite of The Whiting Corporation, located at Harvey, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (b) between the plantsite of The Whiting Corporation, located at Attalla, Ala., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 11207 (Sub-No. 380), filed October 29, 1976. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, cast iron pipe fittings, meter boxes, stop-cock boxes, valve boxes and accessories thereto*, from the plantsite and facilities of Opelika Foundry Company, located at or near Opelika, Ala., to those points in Illinois, Indiana, and Ohio on and south of Interstate Highway 70, and those in Missouri on and south of Interstate Highway 44.

NOTE.—If a hearing is deemd necessary, the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 20992 (Sub-No. 39), filed October 26, 1976. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garage doors, accessories and parts thereof*, from the plant and warehouse sites of Ideal Door, Inc. located at Woodville, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, West Virginia and Wisconsin; and (2) *equipment, materials and supplies* used in the manufacture, production and distribution of the above named commodities, from points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Washington, West Virginia and Wisconsin, to Woodville, Wis., restricted to the transportation of traffic orginating at or destined to Woodville, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Paul, Minn. or Chicago, Ill.

No. MC 22195 (Sub-No. 169), filed October 26, 1976. Applicant: DAN DUGAN TRANSPORT COMPANY, a Corporation, 41st & Grange Avenue, Sioux Falls, S. Dak. 57105. Applicant's representative: Fred Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, (1) from the facilities of Gulf Central Pipeline located at or near Spencer, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota; (2) from the facilities of Gulf Central Pipeline located at or near Holstein, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota; and (3) from the facilities of Gulf Central Pipeline located near David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Sioux Falls, S. Dak.

No. MC 25869 (Sub-No. 128), filed October 18, 1976. Applicant: NOLTE BROS. TRUCK LINE, INC., 4800 Colorado Blvd., Denver, Colo. 80216. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 W. Center, Rd., Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 76, from the plantsite and storage facilities utilized by

Acme Markets; Inc., and its subsidiary, American Stores Packing Division, at or near Lincoln, Nebr., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia, restricted to the transportation of traffic originating at or destined to the facilities of Acme Markets, Inc., or its subsidiaries.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.; Chicago, Ill.; or Washington, D.C.

No. MC 42487 (Sub-No. 856) (partial correction), filed September 13, 1976, published in the FEDERAL REGISTER issue of October 29, 1976, and republished as corrected this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036. The purpose of this partial correction is to indicate the correct territory sought in paragraph (3) to read: Waterbury, Conn. and to add after: NOTE.—Consolidated Freightways Corporation of Delaware does not seek to serve any points it cannot presently serve other than the new terminal site here involved. We merely seek to operate to and from the new terminal site over the routes herein described. These routes can tack with present authority. Common control may be involved.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 44735 (Sub-No. 32), filed October 26, 1976. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th St., Kansas City, Mo. 64126. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 276 (except Oilfield commodities, as defined by the Commission in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459 and commodities which because of size or weight require the use of special equipment and/or special handling), from Sterling and Rock Falls, Ill., to points in Colorado and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidate hearing, but did not specify a location.

No. MC 539965 (Sub-No. 122), filed October 28, 1976. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Box 1387, Salina, Kans. 67401. Applicant's repersentative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and *frozen foods* (except hides and commodities in bulk), from points in Colorado on and east of the Continental Divide to points in Arizona, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin (except Chicago and its commercial zone).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 58549 (Sub-No. 23), filed October 20, 1976. Applicant: GENERAL MOTOR LINES, INC., 1534 Granby Street, N.E., P.O. Box 13727, Roanoke, Va. 24034. Applicant's representative: Jerry D. Beard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between points in Roanoke, Craig, Franklin, Patrick, and Henry Counties, Va., that part of Bedford County, Va., lying on and south of U.S. Highway 460, and that part of Pittsylvania County, Va., lying on, west, and south of a line extending from the Bedford-Franklin-Pittsylvania County line over Secondary Highway 908 to its intersection with Secondary Highway 777, thence over Secondary Highway 777 to its intersection with Secondary Highway 751, thence over Secondary Highway 751 to its intersection with Virginia Highway 40, thence over Virginia Highway 40 to its intersection with Secondary Highway 626, thence over Secondary Highway 626 to its intersection with Virginia Highway 41, thence over Virginia Highway 41 to its intersection with Virginia Highway 86, thence over Virginia Highway 86 to the Virginia-North Carolina State line, restricted in Bedford County against service at Bedford, Va., and further restricted in Franklin County against service at Rocky Mount and Ferrum, Va., and points on U.S. Highway 220 between the Franklin-Roanoke County line and Rocky Mount, and points on Virginia State Highway 40 between Ferrum and Rocky Mount, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Roanoke, Va. or Washington, D.C.

No. MC 61440 (Sub-No. 157), filed October 22, 1976. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108. Applicant's representative: Richard H. Champlin, P.O. Box 82488, Oklahoma City, Okla. 73108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk), Between Covington, Ky., and Columbus, Ohio serving all intermediate points: (1) From Covington, Ky., over U.S. Highways 25 and 42 to Cincinnati, Ohio, thence over U.S. Highway 25 to Dayton, Ohio, thence over U.S. Highway 25 to the intersection of U.S. Highway 25 and U.S. Highway 40 at or near Vandalia, Ohio, thence over U.S. Highway 40 to Columbus, Ohio, and return over the same route serving all intermediate points; (2) From Covington, Ky., over U.S. Highway 25 and 42 to Cincinnati, Ohio, thence over U.S. Highway 42 to the intersection of U.S. Highway 42 and U.S. Highway 40 at or near West Jefferson, Ohio, thence over U.S. Highway 40 to Columbus, Ohio, and return over the same route serving all intermediate points; (3) From Covington, Ky., over U.S. Highway 25 and 42 to Cincinnati, Ohio, thence over U.S. Highway 50 to Hillsboro, Ohio, thence over U.S. Hghiway 62 to Columbus, Ohio, and return over the stame route serving all intermediate points; (4) Serving all points in that part of Ohio on and West of U.S. Highway 62 and on and south of U.S. Highway 40 and all points in Boone, Campbell, and Kenton Counties, Ky., as off route points in connection with the above described routes.

NOTE.—The purpose of this filing is to convert applicant's irregular route authority to regular route authority. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 65626 (Sub-No. 29), filed October 27, 1976. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, N.Y. 14063. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W. Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Dunkirk and Fredonia, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 71452 (Sub-No. 12), filed October 26, 1976. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris Street, Indianapolis, Ind. 46241. Applicant's representative: Robert E. McFarland, 999 W. Big Beaver Road, Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, restricted to individual articles, not exceeding 100 pounds in weight, moving in shipments not exceeding 500 pounds in weight from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders between points in Indiana, and points in Henderson, Daviess, Jefferson, Boone, Keton and Campbell Counties, Ky., Hamilton, Butler, Preble, Montgomery, Paulding, Defiance and Williams Counties, Ohio; Branch County, Mich.; and Iroquois, Vermilion and Clark Counties, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., Detroit, Mich. or Chicago, Ill.

No. MC 73165 (Sub-No. 395), filed October 18, 1976. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33rd St., Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranes, crane parts, crane attachments, crane accessories and debarking drums*, from the facilities of Manitowoc Engineering, Inc., located at or near Manitowoc, Wis., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia, restricted to traffic orginating at the named origin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis., or Chicago, Ill.

No. MC 82492 (Sub-No. 138), filed October 22, 1976. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Poultry;* (2) *such commodities* as are dealt in by farm supply companies; and (3) *such commodities* as are manufactured, sold, distributed or used by persons engaged in the manufacturing, processing or milling of grain and soybean products (except commodities in bulk and except commodities which because of size or weight require special equipment), between points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Wisconsin and points in New York in and west of Broome, Courtland, Onondaga and Oswego Counties, restricted to traffic moving for the account of Central Soya Company, Inc., and its divisions and subsidiaries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 82492 (Sub-No. 139), filed October 26, 1976. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Carthage, Mo., to points in Illinois, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Kansas City, Mo.

No. MC 82841 (Sub-No. 199), filed October 20, 1976. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, forest products, particleboard, and fibreboard*, from points in Idaho, Montana, Oregon, and Washington, to points in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Nebraska, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Boise, Idaho.

No. MC 83539 (Sub-No. 444), filed October 22, 1976. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West *Commerce Street, P.O. Box 5976, Dallas*, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulated wall board and roof insulation*, from San Antonio, Tex., to points in the United States (including Alaska but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Antonio, Tex., or Washington, D.C.

No. MC 83539 (Sub-No. 445), filed October 26, 1976. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. *Applicant's representative:* Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Cast iron pipe, fittings, valves and hydrants and materials*, used in the installation thereof (except Oilfield commodities, as defined in Mercer Extension Oilfield Commodities. 74 M.C.C. 459), *from the plantsite and facilities* of Clow Corporation, located at Coshocton, Ohio, to points in Alaska, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming; and (2) *refused, rejected or returned shipments*, from points in the above described destinations to Coshocton, Ohio, restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 89617 (Sub-No. 18), filed October 14, 1976. Applicant: LEWIS *TRUCK LINES, INCORPORATED*, Route No. 6, Box 65A, Conway, S.C. 29526. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building and insulating materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of CertainTeed Corporation located in Granville County, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan (Lower Peninsula), Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; (2) *Materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials, from the destination points in (1) above, to the plantsite and warehouse facilities of CertainTeed Corporation, located in Granville County, N.C.; and (3) *Roofing, building and insulating materials* and *materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials between the plantsites and warehouse facilities of CertainTeed Corporation in Granville County, N.C., on the one hand, and on the other, the plantsites and warehouse facilities of CertainTeed Corporation located in Clarke and Chatham Counties, Ga., Cook and St. Clair Counties, Ill.; Scott County, Minn., Jackson County, Mo., Erie County, Ohio, Mayes County, Okla.; York County, Pa. and Dallas County, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record at either Columbia, S.C., Charlote, N.C. or Washington, D.C.

No. MC 96629 (Sub-No. 3), filed October 15, 1976. Applicant: SHIFFLET BROS., INC., P.O. Box 206, Gridley, Calif. 95948. Applicant's representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, Calif. 94194. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers* in bulk, in tank, pressure or hopper-type vehicles, from Lathrop, Hercules, Stockton, Richvale, and Helm, Calif., and the plantsite of Valley Nitrogen Producers located at or near Corning, Calif., to points in Oregon.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at San Francisco, Calif.

No. MC 98864 (Sub-No. 2), filed October 21, 1976. Applicant: EDWARD SITAR TRUCKING CO., INC., 2501 South Artesian, Chicago, Ill. 60608. Applicant's representative: H. Neil Garson, 1400 North Uhle Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *batteries and battery parts*, (a) between the ESB Industrial Plant site located at Richmond, Ky., on the one hand, and, on the other, the ESB Service Center plantsite located at Benton, Ill., the ESB Service Center plantsite located at Chicago, Ill., and the Cermack Industries plantsite located at Chicago, Ill.; and (b) from the ESB Industrial Plant site at Richmond, Ky. to points in Illinois (except the ESB Service Center plantsites located at Benton, Ill., Chicago, Ill., and the Cermack

Industries plantsite located at Chicago, Ill.); (2) *General commodities* (except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives and commodities requiring special equipment), between Chicago, Ill. and points in Lake, McHenry, Boone, Cook, DuPage, Kane, DeKalk, Will, Kendall and La Salle Counties, Ill.; and (3) *General commodities* (except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, and commodities requiring special equipment), between points in (2) above on the one hand, and, no the other, points in Illinois. Note: With respect to (2) and (3) above, applicant states it seeks to convert its Certificate of Registration to a Certificate of Public Convenience and Necessity.

NOTE.—If a hearing is deemed necessary, the aplicant requests it be held at Chicago, Ill.

No. MC 99161 (Sub-No. 6), filed October 18, 1976. Applicant: ALABAMA FREIGHT, INC., P.O. Box 611, Birmingham, Ala. 35201. Applicant's representative: John M. Nader, Route No. 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron, steel, brass, bronze, copper and aluminum articles, and plastic pipe* (except commodities in bulk, in tank vehicles) (1) between the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham and Mobile, Ala., Little Rock, Ark., Jackson, Miss., Chattanooga, Tenn., Jacksonville and Tampa, Fla., and Atlanta, Ga.; (2) between the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham and Mobile, Ala., Little Rock, Ark., Jackson, Miss., Chattanooga, Tenn., Jacksonville and Tampa, Fla., and Atlanta, Ga., on the one hand, and, on the other, the plantsites and storage facilities of O'Neal Steel located at or near Shreveport and Lafayette, La.; (3) from the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham and Mobile, Ala., Little Rock, Ark., Jackson, Miss., Chattanooga, Tenn., Jacksonville and Tampa, Fla., and Atlanta, Ga. to points in Louisiana; and (4) from the plantsite and storage facilities of O'Neal Steel, Inc., located at or near Birmingham and Mobile, Ala., Jackson, Miss., Chattanooga, Tenn., Jacksonsonville and Tampa, Fla., Atlanta, Ga., and Shreveport and Lafayette, La. to points in Arkansas, restricted to the transportation of traffic originating at or destined to the plantsites or storage facilities of O'Neal Steel, Inc., located at or near the points named above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., Atlanta, Ga. or Nashville, Tenn.

No. MC 105159 (Sub-No. 35), filed October 21, 1976. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, Minn. 55066. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dried milk products*, and *commodities*, the transportation of which is otherwise exempt under Section 203(b) (6) of the Interstate Commerce Act when moving in mixed loads with dried milk products, from points in Minnesota, to points in Indiana, Ohio, Illinois (except Chicago and its commercial zone), and the Lower Peninsula of Michigan (except Detroit and its commercial zone).

NOTE.—Applicant has contract carrier authority pending in MC 140251, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 105375 (Sub-No. 66), filed October 21, 1976. Applicant: DAHLEN TRANSPORT OF IOWA, INC., 1680 Fourth Avenue, Newport, Minn. 55055. Applicant's representative: Leonard A. Jaskiewicz, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed, and liquid animal feed supplements*, in bulk, in tank vehicles, from St. Paul, Minn., to points in Iowa, North Dakota, South Dakota and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either St. Paul or Minneapolis, Minn., or Chicago, Ill.

No. MC 106674 (Sub-No. 214), filed October 21, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry fertilizer*, in bags, from Henry, Ill., to points in Indiana, Michigan and Wisconsin; and (2) *fertilizer solution* in bulk in tank vehicles, from Morris, Ill. to points in Indiana, restricted in (1) above to the transportation of shipments originating at the plantsite of the W. R. Grace Company, located at Henry, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 107295 (Sub-No. 835), filed October 27, 1976. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors and door sections;* and (2) *parts and accessories* used in the installation of commodities described in (1) above, from the plantsite and storage facilities of Dalton-International, Inc., located at or near Dalton, Ohio, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 107295 (Sub-No. 836), filed October 21, 1976. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building board*, from the plantsite and warehouse facilities of the Keene Corporation, at Kalamazoo, Mich., to Louisville, Ky.; St. Louis, Mo.; and Omaha, Nebr., and points within their Commercial Zones as defined by the Commission; points in Georgia, Illinois, Indiana, Iowa, Michigan, those points in New York north of U.S. Highway 6, points in North Carolina, Ohio, those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 81 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61, to Reading, Pa., and thence along Pennsylvania Highway 10 to the Pennsylvania-Maryland State line, and points in South Carolina, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 837), filed October 21, 1976. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from North Tonawanda, N.Y., to points in Connecticut, Delaware, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107515 (Sub-No. 1035), filed October 27, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese* (except in bulk), in vehicles equipped with mechanical refrigeration, from Leitchfield, Ky. to points in Alabama, Florida, Georgia, Louisiana, New Mexico, North Carolina, Oklahoma, South Carolina, Texas and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 107515 (Sub-No. 1036), filed October 28, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Rd., SE., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30329. Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods,* in vehicles equipped with mechanical refrigeration, from Wheeling, W. Va., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, Louisiana, Missouri, Mississippi, North Carolina, Oklahoma, Tennessee, Texas and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 108393 (Sub-No. 108), filed October 19, 1976. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances, parts of electrical and gas appliances, and equipment, materials, and supplies,* used in the manufacture, distribution, and repair of electrical and gas appliances, between Evansville, Ind., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted against the transportation of commodities in bulk, and limited to a transportation service to be performed under a continuing contract or contracts with Whirlpool Corporation.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108393 (Sub-No. 110), filed October 21, 1976. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, National Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances,* between points in Illinois, Indiana, Kentucky, Michigan, and Ohio, under a continuing contract, or contracts, with Whirlpool Corporation, restricted to the transportation of shipments having an immediately prior or subsequent movement by rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 108393 (Sub-No. 111), filed October 20, 1976. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, tranpsorting: *Carpets, carpeting and floor covering,* from Lombard, Ill., to points in Lake County, Ind., under a continuing contract or contracts with Whirlpool Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109223 (Sub-No. 4), filed October 27, 1976. Applicant: HERITAGE TRUCKING CO., a Corporation, 6030 Joy Road, Detroit, Mich. 48204. Applicant's representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from Detroit, Mich., to points in Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Sanilac, Shiawassee, St. Clair, Tuscola, Washtenaw and Wayne Counties, Mich., under a continuing contract, or contracts with The Rath Packing Company; and (2) from Detroit Mich., to points in Defiance, Lucas, Ottawa and Wood Counties, Ohio, under a continuing contract, or contracts, with The Rath Packing Company and John Morrell and Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit or Lansing, Mich.

No. MC 110525 (Sub-No. 1171), filed October 29, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtoń, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural insecticides,* in bulk, in tank vehicles, (1) from Mount Pleasant (Maury County), Tenn., to ports of entry on the International Boundary line between the United States and Canada, located on the Detroit, St. Clair Rivers, Trout River, Alexandria Bay, Rooseveltown, Ogdenburg, and Champlain, N.Y. and Highgate Springs, Derby Line and Norton, Vt., restricted to traffic destined to the Province of Quebec, Canada; (2) from Mount Pleasant (Maury County), Tenn., to ports of entry on the International Boundary line between the United States and Canada, located Calais, Van Buren and Houlton, Maine, restricted to traffic destined to the Province of New Brunswick, Canada; and (3) from Mount Pleasant (Maury County), Tenn., to ports of entry on the International Boundary line between the United States and Canada, located at Sault Ste. Marie, Mich. and Pigeon River, Minn., Detroit and St. Clair Rivers, restricted to traffic destined to the Province of Ontario, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 111981 (Sub-No. 21) (Amendment), filed September 16, 1976, published in the FEDERAL REGISTER issue of October 29, 1976, and republished as amended this issue. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street & Oregon Avenue, Philadelphia, Pa. 19102. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foods, food products, food ingredients, animal foods, animal food ingredients and meat by-products* (except in bulk), (1) from the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) from the destination states named in (1) above, to the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., restricted in (1) above to the transportation of traffic originating at the warehouses of Beatrice Foods Co., at Scranton, Pa., and at or near Allentown, Pa., and destined to the named destination states; and in (2) above, to the movement of traffic originating in the named origin states and destined to the warehouses of Beatrice Foods Co., at Scranton, Pa., and at or near Allentown, Pa.

NOTE.—The purpose of this amendment is to indicate the correct commodity description. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 112588 (Sub-No. 22), filed September 24, 1976. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Roofing, building and insulating materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of Certain Teed Corporation, in Granville County, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, those points in the lower peninsula of Michigan, and points in Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; (2) *materials, equipment and supplies,* used in the manufacture, installation and distribution of roofing and building material, from points in the above described territory to the plantsite and warehouse facilities of Certain Teed Corporation, in Granville County, N.C., and (3) *roofing, building and insulating materials, and materials, equipment and supplies,* used in the manufacture, installation and distri-

bution of roofing and building materials, between the plantsites and warehouse facilities of Certain Teed Corporation, in Granville County, N.C., on the one hand, and, on the other, the plantsites and warehouse facilities of Certain Teed Corporation, in Clarke and Chatham Counties, Ga.; Cook and St. Clair Counties, Ill.; Scott County, Minn.; Jackson County, Mo.; Erie County, Ohio; Mayes County, Okla.; York County, Pa., and Dallas County, Tex.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 113267 (Sub-No. 342), filed October 18, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese, cheese products, and synthetic cheese*, from Green Bay, Wis., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and (2) *foodstuffs, food ingredients, advertising materials, specialties and related equipment and supplies*, when moving with foodstuffs and food ingredients (except in bulk in tank vehicles), (a) from Plymouth and New London, Wis., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and (b) from the facilities of or utilized by Kraft Foods, Div. of Kraftco Corp., in Wisconsin and Illinois, to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at each of the above origins in items 1 and 2, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 113267 (Sub-No. 343), filed October 27, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and dairy products* as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *exempt commodities* as defined by Section 203 (b)(6) of the Interstate Commerce Act, in mixed shipments with the above specified commodities, (1) from Amarillo, Cactus, Dalhart, Dimmitt, Dumas, Friona, Hereford, Lubbock, Pampa, Spearman and Stratford, Tex., to Golden Meadows and New Orleans, La.; (2) from Carlisle, Cynthiana, LaGrange, Lexington, Louisville, Morning View and Simpsonville, Ky., to Columbus, Ohio and Golden Meadows and New Orleans, La.; (3) from Humboldt and Nashville, Tenn., to Columbus, Ohio and Golden Meadows and New Orleans, La.; (4) from Clinton and Wilson, N.C., to Columbus, Ohio and Golden Meadows and New Orleans, La.; and (5) from Clovis, N. Mex., to Columbus, Ohio and Golden Meadows and New Orleans, La.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Memphis, Tenn. or Dallas, Tex.

No. MC 113362 (Sub-No. 304), filed October 22, 1976. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue, N.E., Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, from the plant site and warehouse facilities of Wilson & Co., Inc. located at Clarinda, Iowa, to points in Indiana, Michigan and Ohio, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or St. Paul, Minn.

No. MC 113362 (Sub-No. 305), filed October 22, 1976. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue, N.E., Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with *mechanical refrigeration* (except commodities in bulk and in tank vehicles), from the plantsite and storage facilities of Kraft Foods Company, located at New Ulm, Minn., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to the transportation of traffic originating at the above-specified origin facilities and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or St. Paul, Minn.

No. MC 113398 (Sub-No. 14), filed October 20, 1976. Applicant: CINEMA SERVICE, INC., P.O. Box 4, Fort Collins, Colo. 80521. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motion picture films, processed and unprocessed film, photographs, materials and supplies* used in connection therewith, and *advertising materials and supplies*, (a) Between Denver, Colo., and Gillettee, Wyo., serving all intermediate points and the off-route points of Glen Rock, Douglas, Laramie, and Torrington, Wyo.; From Denver over Interstate Highway 25 (also U.S. Highway 87) to junction Interstate Highway 90, thence over Interstate Highway 90 to Gillette, and return over the same route; and (b) Between Denver, Colo., and Gillette, Wyo.: From Denver over U.S. Highway 6 to junction U.S. Highway 138, thence over U.S. Highway 138 to junction Colorado Highway 113, thence over Colorado Highway 113 to the Colorado-Nebraska State line, thence over Nebraska Highway 19 to junction U.S. Highway 30, thence over U.S. Highway 30 to Sidney, Nebr., thence back over U.S. Highway 30 to junction U.S. Highway 385, thence over U.S. Highway 385 to junction U.S. Highway 14, thence over U.S. Highway 14 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction U.S. Highway 14, thence over U.S. Highway 14 to Gillettee, and return over the same route; and

(2) *Processed and unprocessed film, photographs, and materials and supplies* used in connection therewith, (a) Between Denver, Colo., and North Platte, Nebr., serving the intermediate point of McCook, Nebr.: From Denver over U.S. Highway 6 to junction U.S. Highway 34, thence over U.S. Highway 34 to junction U.S. Highway 83, thence over U.S. Highway 83 to North Platte, and return over the same route; (b) Between Denver, Colo., and North Platte, Nebr., serving the off-route points of Ogalalla and Sid-Sidney, Nebr.: From Denver over U.S. Highway 6 to junction U.S. Highway 138, thence over U.S. Highway 138 to junction U.S. Highway 30, thence over U.S. Highway 30 to North Platte, and return over the same route; (c) Between Denver, Colo. and Scottsbluff, Nebr., serving the intermediate points of Cheyenne and Torrington, Wyo.: From Denver over U.S. Highway 87 to Cheyenne, Wyo., thence over U.S. Highway 85 to Torrington, Wyo., and thence over U.S. Highway 26 to Scottsbluff, and return over the same route; (d) Between Denver, Colo. and Scottsbluff, Nebr., serving the intermediate points of Cheyenne, Wyo. and Kimball, Nebr., and the off-route point of Sidney, Nebr.: From Denver over U.S. Highway 87 to Cheyenne, thence over U.S. Highway 30 to Kimball, thence over Nebraska Highway 71 to Scottsbuff, and return over the same route; and (e) Between Denver, Colo. and Sidney, Nebr., serving no intermediate points: From Denver over U.S. Highway 6 to Sterling, Colo., thence over U.S. Highway 138 to junction Colorado Highway 113, thence over Colorado Highway 113 to the Colorado-Nebraska State line, thence over Nebraska Highway 19 to junction U.S. Highway 30, thence over U.S. Highway 30 to Sidney, and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 113855 (Sub-No. 362) filed October 26, 1976. Applicant: INTERNA-

TIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, earthmoving, excavating, and material handling machinery and equipment;* (2) *attachments parts and accessories* for the commodities named in (1) above when moving in mixed shipments with said commodities; and (3) *attachments, parts and accessories* being returned to factory for service, exchange, repair, or warranty adjustment, between the plantsite of Clark Equipment Company, located at Skyland, N.C., on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii, and ports of entry between the International Boundary line and Canada to serve points in Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with similar applications but does not specify a location.

No. MC 114045 (Sub-No. 452) filed October 18, 1976. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Clayton, Del.; Chestertown, Pocomoke City and Salisbury, Md., to Paris, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 115022 (Sub-No. 31) filed October 26, 1976. Applicant: CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 East Main Street, Thomaston, Conn. 06787. Applicant's representative: Bernard J. Hasson, Jr., 927 15th Street NW, Suite 306, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in secondary movements, *and buildings, complete and in sections, mounted on wheeled undercarriages*, in secondary movements, from points in Alabama, Florida, Georgia, Indiana, Louisiana, Mississippi, North Carolina and South Carolina, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hartford, Conn.

No. MC 116110 (Sub-No. 13) filed November 1, 1976. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, brass, bronze, copper, lead and zinc bars, billets, ingots, pigs or slabs*, from the plantsite or storage facilities of Sitkin Smelting and Refining, Inc., located at or near Dothan, Ala. and Lewistown, Pa., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment and supplies* used in the process of smelting or refining aluminum, brass, bronze, copper, lead or zinc bars, billets, ingots, pigs or slabs, from points in the United States (except Alaska and Hawaii), to the plantsite or storage facilities of Sitkin Smelting and Refining, Inc. located at or near Dothan, Ala. and Lewistown, Pa., restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles, and further restricted against the transportation of commodities which because of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dothan, Ala.

No. MC 116254 (Sub-No. 167) filed October 26, 1976. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Henryetta, Okla., to points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 117574 (Sub-No. 278) filed October 15, 1976. Applicant: DAILY EXPRESS, INC., 1076 Harrisburg Pike, P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hager, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors with or without attachments* (except tractors used for pulling highway trailers), *lift trucks, excavators, motor graders, scrapers, engines, generators, generators and engines combined, road rollers, pipe layers, dump trucks* with or without bodies designed for off-highway use; and (2) *parts, attachments, and accessories* for the commodities described in (1) above, from the plant sites and facilities of Caterpillar Tractor Co., located in Scott County, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 117815 (Sub-No. 255), filed October 26, 1976. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry, such commodities* as are dealt in by farm supply companies, and *such commodities* as are manufactured, sold, distributed or used by persons engaged in the manufacturing, processing, or milling of grain and soybean products (except commodities in bulk and commodities which because of size or weight require special equipment), between points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin, restricted to the transportation of traffic moving for the account of Central Soya Company, Inc., its divisions and subsidiaries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118696 (Sub-No. 7), filed October 26, 1976. Applicant: FERREE MOVING AND STORAGE, INC., 252 Wildwood Road, Hammond, Ind. 46324. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Wilkes-Bare, Pa., to Hammond, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118959 (Sub-No. 138) filed October 14, 1976. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1111, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles*, from Mineral Wells, Miss., to points in Arkansas, Louisiana and Texas.

NOTE.—Applicant holds contract carrier authority in MC 125684, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn.

No. MC 119428 (Sub-No. 2) filed October 29, 1976. Applicant: NAPOLEON J. ENO AND PAUL ENO, doing business as NAP & PAUL's MARINE, a partnership, 385 Main Street, East Hartford, Conn. 06118. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Power and sail boats*, not exceeding 46 feet in length, and *equipment* for power and sail boats

(1) between points in Connecticut, Maine, Massachusetts, New Jersey, New York and Rhode Island; and (2) between points in Connecticut, Maine, Massachusetts, New Jersey, New York and Rhode Island, on the one hand, and, on the other Annapolis, Md., Norfolk, Va., and points in Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Hartford or New Haven, Conn.

No. MC 119789 (Sub-No. 310) filed October 26, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Wilson Foods Corporation, located at Albert Lea, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia.

NOTE.— If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 119789 (Sub-No. 311) filed November 1, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment and supplies*, from Searcy, Ark., to points in Colorado, Idaho, Kansas, Missouri, Montana, Oregon, Washington and Wyoming.

NOTE.— If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Dallas, Tex.

No. MC 119974 (Sub-No. 62) filed October 26, 1976. Applicant: L.C.L. TRANSIT COMPANY, a Corporation, 949 Advance Street, Green Bay, Wis. 54304. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry, such commodities* as are dealt in by farm supply companies, and *such commodities* as are manufactured, sold, distributed or used by persons engaged in the manufacturing, processing, or milling of grain and soybean products (except commodities in bulk and commodities which because of size or weight require special equipment), between Kansas City, Kans., and points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin, restricted to the transportation of traffic moving for the account of Central Soya Company, Inc., its Divisions and Subsidiaries.

NOTE.— If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 123407 (Sub-No. 332) filed October 14, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite of Fourco Glass Co., Jerry Run Division, located in Taylor County, W. Va., to points in the United States in and east of Colorado, Montana, New Mexico and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Charleston, W. Va., or Washington, D.C., and/or Chicago, Ill.

No. MC 124213 (Sub-No. 9), filed September 30, 1976. Applicant: SWIFT-LINES, INC., 7878 I Street, Omaha, Nebr. 68126. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Cherokee, Iowa, to Omaha, Nebr.

NOTE.—The requested authority sought is to eliminate a gateway at Adrian, Minn. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 124774 (Sub-No. 97), filed October 26, 1976. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, Nebr. 68107. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Omaha, Nebr., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, restricted to traffic originating at Omaha, Nebr., and points in its commercial zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it beheld at Omaha, Nebr.

No. MC 126305 (Sub-No. 82), filed October 21, 1976. Applicant BOYD BROTHERS TRANSPORTATION, CO., INC., R.D. 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Particleboard, plywood and/or lumber* in straight or mixed truckloads, from the plant sites of MacMillan Bloedel, Inc., located at or near Pine Hill (Wilcox County) and Opelika, Ala., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, Ohio, Oklahoma, Texas, Vermont, West Virginia, Wisconsin and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham or Montgomery, Ala.

No. MC 126899 (Sub-No. 110), filed October 17, 1976. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from Milwaukee, Wis., to Cleveland, Ohio; to Milwaukee, Wis.

NOTE.—If a hearing is demed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 127115 (Sub-No. 13), filed October 18, 1976. Applicant: MILLER'S Hyrum, Utah 14319. Applicant's representative: Harry D. Pugsley, Suite 400, 315 East 2nd South, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry cellular expanded plastic foam and rubber in cubes and padding*, from Orange, Calif. to Billings, Bozeman, Butte, Great Falls, Helena and Missoula, Mont.; points in Idaho south of the southern boundary of Idaho County, Idaho; and points in Utah, under a continuing contract, or contracts, with The General Tire Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Los Angeles, Calif.

No. MC 127187 (Sub-No. 21), filed October 21, 1976. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., Fergus Falls, Minn. 56537. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except liquids in bulk), from points in Iowa, to points in Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Minneapolis, Minn.

No. MC 127187 (Sub-No. 22), filed October 21, 1976. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, Minn. 56537. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Limestone, limestone products,* and *phosphastic feed supplements and ingredients,* from Alden, Iowa, to points in Minnesota, North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 127820 (Sub-No. 8), filed October 21, 1976. Applicant: TRANS-SERVICE, INC., 1943 South Lawn Extension, P.O. Box 612, Coshocton, Ohio 43812. Applicant's representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, Ohio 43220. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe, pipe fittings, valves, fire hydrants, valve boxes, castings, lubricants, nuts and bolts, plastic or rubber gaskets, and accessories* used in the installation thereof, from Coshocton, Ohio, to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin; and (2) *returned shipments* of the commodities specified above, from points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin to Coshocton, Ohio, under a continuing contract or contracts with Clow Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio or Chicago, Ill.

No. MC 128896 (Sub-No. 4), filed October 21, 1976. Applicant: ANDREWS TRUCKING LIMITED, R.R. No. 4, St. Catharines, Ontario, Canada L2R 6R1, Applicant's representative: H. Andrews (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boat molds* employed in the manufacture of boats; and *parts and equipment* ancillary to boats, between the ports of entry on the International Boundary line between the United States and Canada, located on the Detroit, Niagara, St. Clair and St. Lawrence rivers, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating in or destined to the Province of Ontario, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo or Syracuse, N.Y., or Washington, D.C.

No. MC 128988 (Sub-No. 90), filed October 29, 1976. Applicant: JO/KEL, INC., 1597 South Seventh Avenue, P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Electric motors and parts,* from the plantsites and facilities of Westinghouse Electric Corporation located at or near Lima, Bellefontaine, and Upper Sandusky, Ohio and Union City, Ind., to points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada; and (2) *materials, equipment,* and *supplies,* utilized in the manufacture, production, and distribution of the commodities named in (1) above, from points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada, to the plantsites and facilities of Westinghouse Electric Corporation located at or near Lima, Bellefontaine, and Upper Sandusky, Ohio, and Union City, Ind., restricted against the transportation of commodities in bulk, and commodities which by reason of size or weight require the use of special equipment, under a continuing contract, or contracts, with Westinghouse Electric Corporation.

NOTE: If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif. or Pittsburgh, Pa.

No. MC 129032 (Sub-No. 28), filed October 26, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: John Paul Fischer, 256 Montgomery St., San Francisco, Calif. 94104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned seafood,* from the plantsite and storage facilities of Kelley-Clarke Company located at Seattle and Bellingham, Wash., to Lubbock, San Angelo, Dallas and San Antonio, Tex.; Shreveport, La.; Little Rock, Ark.; Memphis, Tenn.; Pauline, Kans.; Kansas City and St. Louis, Mo.; Davenport, Iowa; and Amarillo and Fort Worth, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tulsa, Okla. or San Francisco, Calif.

No. MC 129063 (Sub-No. 10), filed October 28, 1976. Applicant: JIMMY T. WOOD, P.O. Box 248, Ripley, Tenn. 38063. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coal,* in dump vehicles, between points in Tennessee, on the one hand, and, on the other, points in Alabama, Arkansas, Mississippi, Missouri, Kentucky, West Virginia, Virginia, North Carolina, South Carolina and Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 129068 (Sub-No. 32), filed October 21, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 S. Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 409 S. Boston, 1300 Mid Continent Bldg., Tulsa, Okla. 74130. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Mobile homes* (trailers), designed to be drawn by passenger automobile, in initial movement and building, complete or in sections, mounted on wheeled undercarriages, from points in Colorado, to points in the United States (except Alaska and Hawaii), restricted against recreational vehicles, such as campers and travel trailers, and modular units or prefabricated buildings.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 129387 (Sub-No. 26) (partial correction), filed September 22, 1976, published in the FR issue of November 4, 1976, and republished as corrected this issue. Applicant: BILL PAYNE, doing business as PAYNE TRUCKING COMPANY, P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: William J. Boyd, Suite 222, 600 Enterprise Drive, Oak Brook, Ill. 60521. NOTE.—The purpose of this partial correction is to indicate the correct MC Number to read MC 129387 (Sub-No. 26), the rest remains the same.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Philadelphia, Pa.

No. MC 129600 (Sub-No. 26), filed October 21, 1976. Applicant: POLAR TRANSPORT, INC., 176 King Street, P.O. Box 44, Hanover, Mass. 02339. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Eggs* and *poultry;* (2) *such commodities* as are dealt in by farm supply companies; and (3) such commodities as are manufactured, sold, distributed or used by persons engage in the manufacturing, processing or milling of grain and soybean products (except commodities in bulk and except commodities which because of size or weight require special equipment), Between Guntersville and Montgomery, Ala.; Jacksonville, Fla.; Athens, Canton and Tifton, Ga.; Chicago, East St. Louis, Gibson City, and Dundee, Ill.; Decatur, Indianapolis, Rushville, and Portland, Ind.; Belmond, Des Moines and Muscatine, Iowa; Abilene, Kans.; Clinton, Louisville, and Park City, Ky.; Portland, Mich.; Jackson and Mendenhall Miss.; Hastings and Omaha, Nebr.; Kansas City, Moberly, Salisbury, Springfield, and St. Joseph, Mo.; Monroe, Robersonville, and Wilson, N.C.; Bellevue, Delphos, Gallipolis, Marion and Ravenna, Ohio; Camp Hill and New Brighton, Pa.; Newberry and Orangeburg, S.C.; Chattanooga, Memphis, and Nashville, Tenn.; Fort Worth and Lockhart, Tex.; and Madison, Wis.; on the

one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract or contracts with Central Soya Company, Inc., Fort Wayne, Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fort Wayne, Ind., or Chicago, Ill., and/or Washington, D.C.

No. MC 129600 (Sub-No. 27), filed October 28, 1976. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, Mass. 02339. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt*, from Agawam and Boston, Mass., and Suffield and South Windsor, Conn., to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin and the District of Columbia, under a continuing contract, or contracts, with H. P. Hood, Inc., located at Charlestown, Mass.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 129719 (Sub-No. 6), filed October 21, 1976. Applicant: BURRELL TRUCKING, INC., One Fifth Street, New Kensington, Pa. 15068. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete mixes in bags*, from the facilities of Burrell Construction & Supply Company, in Allegheny and Westmoreland Counties, Pa., to points in Kentucky, under contract with Burrell Construction & Supply Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 133566 (Sub-No. 65), filed October 22, 1976. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, 1224 Seventeenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shortening, lard, tallow, cooking oil and margarine* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Swift Edible Oil Company, located at or near Bradley, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to traffic originating at the above named plantsite and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 134150 (Sub-No. 8), filed September 27, 1976. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and air conditioning equipment, and ranges, refrigerators, dishwashers, disposals, and range hoods*, from Los Angeles and City of Industry, Calif., to points in Arkansas, California, Connecticut, Delaware, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia; and (2) *commodities* named in (1) above, *materials, equipment and supplies* used in the manufacture, production, and distribution of the commodities name in (1) above, from Elkhart, Ind.; Anniston, Ala.; Connersville, Ind.; Columbus and Bellevue, Ohio; and Cleveland, Tenn.; to the facilities of Gaffers & Sattler, Inc., located at or near Los Angeles and City of Industry, Calif., under a continuing contract or contracts with Gaffers & Sattler, Inc.

NOTE.—Applicant holds common carrier authority in MC 138157 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif.

No. MC 134387 (Sub-No. 40), filed October 26, 1976. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 South Hill Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranporting: *Empty glass containers*, from Los Angeles County, Calif., to points in Coconino County, Ariz.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 134501 (Sub-No. 21), filed October 29, 1976. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, Tex. 75061. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Birmingham, Ala., to points in that part of Texas south and east of a line beginning at the Texas-Arkansas State line and extending along U.S. Highway 67 to Dallas, thence along Interstate Highway 35E to Waco, thence along U.S. Highway 81 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 290, thence along U.S Highway 290 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Texas-New Mexico State line; Louisiana, Missouri, Mississippi, Tennessee (except Shelby County), Kentucky, that part of Illinois east and south of a line beginning at U.S. Highway 24 and the Mississippi River, thence along U.S. Highway 24 to junction U.S. Highway 51, thence along U.S. Highway 51 to Illinois-Wisconsin State line; Michigan, Indiana, Ohio, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 134501 (Sub-No. 22), filed October 29, 1976. Applicant: INCORPORATED CARRIERS, LTD., a Corporation, P.O. Box 3128, Irving, Tex. 75061. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Mississippi to points in Arkansas (except Camden, Little Rock, Stamps, and Waldron and except points in Crawford, Saline, and Sebastian Counties), Alabama, Florida, Georgia, South Carolina, Virginia (except Clarke, Fauquier, Frederick, Loudoun, Rappahanock, Shenandoah and Warren Counties), West Virginia (except points on and north of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 119 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line), Maryland (except points on and west of a line beginning at the Maryland-District of Columbia border line, and extending along U.S. Highway 1 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Maryland-Delaware State line), and the District of Columbia (except from points in Mississippi and on west of a line beginning at the Mississippi-Louisiana State line and extending along U.S. Highway 51 to junction Natchez Trace Park-

way, thence along Natchez Trace Parkway to junction Mississippi Highway 15, thence along Mississippi Highway 15 to the Mississippi-Tennessee State line to points in Maryland, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss. or Memphis, Tenn.

No. MC 134501 (Sub-No. 23), filed October 29, 1976. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, Tex. 75061. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Charleston, Ark., to points in that part of Florida north of Interstate Highway 4, that part of Ohio west and north of a line beginning at the Michigan-Ohio State line and U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-Ohio State line, and points in Mississippi, Louisiana, Wyoming, New Mexico, Arizona, California and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Ft. Smith, Ark. or Oklahoma City, Okla.

No. MC 134922 (Sub-No. 202), filed October 26, 1976. Applicant: B. J. McADAMS, INC., Route 6—Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane, polyurethane foam and compounds* (except in bulk), from Parkersburg and Washington, W. Va., and Ottawa, Ill., to Klamath Falls, Medford and Portland, Oreg.; Seattle, Tacoma and Walla Walla, Wash.; and points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Los Angeles, Calif.

No. MC 135197 (Sub-No. 9), filed October 29, 1976. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, Mo. 63461. Applicant's representative: Herman W. Huber, 101 East High Street, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay*, in bulk, from the plantsite of Lowe's Inc., located at or near Oran, Mo., to the plantsites of Amoco Oil, Inc. located at or near Mendota, Ill., Hopkins Agricultural Chemical Co., located at or near Randolph, Wis., Platte Chemical Co. located at or near Fremont, Nebr., Helena Chemical Co. located at or near Des Moines, Iowa, and Imperial, Inc., located at or near Albert Lea, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis or Jefferson City, Mo.

No. MC 135936 (Sub-No. 17), filed October 26, 1976. Applicant: C & K TRANSPORT, INC., 503 Des Moines Street, Webster City, Iowa 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Wilson Foods Corp. located at Cherokee, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 136168 (Sub-No. 12), filed October 26, 1976. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk, hides, and those require special equipment), from the plantsites and warehouse facilities utilized by Wilson & Co., Inc., located at Albert Lea, Minn., Cedar Rapids, Cherokee and Des Moines, Iowa, to points in Illinois; and (2) *returned shipments, and materials, supplies and equipment* utilized in the manufacture, sale and distributed of the commodities named in (1) above, from points in Illinois to the origin points named in (1) above, under a continuing contract, or contracts, in (1) and (2) above with Wilson & Co., Inc., restricted in (1) and (2) above to traffic originating at or destined to the plantsites and warehouse facilities utilized by Wilson & Co., Inc., located at Albert Lea, Minn., Cedar Rapids, Cherokee and Des Moines, Iowa.

NOTE.—Applicant has common carrier authority pending in MC 141641 and subs 1 and 2 thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Kansas City, Mo.

No. MC 136212 (Sub-No. 17), filed October 26, 1976. Applicant: JENSEN TRUCKING COMPANY, INC., P.O. Box 349, Gothenburg, Nebr. 69138. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 103 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Morgan, Colorado Beef Company, located at or near Ft. Morgan, Colo. to points in Illinois, Iowa, Kentucky, Michigan, Ohio and Texas, restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Denver, Colo.

No. MC 136285 (Sub-No. 18), filed October 14, 1976. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 143, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products and meat by-products*, and *articles distributed by meat packing houses* (except in bulk), from points in Arkansas, Illinois, Iowa, Kentucky, Minnesota, Missouri, Nebraska, and Wisconsin, to Savannah, Ga., restricted to the transportation of shipments having a subsequent movement by water, in marine cargo containers; and (2) *intermodal cargo containers*, and *chassis* therefor, from Savannah, Ga., to points in the states named in (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 136301 (Sub-No. 7), filed October 20, 1976. Applicant: MER-LOU TRANSPORTATION, INC., P.O. Box 247, Millsboro, Del. 19966. Applicant's representative: John P. Bond, 2765 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pickled products*, in containers, from the plantsite located at or near Seaford, Del., to points in the United States in and east of Illinois, Kentucky, Louisiana, Mississippi, Missouri, Tennessee and Wisconsin, under contract with Vlasic Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich, or Millsboro, Del.

No. MC 138469 (Sub-No. 30), filed October 21, 1976. Applicant: DONCO CARRIERS, INC., 641 North Meridian, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products*, from the facilities of DCA Foods located at Hillsdale and Jonesville, Mich., to points in Alabama, Arkansas,

Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 136375 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 138469 (Sub-No. 32), filed October 26, 1976. Applicant: DONCO CARRIERS, INC., 641 North Meridian, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Kitchen cabinets, bathroom cabinets, and parts of the foregoing commodities*, from the facility of Grandview Products Company, Inc., located at Parsons, Kans., to points in the United States (except Alaska, Hawaii and Kansas); restricted to traffic originating at Parsons, Kan.; and (2) *equipment, materials, and supplies* used in the manufacture of kitchen cabinets and bathroom cabinets (except commodities in bulk), from points in the United States (except Alaska, Hawaii and Kansas) to the facilities of Grandview Products Company, Inc., located at Parsons, Kans., restricted to traffic destined to Parsons, Kans.

NOTE.—Applicant states that the purpose of this application is to convert the contract carrier authority of Donco Carriers, Inc., to a common carrier authority. Applicant holds contract carrier authority in MC 138375 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Oklahoma City, Okla.

No. MC 138772 (Sub-No. 5), filed October 20, 1976. Applicant: ALL WAYS FREIGHT LINES, INC., 215 North 18th, Leavenworth, Kans. 66048. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), Between Kansas City, Kans./Mo. Commercial Zone and Sabetha, Kans., serving the intermediate points lying on U.S. Highway 36: From Kansas City, Kans./Mo. Commercial Zone over U.S. Highway 24/40 to its junction with U.S. Highway 73 thence over U.S. Highway 73 to Leavenworth, Kans., thence over Kansas Highway 7 to its intersection with U.S. Highway 36, thence over U.S. Highway 36 to its junction with U.S. Highway 75, thence over U.S. Highway 75 to Sabetha, Kans., and return over the same route, serving the off-route points in Atchison, Brown, Doniphan, Jackson, Marshall and Nemaha Counties, Kans., and those points in Jefferson County, Kans. lying on and north of Kansas Highway 92, to its intersection with Kansas Highway 4, thence over Kansas Highway 4 to Rock Creek, Kans., thence west over unnumbered County Highway to the Jefferson/Jackson County line, in connection with carrier's authorized regular route service.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 138858 (Sub-No. 3), filed October 13, 1976. Applicant: CHARLES M. SHIRK, an individual, 424 Linden Street, Terre Hill, Pa. 17581. Applicant's representative: Christian V. Graf, 407 North Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, from Baltimore, Md., to points in Lancaster, Bucks, Chester, Berks and Montgomery Counties, Pa.; (2) *spray material*, from Baltimore, Md. and Smyrna, Del., to New Holland, Pa.; (3) *cinder and cement blocks* and *lintels*, from points in West Fallowfield and West Sadsbury Townships, Chester County, Pa., and Earl, East Earl and East Hempfield Townships, Lancaster County, Pa., to points in Delaware, Maryland, and the District of Columbia, and points in Arlington, Fairfax, Loudon and Prince William Counties, Va.; (4) *face and common building brick*, from Middletown and Harrisburg, Pa., to points in Delaware, Maryland, New Jersey, and that portion of New York within 50 miles of the New York entrance of the Holland Tunnel; (5) *face and common building brick*, from Ephrata, Pa., to points in Delaware, Maryland, New Jersey, and that part of New York within 50 miles of the New York entrance of the Holland Tunnel; and (6) *pallets and empty containers* used in the transportation of face and common building brick, from points in Delaware, Maryland, New Jersey, and that part of New York within 50 miles of the New York entrance of the Holland Tunnel, to Ephrata, Pa.

NOTE.—This application is related to an application filed concurrently herewith seeking the transfer to Applicant of the Permits of Ross Esbenshade. This application is being filed in order to convert the Esbenshade authority covered by the transfer Application to that of a common carrier. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 138875 (Sub-No. 37), filed October 21, 1976. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, wood products, composition board*, and *gypsum board*, between points in Oregon, Washington and those in Idaho south of the northern boundary of Idaho County on the one hand, and, on the other, points in Utah and Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho or Portland, Oreg.

No. MC 139193 (Sub-No. 43), filed October 13, 1976. Applicant: ROBERT & OAKE, INC., 208 South La Salle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 2033 "K" Street, NW., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles), from Sioux Falls, S. Dak., to points in Alabama, Arkansas, Missouri and Kansas; and (2) *such commodities* as are used by meat packers in the conduct of their business, from points in Alabama, Arkansas, Missouri and Kansas, to Sioux Falls, S. Dak., under a continuing contract or contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 139923 (Sub-No. 27), filed October 21, 1976. Applicant: MILLER TRUCKING COMPANY, INC., P.O. Drawer "D", Stroud, Okla. 74079. Applicant's representative: Dale Ballard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite of Mid-Continent Underground Storage, located at or near Kansas City, Kans., to North Little Rock, Ark., and points in Georgia, Kentucky, Tennessee, Texas, Virginia, and West Virginia.

NOTE.—Applicant holds contract carrier authority in MC 139926 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cincinnati, Ohio or Kansas City, Kans.

No. MC 139999 (Sub-No. 16), filed October 29, 1976. Applicant: RED-FEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities utilized by Flavorland Industries, Inc., located at or near Sioux City, Iowa, to Chicago, Ill.; Louisville, Ky., and points in Michigan and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr. or Sioux City, Iowa.

No. MC (Sub-No. 19), filed October 26, 1976. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220.

Applicant's representative: Lawrence A. Winkle, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionary items, advertising material, display materials and dessert preparations*, from the plantsite and warehouse facilities of Queen Anne Candy Company located at or near Hammond, Ind., to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 142296, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., Chicago, Ill., or Washington, D.C.

No. MC 140053 (Sub-No. 1), filed October 14, 1976. Applicant: TRK TRANS, INC., 8301 Florence, Suite 205, Downey, Calif. 90240. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fireplaces, barbeques, grills, and ventilators*, and (2) *parts and accessories* for the commodities in (1) above, from Plano, Tex., and Baltimore, Md., to points in that part of the United States east of a line beginning at the Gulf of Mexico and extending along the Mississippi River to the southern boundary line of Itasca County, Minn., thence eastward along the southern boundary line of Itasca County to the eastern boundary line of Itasca County, thence northward along the eastern boundary line of Itasca County to the eastern boundary line of Koochiching County, Minn., and thence northward along the eastern boundary line of Koochiching County to ports of entry on the International Boundary line between the United States and Canada, under a continuing contract or contracts with Mobex Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 140053 (Sub-No. 2), filed October 21, 1976. Applicant: TRK TRANS, INC., 8301 Florence, Suite 205, Downey, Calif. 90240. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air coolers and air conditioners*, and *parts thereof*, with or without heating apparatus, from Tyler, Tex., to points in Arizona, California, Colorado, Nevada, New Mexico and Utah, under a continuing contract, or contracts, with BDP Company, Division of Carrier Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 140421 (Sub-No. 12), filed October 29, 1976. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, New Orleans, La. 70189. Applicant's representative: Sandra H. Roberson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and lumber*, from the plantsite of Delta Pine Plywood Company, located at Beaumont, Miss., to points in Louisiana east of the Mississippi River, points in New Orleans, La., and its commercial zone, and Baton Rouge, La., and its commercial zone, under a continuing contract, or contracts, with Delta Pine Plywood Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Hattiesburg, Miss.

No. MC 141084 (Sub-No. 4), filed October 21, 1976. Applicant: NATIONAL FREIGHT LINES, INC., 6069 Maywood Avenue, Huntington Park, Calif. 90058. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds*, from Cleveland, Ohio to Los Angeles, Calif.; North Bergen, N.J.; and Atlanta, Ga., under a continuing contract or contracts with State Chemical Manufacturing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio or Chicago, Ill.

No. MC 141109 (Sub-No. 2), filed October 29, 1976. Applicant: BINGHAM TRUCKING CORPORATION, P.O. Box 466, Booneville, Miss. 38829. Applicant's representative: John Paul Jones, P.O. Box 3140, Front St. Station, 189 Jefferson, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from points in Chickasaw, Itawamba, Lee, Pontotoc, Prentiss, Tishomingo, and Union Counties, Miss., to points in the United States (except Alaska and Hawaii); and (2) *parts, supplies, raw materials and equipment* used in the manufacture of furniture, from points in the United States (except Alaska and Hawaii), to points in Chickasaw, Itawamba, Lee, Pontotoc, Prentiss, Tishomingo and Union Counties, Miss.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tupelo, Miss.

No. MC 141500 (Sub-No. 3), filed October 18, 1976. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 35, Kewaskum, Wis. 53040. Applicant's representative: Richard C. Alexander, 710 North Plakinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump trailer equipment, from Portage, Wis., to Winona, Minn., under contract with The C. Reiss Coal Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 141617 (Sub-No. 1), filed September 29, 1976. Applicant: EUGENE MCDONALD, doing business as, MCDONALD TRUCKING, Box 94, Selby, S. Dak. 57472. Applicant's representative: William P. Fuller, 310 South First Avenue, Sioux Falls, S. Dak. 57102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap metal and furs*, (a) from points in South Dakota to Seattle, Wash., and New York, N.Y.; and (b) from New York, N.Y., to points in South Dakota, and (2) *furs*, from points in South Dakota, to New York, N.Y., under a continuing contract or contracts in (1) and (2) above with Metal & Steel Supply of Morbridge, S. Dak.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sioux Falls or Aberdeen, S. Dak.

No. MC 141641 (Sub-No. 4), filed October 26, 1976. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment, Classes A and B explosives and commodities described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, M.C.C. 209 and 766, and frozen foods), (1) from points in Massachusetts, Connecticut, New York, New Jersey, and Pennsylvania, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Texas, and Wisconsin; and (2) from points in Illinois, to points in Arkansas, Kansas, Minnesota, Missouri, Oklahoma, and Texas, restricted to traffic moving on bills of lading of the Charter Oak Shippers Cooperative Association, Inc.

NOTE.—Applicant holds contract carrier authority in No. MC 136168 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141824 (Sub-No. 1), filed October 29, 1976. Applicant: WILLIAM E. EGBERT, doing business as BILL EGBERT HORSE TRANSPORTATION, 29731 SE 392nd, Enumclaw, Wash. 98022. Applicant's representative: Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock* (other than ordinary) and in connection therewith *feed, stable supplies and equipment* used in the care, racing and exhibition of such livestock, *mascots, attendants, trainers, owners and exhibitors and their personal effects* to be transported in the same vehicle with such livestock, (A) between points in California, Oregon and Washington, and (B) between points in California, Oregon and Washington, on the one hand, and, on the other hand, points in Arizona, Colorado, Idaho, Kentucky Montana, Tennessee; and (C) ports on the International Boundary line between the United States and Canada located at or near Blaine, Oroville and

Sumas, Wash., restricted to traffic destined to British Columbia, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 141833 (Sub-No. 2), filed November 1, 1976. Applicant: S & S TRANSPORTATION, INC., P.O. Box 336, Lincoln, Maine 04457. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, Maine 04038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust and wood shavings*, from ports of entry on the International Boundary line between the United States and Canada, located in Maine, to Lincoln, Maine, under a continuing contract or contracts with Lincoln Pulp & Paper Co., Inc., Lincoln, Maine.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Bangor or Augusta, Maine.

No. MC 141918 (Sub-No. 6), filed October 27, 1976. Applicant: AURELIA TRUCKING CO., a Corporation, 2136 Pine Grove Avenue, Port Huron, Mich. 48060. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, in vehicles equipped with mechanical refrigeration, between Superior, Wis., on the one hand, and, on the other, points in Illinois, Indiana, and Michigan, under a continuing contract, or contracts with Twin Ports Grocery Co., located at Superior, Wis.

NOTE.—Applicant holds common carrier authority in No. MC 117820 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn., Chicago, Ill. or Washington, D.C.

No. MC 142060 (Sub-No. 3), filed October 21, 1976. Applicant: NASH TRUCKS, INC., P.O. Box 158, Altamont, Kans. 67330. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Ave., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbon paper*, from Parsons, Kans., to points in Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin, under contract with Southwest Carbon Paper Manufacturing Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 142065 (Sub-No. 3), filed October 26, 1976. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Box 232, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pools, swimming pool supplies, swimming pool equipment; toys and games*, from Amsterdam and Gloversville, N.Y., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah and Washington, under a continuing contract with Coleco Industries, Inc., at Gloversville, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Albany, N.Y.

No. MC 142057 (Sub-No. 4) (Amendment), filed September 23, 1976, published in the FEDERAL REGISTER issue of October 29, 1976, and published as amended this issue. Applicant: D. C. LARSON TRUCKING, INC., P.O. Box 926, 701 Highway 75 North, Moorhead, Minn. 56560. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel farm buildings, knocked down*, from the plantsite and facilities of Modular Technology, located approximately 7 miles west of Elgin, Ill., to points in Minnesota, North Dakota, and South Dakota.

NOTE.—The purpose of this amendment is to indicate the modification of the commodity description. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 142123 (Sub-No. 1) filed October 26, 1976. Applicant: NORMAN WELTMEYER, doing business as WELTMEYER AND SONS, 14800 S. Vine Ave., Harvey, Ill. 60426. Applicant's representative: Joseph C. Fregeau, 14752 S. Spaulding Ave., Harvey, Ill. 60426. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, or repossessed vehicles, and replacement vehicles* for such wrecked or disabled vehicles, by wrecker equipment, between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia and Wisconsin.

NOTE. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C.; Philadelphia, Pa. or Chicago, Ill.

No. MC 142190 (Sub-No. 1) filed October 19, 1976. Applicant: COVENEY TRUCKING CO., INC., 2 Bennett Road, Succasunna, N.J. 07876. Applicant's representative: Robert J. Gallagher, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Solite*, in bulk, in dump trailers, from the facilities of Hudson Valley Lightweight Aggregate Corp., located at or near Weehawken, N.J., to points in that part of Pennsylvania on and east of Interstate Highway 81, under a continuing contract or contracts with Hudson Valley Lightweight Aggregate Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Newark, N.J.

No. MC 142207 (Sub-No. 5) filed October 15, 1976. Applicant: GULF COAST TRUCK SERVICES, INC., Chef Menteur Highway, P.O. Box 29287, New Orleans, La. 70189. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and particleboard*, (except in bulk, in tank vehicles), from the plantsite and storage facilities of Olinkraft, Inc., located at or near Winnfield and Lillie, La., and Huttig, Ark., to points in Arkansas, Kansas, Louisiana, Missouri, Nebraska, Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at New Orleans, La.

No. MC 142232 (Sub-No. 2) filed October 12, 1976. Applicant: BARRETT TEXTILE TRANSPORT, INC., 501 Phifer Road, P.O. Box 6, Kings Mountain, N.C. 28086. Applicant's representative: Dr. Peter T. Barrett, 2757 Loch Lane, Charlotte, N.C. 28211. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fiber yarn* (except commodities in bulk, in tank vehicles), from the plantsite of Fiber Industries, Inc., located at Greenville, S.C. to points in North Carolina, under a continuing contract with Fiber Industries Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C.

No. MC 142242 (Sub-No. 1) filed October 26, 1976. Applicant: JAMES W. SCOTT, Route 1, Box 73, Gladys, Va. 24554. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets*, from the plantsite of Scott Pallets, Inc., at or near Amelia, Va., to points in Connecticut, Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania and West Virginia, under contract with Scott Pallets, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Richmond, Va.

No. MC 142321 (Sub-No. 2) filed October 20, 1976. Applicant: WESTSIDE TRUCKING, INC., 1508 Coalinga Street, P.O. Box 864, Coalinga, Calif. 93210. Applicant's representative: Lowell E. Baker (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos*, shorts or waste, from minesite of Atlas Asbestos Co., located approximately 32 miles northwest of Coalinga, Calif., and Coalinga, Calif., to Coalinga, Fresno, Hanford, Port of Stockton, Alameda, Oakland, Richmond, San Francisco, Long Beach, San Pedro, Terminal Island and Wilmington, Calif., under contract with Atlas Asbestos Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Francisco or Fresno, Calif.

No. MC 142358 (Sub-No. 3) filed October 21, 1976. Applicant: J. J. GILLAN TRUCKING COMPANY, INC., 1028 Sinnock Avenue, P.O. Box 297, Moberly, Mo. 65270. Applicant's representative: Thomas P. Rose, Jefferson Bldg., P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles from points in Missouri to points in Illinois and Iowa, under a continuing contract or contracts with Universal Coal and Energy Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Jefferson City, Mo. or Columbia or Moberly, Mo.

No. MC 142365 (Amendment) filed July 30, 1976, published in the FEDERAL REGISTER issue of September 30, 1976, and republished as amended this issue. Applicant: CANUSA TRANSPORT, INC., 880 Malkin Avenue, Vancouver, B.C., Canada V6A 2K6. Applicant's representative: Bob Gleason, 15 South Grady Way, Suite 217, Renton, Wash. 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission commodities in bulk, and commodities requiring special equipment), between ports of entry on the International Boundary line between the United States and Canada, at or near Blaine, Wash., on the one hand, and, on the other, Bellingham, Wash., restricted to parcels of 100# limitation, or a total shipment of 400#, and further restricted to movement to or from the Province of British Columbia, Canada.

NOTE.—The purpose of this amendment is to indicate the correct destination description. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 142380 (Sub-No. 1) filed October 21, 1976. Applicant: GART, INC., 35 Brown Street, Washington, N.J. 07882. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay* (except in bulk), from Skillman, N.J., to points in Connecticut, Kentucky, Maryland, Massachusetts, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia; and (2) *talc, materials and supplies* used in the manufacturing of ceramics, (except in bulk), from the above-destination states to Skillman, N.J., under a continuing contract or contracts with Standard Clay Mines.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, N.J., or New York, N.Y.

No. MC 142432 filed October 26, 1976. Applicant: NORMAN R. JACKSON, an Individual, R.D. No. 1, Oxford, Pa. 19363. Applicant's representative: Alan Auckenthaler, 1815 H St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juvenile furniture*, (1) between Elverson, Pa., on the one hand, and, on the other, Rutland, Vt.; (2) from Cluerson, Pa., to Phoenix, Ariz.; Provo, Salt Lake City, and Murray, Utah; Tukwila, Wash.; and points in Texas; and (3) from Elverson, Pa. and Rutland, Vt., to Hayward, Oakland, Sacramento, San Francisco and San Jose, Calif., and points in Los Angeles and Orange Counties, Calif.

NOTE.—Applicant holds contract carrier authority in No. MC 139861, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 142542 filed September 28, 1976. Applicant: SECURITY STORAGE CO., 104 Tenth Street, S.W., P.O. Box 1626, Mason City, Iowa 50401. Applicant's representative: Robert R. Rydell, 900 Savings and Loan Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used household goods* between Mason City, Iowa, and points in Kossuth, Humboldt, Winnebago, Hancock, Wright, Worth, Cerro Gordo, Franklin, Hardin, Mitchell, Floyd, Butler, Howard, Chickasaw, Winneshiek, Allamakee, Emmet, and Dickinson Counties, Iowa, restricted to shipments having prior or subsequent movement in containers beyond points authorized and further restricted to performance of pick up and delivery service in connection with packing, crating and containerization or unpacking, uncrating or decontainerization of such shipments; and (2) *trailers* owned by shippers and *trailers* owned or leased by railroads, loaded or empty, having a prior or subsequent movement by rail in TOFC Service between railroad ramping facilities at Mason City, Iowa, and points in Kossuth, Humboldt, Winnebago, Hancock, Wright, Worth, Cerro Gordo, Franklin, Hardin, Mitchell, Floyd, Butler, Howard, Chickasaw, Winneshiek, Allamakee, Emmet, and Dickinson Counties, Iowa, restricted to performing over-the-road service only in connection with carriers performing ramping and deramping (loading or unloading) of trailers and using specialized equipment for such ramping and deramping in intrastate, interstate and foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 142545 filed October 1, 1976. Applicant: RICHARD A. TAZER, doing business as RICHARD A. TAZER TRUCKING, 1635 N.W. Mall, Issaquah, Wash. 98027. Applicant's representative: Henry C. Winters, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, and (2) *equipment, materials and supplies*, used or useful in the production and distribution of dairy products, between points in California, Oregon and Washington, under a continuing contract or contracts with Consolidated Dairy Products Company, at Seattle, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 142557 filed October 12, 1976. Applicant: TRI-VALLEY EXPRESS, INC., Bradley Star Route, Liberty, N.Y. 12754. Applicant's representative: Bruce J. Robbins, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Juice* (except in bulk), in mechanically refrigerated vehicles, from Tonawanda, N.Y., to New York, N.Y.; and points in New Jersey, those points in Pennsylvania on and east of U.S. Highway 15, and points in Westchester, Nassau and Suffolk Counties, N.Y.; and (2) *materials, equipment and supplies*, used in the manufacture, packaging, sale and distribution of the commodities described in (1) above, including, but not limited to, juice concentrate, from Baltimore, Md., those points in Florida on and south of Interstate Highway 4, and points in the destination areas named in (1) above, to the point of origin named in (1) above, under a continuing contract with Great Northern Juice, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142566 (Sub-No. 2), filed October 29, 1976. Applicant: LEISURE CHAIR TRANSPORTATION CO., a Corporation, 4521 Anderson Boulevard, Fort Worth, Tex. 76112. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crated and uncrated household and leisure furniture*, from Fort Worth, Tex., to points in the United States (except Alaska and Hawaii); (2) *materials, equipment and supplies* (except commodities in bulk), used in the manufacture of household and leisure furniture, from points in the United States (except Alaska and Hawaii), to Fort Worth, Tex., under a continuing contract, or contracts, with Leisure Chair of Texas, Inc. doing business as Texas Leisure Chairs, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 142574 (Sub-No. 1) filed October 19, 1976. Applicant: CIRCLE C TRANSPORTATION COMPANY, a Corporation, 5800 York Street, Denver, Colo. 80217. Applicant's representative: William J. Lippman, Suite 140 Cherry Creek Ctr., 360 South Monroe, Denver, Colo. 80209. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denver, Colo., to points in the United States (except Alaska and Hawaii); and (2) *materials,*

equipment and supplies, and such other commodities as are used, or dealt in by persons engaged in the production and distribtuion of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Denever, Colo., restricted to the transportation of traffic destined to the facilities of Circle C Beef Company of Denver, Colo., under a continuing contract or contracts with Circle C Beef Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 142590 filed October 27, 1976. Applicant: MALDON L. PLANK, doing business as HAUKE TRANSIT LINE, 103 West McMillan Street, Marshfield, Wis. 54449. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated new upholstered furniture,* between the plantsite of Modern Sleep Products Co., located at or near Marshfield, Wis., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio and South Dakota, under a continuing contract or contracts with Modern Sleep Products Co., Marshfield, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Marshfield or Madison, Wis. or Minneapolis, Minn.

No. MC 142592 filed October 21, 1976. Applicant: H. L. STANSELL, INC., 1015 Illinois Avenue, Palm Harbor, Fla. 33563. Applicant's representative: David C. Venable, 666 Eleventh Street, N.W., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nursery and florist supplies and materials* (except in bulk, in tank vehicles), and (2) *commodities* exempt from economic reguation in mixed shipments with florist and nursery supplies (except in bulk, in tank vehicles), from Puyallup, Wash., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 136221 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 142600, filed October 14, 1976. Applicant: DIXIE-WEST EXPRESS, INC., P.O. Drawer L, Petal, Miss. 39465. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from the facilities of the Scott Paper Company, located at or near Mobile, Ala., to points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and Wyoming, under a continuing contract, or contracts, with Scott Paper Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Mobile, Ala.

No. MC 142601, filed October 19, 1976. Applicant: CECO TRANSPORT, INC., 5601 West 26th Street, Chicago, Ill. 60650. Applicant's representative: Daniel C. Sulivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors and door frames;* (2) *hardware, parts, accessories, and equipment* for doors and door frames; and (3) *equipment, materials, and supplies* used in the manufacture, installation and distribution of the commodities described in (1) and (2) above (except commodities in bulk and commodities which because of size and weight require special equipment or special handling), between Knoxville and Little Rock, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with The Ceco Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142617, filed October 22, 1976. Applicant: NORTHWESTERN WAREHOUSE COMPANY, a Corporation, 413 Sixth Street, Rapid City, S. Dak. 57701. Applicant's representative: Edward C. Carpenter, 704 St. Joe, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods,* restricted to shipments having a prior or subsequent movement, in containers, beyond points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such shipments, between points in South Dakota west of the Missouri River and Pierre, S. Dak.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Rapid City, Pierre or Sioux Falls, S. Dak.

No. MC 142618, filed October 26, 1976. Applicant: CLASSIC CITY MOVING & STORAGE, INC., 120 Oneta Street, Athens, Ga. 30601. Applicant's representative: T. James Brannon (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household goods,* between points in Clark, Oconee, Jackson, Madison, Elbert, Banks, Oglethorpe, Franklin, Hart, Wilkes, Barrows and Walton Counties, Ga., under a continuing contract, or contracts, with Navy Supply Corps School, located at Athens, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Athens or Atlanta, Ga.

BROKER APPLICATIONS

No. MC 130418, filed September 13, 1976. Applicant: KRUGER TRAVEL BUREAU, INC., 109 East 7 Street, Little Rock, Ark. 72201. Applicant's representative: Florence D. Kruger (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Little Rock, Ark., to sell or offer to sell the transportation of *individual passengers and groups of passengers and their baggage,* under arrangements with motor, rail, water, and air carriers, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 130419, filed October 20, 1976. Applicant: ALPHA BETA TRAVEL SERVICE, INC., doing business as: SCENIC TOURS, 1421 Coffee Road, Modesto, Calif. 95355. Applicant's representative: David A. Hanson (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Modesto, Calif., to sell or offer to sell the transportation of *passengers and their baggage,* in round trip, special and charter operations, by motor carriers, beginning and ending at points in California, and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 130420, filed November 1, 1976. Applicant: BRUCE THOMPSON, doing business as VIRGINIA SKI TRAVEL SERVICE, 701 Sir Walter Circle, Virginia Beach, Va. 23452. Applicant's representative: Willis J. Spaulding, 808 Maritime Tower, Norfolk, Va. 23510. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Virginia Beach, Va., to sell or offer to sell the transportation of *passengers,* as individuals and in groups, *and their baggage,* in package ski tours, by motor and/or air carriers, beginning and ending at Chesapeake, Hampton, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, Virginia Beach and Williamsburg, Va., and extending to Montreal, Canada and points in Maine, Maryland, New Hampshire, New York, Pennsylvania, Vermont and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Norfolk or Richmond, Va. or Washington, D.C.

FINANCE APPLICATIONS NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of pro-

testant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-12936 (supplemental) (OVERNITE TRANSPORTATION COMPANY—PURCHASE—SOUTHERN FORWARDING CO.), originally published in the August 12, 1976, issue of the FEDERAL REGISTER on page 34160. This supplemental notice reflects certain authority proposed to be purchased, which was not noted in the prior notice. The additional authority proposed to be acquired is as follows: Regular Route: *General commodities,* except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Serving Buckner, Ky., as an off-route point in connection with carrier's authorized regular-route operations between Memphis, Tenn., and Louisville, Ky.

No. MC-F-12671 (supplemental) (NIELSEN FREIGHT LINES, INC.—PURCHASE (PORTION)—WILLIG FREIGHT LINES), published in the November 19, 1975, issue of the FEDERAL REGISTER on page 53652. This supplemental notice reflects the authority authorized to be purchased by Nielson Freight Lines, Inc., in the order of the Commission, Review Board No. 5, dated September 7, 1976, and served September 28, 1976. It is as follows: Interstate Commerce Commission Certificated Motor Carrier Operating Authority: *General Commodities,* With the usual exceptions, over regular routes, Between Ft. Ross, California and Fort Bragg, California: From Ft. Ross, California over California State Highway 1 to Fort Bragg, California, and return over the same route. Service is authorized to and from all intermediate points between Ft. Ross, California and Fort Bragg, California, and serving as an off-route point Point Arena Weather Station, California, located approximately 13 miles northeast of Point Arena, California. Between Cloverdale, California, and junction California Highways 128 and 1: From Cloverdale, California over U.S. Highway 101 to Junction California State Highway 128 (formerly California State Highway 28), thence over California State Highway 128 to junction California State Highway 1, and return over the same route. Service is authorized to and from all intermediate points between Cloverdale, California and junction California State Highways 128 and 1, excluding Cloverdale. Between Forestville, California and junction California State Highways 116 and 1: From Forestville, California over California State Highway 116 (formerly California State Highway 12) to Junction with California State Highway 1, and return over the same route, excluding Forestville. Service is authorized to and from all intermediate points between Forestville and junction California State Highway 1. Certificate of Registration Authority Based Upon California Intrastate Authority: General commodities subject to certain specified exclusions, between points and places in Napa, Sonoma and Mendocino Counties, as follows: All points on State Highway 1 from Rockport to its intersection with State Highway 116, inclusive. All points on State Highway 128 from its beginning with State Highway 1 near Albion to its ending with U.S. Highway 101 north of Cloverdale, inclusive. All points on U.S. Highway 101 from its intersection with State Highway 128 to Cloverdale. All points on State Highway 20 from its intersection with State Highway 1 to, but not including, Willits, inclusive. All points on State Highway 116 from its intersection with State Highway 1 near Jenner to Forestville. All points on River Road from Guerneville to its intersection with Westside Road, inclusive. All points on Bohemian Highway from its intersection with State Highway 116 to Occidental, inclusive. All points on Graton Road from its intersection with Bohemian Highway to Graton. Serving the off-route points as follows:

(1) In Sonoma County (a) Bohemian Grove, (b) Occidental, (2) In Mendocino County, (a) Leggett Valley, (b) Point Arena Light Station, (3) The off-route point of the Geysers located approximately 20 miles east of Cloverdale via the Cloverdale-Geysers Road and the Healdsburg-Geysers Road. Serving all points and places within the territory called "Nielsen Freight Lines Territory" described below. The Nielsen Freight Lines Territory includes all that area embraced by the following boundary: Beginning at Rockport, California located on State Highway 1; thence westerly along an imaginary line on the most direct route to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to the Russian River; thence easterly along an imaginary line on the most direct route to State Highway 1; thence southeasterly along State Highway 1 to its intersection with State Highway 116; thence easterly along State Highway 116 to its intersection with Bohemian Highway; thence southeasterly along Bohemian Highway to its intersection with Graton Road; thence northeasterly along Graton Road to its intersection with Ross Road, but not including service to Graton; thence northwesterly along Ross Road to its intersection with Ross Station Road; thence northeasterly along Ross Station Road to its intersection with State Highway 116; thence northwesterly along State Highway 116 to its intersection with Mirabel Road; thence northerly along Mirabel Road to its intersection with River Road; thence northwesterly along River Road to its intersection with Westside Road; thence easterly and northerly along Westside Road to its intersection with Kinley Drive; thence northerly along Kinley Drive to its intersection with Dry Creek Road; thence northwesterly along Dry Creek Road to its intersection with Dutcher Creek Road; thence northerly along Dutcher Creek Road to its intersection with U.S. Highway 101; thence northerly along U.S. Highway 101 to its intersection with State Highway 128, but not including service to Cloverdale, California; thence northerly along an imaginary line at all times 25 miles east of State Highway 1 to its intersection with State Highway 20; thence westerly along California State Highway 20 to its intersection with an imaginary point 10 miles east of State Highway 1; thence northerly along an imaginary line at all times 10 miles east of State Highway 1 to an imaginary point 10 miles east of Rockport; thence westerly along an imaginary line on the most direct route to the point of beginning. Serving all points and places on all roads, streets, and highways located within the boundaries of this territory and also serving all points and places along all roads named as boundary lines of this territory except no service shall be provided to any points and places along the following roads: Ross Road from its intersection with Graton Road to its intersection with Ross Station Road; Ross Station Road from its intersection with Ross Road to its intersection with State Highway 116; State Highway 116 from its intersection with Ross Station Road to its intersection with Mirabel Road; Mirabel Road from its intersection with State Highway 116 to its intersection with River Road; River Road from its intersection with Mirabel Road to its intersection with Westside Road; Westside Road from its intersection with River Road to its intersection with Kinley Drive; Kinley Drive from its intersection with Westside Road to its intersection with Dry Creek Road; Dry Creek Road from its intersection with Kinley Drive to its intersection with Dutcher Creek Road; Dutcher Creek Road from its intersection with Dry Creek Road to its intersection with U.S. Highway 101; U.S. Highway 101 from its intersection with Dutcher Creek Road to, and including, Cloverdale.

No. MC-F-13017. Authority sought for control by BILLY RANKIN, 1040 Potters Lane, Clarksville, Indiana, CHARLES ROBBINS and R. B. CHAMBLISS, Route No. 1, Hardinsburg, Ky., and C. A. VAN LAHR, Irvington, Ky., of ROBBINS TRUCK LINE, INC., Route No. 1, Hardinsburg, Ky., 40143, and for acquisition by BILLY RANKIN, CHARLES ROBBINS, R. B. CHAMBLISS, and C. A. VAN LAHR, of control of such rights through the transaction. Applicants' attorney: Rudy Yessin, P.O. Box B, Frankfort, Ky., 40601. Operating rights sought to be controlled: *General commodities,* with exceptions as a *common carrier* over regular routes serving points in Hancock, Breckenridge and Meade Counties, Ky., and Whiteside and Maceo, Ky., in Daviess County, Ky., (except points located east of a line beginning at Brandenburg, Ky., and extending along Kentucky Highway 448 to junction U.S. Highway 60 (near Otter Creek Park), thence along Kentucky Highway 144 to junction Meade-Hardin County Line) as off-route points in connection with carrier's regular route operations authorized herein over U.S. Highway 60. Between Fordsville, Ky., and

Hardinsburg, Ky., serving all intermediate points and off route points within 3 miles of the specified route: From Fordsville over Kentucky Highway 261 to Hardinsburg, and return over the same route. Between Hawesville, Ky., and Fordsville, Ky., serving all intermediate points and off-route points within 3 miles of the specified route. From Hawesville over Kentucky Highway 69 to Fordsville, and return over the same route. Between Rhodelia, Ky., and Louisville, Ky., serving, the intermediate and off-route point of Andyville, Payneville, Sirocco, Brandenburg, Garrett, Grahamton, Mooleyville, Concordia, and Ekron, Ky.: from Rhodelia over Kentucky Highway 144 to junction Kentucky Highway 448, thence over Kentucky Highway 448 via Brandenburg, Ky., to junction U.S. Highway 60, thence over U.S. Highway 60 to Louisville, and return over the same route. Between West Point, Ky., and Louisville, Ky., serving all intermediate points: From West Point over U.S. Highway 50 to Louisville, and return over the same route. Between Owensboro, Ky., and Falls of Rough State Park, Ky., serving all intermediate points, and off-route points within 3 miles of the described route, but restricted against serving any points in Indiana within the Owensboro, Ky., Commercial Zone, as defined by the Commission: From Owensboro over Kentucky Highway 54 to junction Kentucky Highway 105, and thence over Kentucky Highway 105 to Falls of Rough State Park, and return over the same route, with restrictions. Between Harned, Ky., and Falls of Rough State Park, Ky., serving all intermediate points, and off-route points within 3 miles of the described route: From Harned over Kentucky Highway 259 to junction Kentucky Highway 108 (near Axtel, Ky.), thence over Kentucky Highway 108 via Axtel to junction access road, and thence over access road to Falls of Rough State Park, and return over the same route. Under a certificate of registration in Docket No. MC 98478 (Subs No. 3, 4, and 6) covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Kentucky. Billy Rankin, Charles Robins, C. A. Van Lahr and R. B. Chambliss have no authority from this Commission. However, they are in control of R. T. TRUCK SERVICE, INC., who is authorized to operate as a *common carrier* in Kentucky, Ohio, West Virginia, Indiana, Illinois, Michigan, Missouri, Tennessee, Georgia, and North Carolina. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13018. Authority sought to consolidate by CUSTOM MOTOR FREIGHT, CO., Suite 300, 88 East Broad, Columbus, OH, 43215, of the operating rights of CUSTOM MOTOR FREIGHT, INC., Suite 300, 88 East Broad, Columbus, OH, 43215, and for acquisition by CUSTOM MOTOR FREIGHT, INC., and GARRETT BOND, both of Columbus, OH, 43215 address, of control of such rights through the purchase. Applicants' attorney: Paul F. Beery Co., L.P.A., 8 East Broad Street, Columbus, OH, 43215. Operating rights sought to be transferred: *Fabricated steel,* as a *common carrier* over irregular routes, from Bellefontaine, Ohio, to points in Illinois (except points on and south of U.S. Highway 36) Indiana, Kentucky, Michigan (except points on and south of U.S. Highway 21), Pennsylvania (except points in the Sharon, Pa., Commercial Zone as defined by the Commission), and West Virginia with no transportation for compensation on return except as otherwise authorized, with restrictions; plastic pipe, pipe couplings and fittings, plastic articles, and adhesive cement (except commodities in bulk), between Hilliard and Union Township (Licking County), Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, Pennsylvania, West Virginia, and Wisconsin. Vendee is authorized to operate as a common carrier in Illinois, Indiana, Iowa, Kentucky, Missouri, Minnesota, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

Docket No. AB-7 (Sub-No. 16) (correction) (CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN CANNON FALLS AND RED WING, MINNESOTA), published in the November 11, 1976, issue of the FEDERAL REGISTER, on page 49955. Prior notice should exclude the following: (b) 1.66 miles of exclusively-owned trackage in Cannon Falls, all in Goodhue County, Minn.

— NOTICE

OCTORARO RAILWAY, INC., 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036, represented by Mr. John L. Richardson, Verner, Liipfert, Bernhard, McPherson and Alexander, 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036, hereby give notice that on the 8th day of November, 1976, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the operation of a line of railroad owned by the Southeastern Pennsylvania Transportation Authority (SEPTA) at Wawa, Delaware County, Pennsylvania, and extending in a southwesterly direction to the end of the track at Colora, Cecil County, Maryland, a distance of approximately 41.7 miles, which application is assigned Finance Docket No. 28334. The line passes through the following incorporated cities or villages: Chester Heights, Concordville, Brandywine Summit, Chadd's Ford, Chadd's Ford Junction, Mendenhall, Kennett Square, Toughkenamon, Avondale, West Grove, Kelton, Elkview, Lincoln University, Oxford and Nottingham, Pennsylvania, and Sylmar, Rising Sun, and Colora, Maryland.

Applicant proposes to operate a line of railroad between Wawa, Pennsylvania, and Colora, Maryland, formerly known as the Octoraro Branch of the Penn Central Transportation Company and designated Line Number 142 by the United States Railway Association. The line had been operated by Penn Central, as lessee of the Philadelphia, Baltimore and Washington Railroad Company (PB & W), until flood damage rendered the line inoperable on September 9, 1971. On March 31, 1972, Penn Central and PB & W filed for abandonment of the line in Docket No. AZ-5 (Sub-No. 19). That proceeding was dismissed by the Commission on May 22, 1975, reconsideration denied August 19, 1975. The line has been acquired by Southeastern Pennsylvania Transportation Authority under the provisions of Section 206(c)(1)(D) of the Regional Rail Reorganization Act.

The line of railroad proposed to be operated begins at the connection with the West Chester Branch of Consolidated Rail Corporation (ConRail) (MP 18.0) at Wawa, Delaware County, Pennsylvania, and extends in a southwesterly direction to the end of the track at Colora, Cecil County, Maryland, (MP 59.7) a distance of approximately 41.7 miles.

The suspension of service by Penn Central as a result of flood damage has affected the commercial activities of online customers by increasing distribution costs of raw material and finished products and by forcing withdrawal from various markets. The area served is one of the largest mushroom-producing areas in the U.S. The lack of rail service has been felt strongly by the mushroom growers who are limited in the amount of raw material which can economically be trucked to the area.

Inasmuch as applicant will be resuming operation of an existing rail line, the operation of which has been temporarily suspended as the result of a natural disaster and since the resumed operation will be substantially the same as that previously operated, applicant alleges that approval of this application will have no material effect on the environment or quality of life in the territory served or in any other jurisdiction.

In accordance with the Commission's regulations (49 C.F.R. 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first

publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

OCTORARO RAILWAY, INC.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 10761 (Sub-No. 279), filed October 13, 1976. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 5650 Foresmost Drive, SE., Grand Rapids, Mich. 49506. Applicant's representative: A. David Millner, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Jamestown, N.Y., and Buffalo, N.Y.: (a) From Jamestown over New York Highway 394 to junction U.S. Highway 62, thence over U.S. Highway 62 to Buffalo; (b) From Jamestown over New York Highway 60 to Fredonia, thence over U.S. Highway 20 to Junction New York Highway 5, thence over New York Highway 5 to Buffalo; and (c) From Jamestown over New York Highway 394 to Conewango Valley, thence over New York Highway 83 via Smiths Mills to Silver Creek, thence over New York Highway 5 to Buffalo; and return over the same routes in (a) through (c) above, serving all intermediate points except the intermediate points on U.S. Highway 62 between Conewango Valley and Buffalo. NOTE.—The purpose of this application it to assure that certain routes retained by applicant upon sale of portion of operating rights in Docket No. MC-F-12713 are nevertheless available to applicant following transfer in the directly-related Section 5 proceeding. This is a matter directly related to a Section 5(2) finance proceeding in MC-F-12713 published in the FEDERAL REGISTER issue of December 23, 1975.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 42432 (Sub-No. 148), filed October 14, 1976. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: Phineas Stevens, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss., 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between St. Louis, Mo., and Indianapolis, Ind., serving all intermediate points: From St. Louis, Mo., over U.S. Highway 40 to Indianapolis, Ind., and return over the same route, Restriction: Operations between St. Louis, Mo., and Indianapolis, Ind., shall be restricted against service between the termini or at any intermediate point, except on traffic originating at or destined to points beyond said termini; (2) Between Sandusky, Ohio and Cleveland, Ohio, serving all intermediate points: From Sandusky, Ohio over U.S. Highway 6 to Lorain, Ohio, thence over Ohio Highway 57 to junction Ohio Highway 254, and thence over Ohio Highway 254 to Cleveland, Ohio, and return over the same route, Restriction: Service at points between Sandusky and Cleveland including Sandusky and Cleveland, restricted to traffic moving through Sandusky; (3) Between Anderson, Ind., and Indianapolis, Ind., serving all intermediate points: From Anderson, Ind., over Indiana Highway 67 to Indianapolis, Ind., and return over the same route, Restriction: Operations between Anderson and Indianapolis shall be restricted against service between the termini or at any intermediate point, except on traffic originating at or destined to points beyond said termini; (4) Between Cincinnati, Ohio and Columbus, Ohio, serving all intermediate points: From Cincinnati over U.S. Highway 22 to Washington Courthouse, thence over U.S. Highway 62 to Columbus, and return over the same route; (5) Between Salem, Ohio and Pittsburgh, Pa., serving all intermediate points: From Salem over Ohio Highway 45 to Lisbon, thence over U.S. Highway 30 to East Liverpool, Ohio, thence over Ohio Highway 39 to the Ohio-Pennsylvania State Line, thence over Pennsylvania Highway 88 to Pittsburgh, and return over the same route; (6) Between Seymour, Ind.: and Cincinnati, Ohio, serving no intermediate points and serving Seymour, Ind., for purpose of joinder only. From Seymour over U.S. Highway 50 to Cincinnati, and return over the same route;

(7) Between Wapakoneta, Ohio, and Findlay, Ohio, serving all intermediate points: From Wapakoneta over U.S. Highway 25 to Findlay, and return over the same route; (8) Between Richmond, Ind., and Springfield, Ohio, serving all intermediate points: From Richmond over U.S. Highway 40 to Springfield, and return over the same route; and (9) Between West Jefferson, Ohio and Columbus, Ohio, serving no intermediate points and serving West Jefferson for purposes of joinder only: From West Jefferson over U.S. Highway 40 to Columbus, and return over the same route. NOTE.—The instant application is directly related to Docket No. MC-F-12872, East Texas Motor Freight Lines, Inc. Purchase of a Portion of the Operating Rights and Properties of Transamerican Freight Lines, Inc. published in the FEDERAL REGISTER issue of July 15, 1976.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

Represented by Harold O. Love, Receiver, Pursuant to Order of the District Court of the United States for the Eastern District of Michigan, Southern Division, in Bankruptcy, in Case No. 75-94047-B. The authority sought, as described above, duplicates a portion of the authority sought to be transferred from Transamerican Freights Lines, Inc. to East Texas Motor Freight Lines, Inc. in the above-referenced finance proceeding. Applicant requests that the authority sought in the instant application be granted only in the event of approval by the Commission of the above-referenced directly related finance proceeding.

No. MC 47362 (Sub-No. 2), filed October 4, 1976. Applicant: JOHN BRITT FAST FREIGHT SERVICE, INC., 43-21 54th Drive, Maspeth, N.Y. 11378. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Hudson and Essex Counties, N.J., on the one hand, and, on the other, points Long Island, N.Y. (1) The purpose of this filing is to eliminate the gateway at New York, N.Y.; and (2) Applicant also seeks to tack the authorities in MC 126208 and MC 47362 without eliminating the gateways, thereby providing a through service utilizing the gateway points.

NOTE.—This a matter directly related to a Section 212 (b) finance proceeding in MC-FC-76714, published in the FEDERAL REGISTER issue of November 11, 1976. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 110144 (Sub-No. 19), filed September 1, 1976. Applicant: JACK C. ROBINSON, doing business as ROBINSON FREIGHT LINES, 3600 Papermill Road, P.O. Box 0234, Knoxville, Tenn. 37919. Applicant's representative: Warren A. Goff, 5100 Poplar Avenue, Suite 2008, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) Between Knoxville, Tenn. and Kyles Ford, Tenn.: From Knoxville to Tazewell over Tennessee Highway 33, thence south over U.S. Highway 25E to its junction with Tennessee Highway 33, thence east over Tennessee Highway 25E to Kyles Ford, and return over the same route, serving no intermediate points between Knoxville and Tazewell, including Tazewell; (2) Between the junction of Tennessee Hightway 33 and U.S. Highway 25E and Morristown: From the junction of Tennessee Highway 33 and U.S. Highway 25E to Morristown, Tenn., and return over the same route, serving the intermediate point of Thorn Hill; and (3) Between Thorn Hill, Tenn. and Morresburg, Tenn: From Thorn Hill to Treadway over Tennessee Highway 131, thence north over Tennessee Highway 31 to Sneedville, thence northerly over Tennessee Highway 33 to Kyles Ford, thence south over Tennessee Highway 70 to Edison, thence southwesterly over an improved county road to Carmelot (Pressman's Home), thence west over Tennessee Highway 131 to Treadway, thence south over Tennessee Highway 31 to Mooresburg, and return over the same route, serving all intermediate points.

NOTE.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section (5)(2) finance proceeding in MC-F-12963, published in the FEDERAL REGISTER issue of September 16, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Knoxville, Tenn.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-71]

BALTIMORE & ANNAPOLIS RAILROAD CO., ABANDONMENT OF OPERATIONS BETWEEN CLIFFORD JUNCTION, BALTIMORE CITY AND ANNAPOLIS, IN BALTIMORE & ANNE ARUNDEL COUNTIES, MARYLAND

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on May 26, 1976, a finding, which is administratively final, was made by the Commission Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Baltimore & Annapolis Railroad Company of its operations over that portion of its line of railroad between Glen Burnie and Annapolis, Maryland, in Anne Arundel County, Maryland. A certificate of abandonment will be issued to the Baltimore & Annapolis Railroad Company based on the above described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of real services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained there in as well as the instructions contained in the above-referenced order.

[Finance Docket No. 26660]

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD COMPANY ABANDONMENT—PASSAIC BRANCH, PASSAIC AND CLIFTON CITIES, PASSAIC COUNTY, AND GARFIELD CITY, BERGEN COUNTY, NEW JERSEY

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 28, 1976, a finding, which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the New York, Susquehanna & Western Railroad Company of that portion of its line of railroad (Passaic Branch) between a point on the main line of said Passaic Branch, from Botany Avenue, east of the east end of the Passaic River Bridge carrying said railroad over Passaic River Bridge and end of said branch in the Cities of Passaic and Clifton, County of Passaic, and Garfield, County of Bergen, New Jersey, a total distance of approximately 2.25 miles. A certificate of abandonment will be issued to the New York, Susquehanna & Western Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-1, Sub-No. 24]

CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN FORT DODGE AND KALO, IN WEBSTER COUNTY, IOWA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on April 30, 1976, and September 23, 1976, respectively, a finding, which is administratively final was made by the Commission, Review Board Number 5, and Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Company of its line of railroad beginning at milepost 222.0 at Fort Dodge and extending in a south-easterly direction to milepost 227.6 at Kalo, a distance of approximately 5.6 miles, all in Webster County, Iowa. A certificate of abandonment will be issued to the Chicago & North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-2 Sub-No. 10]

LOUISVILLE AND NASHVILLE RAILROAD COMPANY ABANDONMENT BETWEEN TALLADEGA AND COLDWATER IN TALLADEGA AND CALHOUN COUNTIES, ALABAMA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by orders served May 26, 1976, and August 12, 1976, respectively, a finding, which is administratively final, was made by the Commission, Commissioner Brown and Division 3, acting as an Appellate Division, stating that subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and further condition that for a period of two years from the service date of the order served August 12, 1976, the abandonment will not result in changes in present freight rates or charges, routing privileges, or construction of short line mileages for freight rate making or other purposes unless authorized or directed by the Interstate Commerce Commission, the present and future public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Company of its line of railroad extending from railroad milepost 482.7 near Talladega in a north-easterly direction to railroad milepost 500 near Coldwater, a distance of 17.3 miles, in Talladega and Calhoun Counties, Alabama. A certificate of abandonment will be issued to the Louisville and Nashville Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 33641 (Deviation No. 112), IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah, 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 20 and Massachusetts Highway 146, thence over Massachusetts Highway 146 to the Massachusetts-Rhode Island State line, thence over Rhode Island Highway 146 to Providence, R.I., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction Massachusetts Highway 146 and U.S. Highway 20 over U.S. Highway 20 to Boston, Mass., thence over U.S. Highway 1 to Providence, R.I., and return over the same route.

No. MC 33641 (Deviation No. 113), IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah, 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cheyenne, Wyo., over Interstate Highway 80 (using portions of U.S. Highway 30 where Interstate Highway 80 is not completed), to junction Interstate Highway 74, thence over Interstate Highway 74 to Indianapolis, Ind., thence over Interstate Highway 65 to Louisville, Ky., and return over

the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Cheyenne, Wyo., over U.S. Highway 85 to Denver, Colo., thence over U.S. Highway 36 to Smith Center, Kans., thence over U.S. Highway 281 to junction U.S. Highway 24, thence over U.S. Highway 24 to Kansas City, Mo., thence over U.S. Highway 50 to junction Missouri Highway 100 near Gray Summit, Mo., thence over Missouri Highway 100 to St. Louis, Mo., thence over U.S. Highway 50 to Shoals, Ind., thence over U.S. Highway 150 to Louisville, Ky., and return over the same route.

No. MC 33641 (Deviation No. 114), IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah, 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cheyenne, Wyo., over Interstate Highway 80 (using portions of U.S. Highway 30 where Interstate Highway 80 is not completed) to junction U.S. Highway 6 near Lincoln, Nebr., thence over U.S. Highway 6 to Lincoln, Nebr., thence over Nebraska Highway 2 to Nebraska City, Nebr., thence over U.S. Highway 73 to Auburn, Nebr., thence over U.S. Highway 136 to junction Interstate Highway 29, thence over Interstate Highway 29 (using portions of U.S. Highway 136 and U.S. Highway 59 where Interstate Highway 29 is not completed) to Kansas City, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Cheyenne, Wyo., over U.S. Highway 85 to Denver, Colo., thence over U.S. Highway 36 to Smith Center, Kans., thence over U.S. Highway 281 to junction U.S. Highway 24, thence over U.S. Highway 24 to Kansas City, Mo., and return over the same route.

No. MC 33641 (Deviation No. 115), IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah, 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cheyenne, Wyo., over Interstate Highway 80 (using portions of U.S. Highway 30 where Interstate Highway 80 is not completed) to junction U.S. Highway 6 near Lincoln, Nebr., thence over U.S. Highway 6 to Lincoln, Nebr., thence over Nebraska Highway 2 to Nebraska City, Nebr., thence over a bridge over the Missouri River to Iowa Highway 2 thence over Iowa Highway 2 to junction Interstate Highway 29, thence over Interstate Highway 29 (using portions of U.S. Highway 136 and U.S. Highway 59 where Interstate Highway 29 is not completed) to Kansas City, Mo., and return over the same route. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Cheyenne, Wyo., over U.S. Highway 85 to Denver, Colo., thence over U.S. Highway 36 to Smith Center, Kans., thence over U.S. Highway 281 to junction U.S. Highway 24, thence over U.S. Highway 24 to Kansas City, Mo., and return over the same route.

No. MC 33641 (Deviation No. 116), IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over Interstate Highway 35 to junction U.S. Highway 36 near Cameron, Mo., thence over U.S. Highway 36 to Springfield, Ill., thence over Interstate Highway 55 to junction Interstate Highway 80 west of Joliet, Ill., thence over Interstate Highway 80 to junction Interstate Highway 94 near Hammond, Ind., thence over Interstate Highway 94 to junction U.S. Highway 12 near New Buffalo, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 50 to junction Missouri Highway 100 near Gray Summit, Mo., thence over Missouri Highway 100 to St. Louis, Mo., thence over U.S. Highway 50 to Cincinnati, Ohio, thence over U.S. Highway 52 to junction U.S. Highway 41, thence over U.S. Highway 41 to Chicago, Ill., thence over U.S. Highway 12 to junction Interstate Highway 94 near New Buffalo, Mich., and return over the same route.

No. MC 33641 (Deviation No. 117), IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Denver, Colo., over U.S. Highway 36 to junction Interstate Highway 57 near Tuscola, Ill., thence over Interstate Highway 57 to Chicago, Ill., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Denver, Colo., over U.S. Highway 6 to Brush, Colo., thence over U.S. Highway 34 to Hastings, Nebr., thence over U.S. Highway 6 to Moline, Ill., thence over Illinois Highway 92 to junction U.S. Highway 34, thence over U.S. Highway 34 to Oswego, Ill., thence over Illinois Highway 31 to Aurora, Ill., thence over Illinois Highway 65 to junction U.S. Highway 34, thence over U.S. Highway 34 to Chicago, Ill., and return over the same route.

No. MC 33641 (Deviation No. 118), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 30277, Salt Lake City, Utah 84125, filed November 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lewistown, Pa., over U.S. Highway 322 to Potters Mills, Pa., thence over Pennsylvania Highway 144 to junction U.S. highway 220, thence over U.S. Highway 220 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction Ohio Highway 21, thence over Ohio Highway 21 to junction Ohio Highway 585, thence over Ohio Highway 585 to Wooster, Ohio, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Lewistown, Pa., over U.S. Highway 22 to Pittsburgh, Pa., thence over Pennsylvania Highway 65 to Rochester, Pa., thence over Pennsylvania Highway 68 to junction Ohio Highway 39 at the Ohio-Pennsylvania State line, thence over Ohio Highway 39 to E. Liverpool, Ohio, thence over U.S. Highway 30 to Wooster, Ohio, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 56320 filed March 9, 1976. Applicant: BLUE RIBBON EXPRESS AND MESSENGER SERVICE, 576 Palo Alto Avenue, Mountain View, Calif. 94041. Applicant's representative: E. H. Griffiths, 1182 Market Street, San Francisco, Calif. 94102. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except as hereinafter provided). Between all points and places in the San Francisco Territory which is described as follows: *San Francisco Territory* included all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including indus-

tries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road).

Northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Avenue to Estates Drive; westerly along Estates Drive; Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to Berkley-Oakland Boundary line; northerly along said boundary line to the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Also off route service to all points and places located on Bear Gulch Road between its intersection with State Highway 35 (Skyline Boulevard) and its termination. (Except that applicant shall not transport any shipments of: 1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A, 2. Automobiles, trucks and buses, viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis, 3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine, 4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles, 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks, 6. Commodities, when transported in motor vehicles equipped for mechanical mixing in transit, 7. Cement, 8. Logs, and 9. Fresh fruit and vegetables). Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 760764-CCT filed October 26, 1976. Applicant: CARPET DELIVERY SERVICE, INC., 1831 N. W. 186th Street, Miami, Fla. 33169. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33125. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Carpets, carpeting, and carpet remnants,* wrapped and unwrapped in rolls, to, from and between all points and places in the State of Forida lying South of the Northern boundaries of the Counties of Dixie, Gilchrist, Alachua, Putnam, and Flagler, over irregular routes and on irregular schedules. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Florida Public Service Commission, 700 Adams Street, Tallahassee, Fla. 32304 and should not be directed to the Interstate Commerce Commission.

New York Docket No. T 3427 filed October 22, 1976. Applicant: G & F TRUCKING CO., INC., 619 Medford Avenue, Patchogue, N.Y. 11772. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (1) between all points in Nassau County and New York City; and (2) from all points in Nassau County, to all points in Suffolk County. Note: Desires to provide direct service between points in Nassau County and New York City, N.Y., and to provide service from points in Nassau County to points in Suffolk County, N.Y. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 33479 (Sub-No. 3) filed November 4, 1976. Applicant: AUSLEY MOTOR FREIGHT, INC., 101 S.W. 7th St., Oklahoma City, Okla. 73125. Applicant's representative: Charles D. Dudley, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of General commodities, over regular routes, from Oklahoma City, Okla., via Interstate Highway 40 east of Henryetta, thence south via the Indian Nation Turnpike to its junction with U.S. Highway 270 west of McAlester, Okla. serving the off-route point of Haywood, Okla. via Oklahoma Highway 31. From the junction of the Indian Nation Turnpike and U.S. Highway 270, via U.S. Highway 270 to Heavener, Okla. serving Krebs and Heavener, Okla. and all intermediate points, and the off-route point of Summerfield, Okla. via U.S. Highway 271 south from Caston, Okla. From Heavener, Okla., north via U.S. Highway 59 to its junction with U.S. Highway 271, thence via U.S. Highway 271 to Poteau, Okla. serving Poteau and all intermediate points between Heavener and Poteau, Okla. and the off-route point of Monroe, Okla. via Oklahoma Highway 83. From junction of U.S. Highway 270 and U.S. Highway 271 at Wister, Okla. via U.S. Highway 271 to Poteau, Okla. From Poteau north via U.S. Highway 271 to the Oklahoma-Arkansas state line serving Shady Point, Panama, and Spiro, Okla. and the off-route points of Cameron, Rock Island and Pocola, Okla. via Oklahoma Highway 112, and the off-route points of Braden and Arkoma, Okla. via Oklahoma Highway 9A. Return to Oklahoma City from Poteau, Okla. U.S. Highway 59 to its junction with Interstate Highway 40 at or near Sallisaw, Okla., thence via Interstate Highway 40 to Oklahoma City, for operating convenience only. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place scheduled for January 10, 1977, at 9 o'clock, 2nd floor, Jim Thorpe Bldg., Oklahoma City, Okla. 73105. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 37832 (Sub-No. 2) filed Octover 12, 1976. Applicant: EDMOND MOTOR FREIGHT, INC., 1608 N.W. 41st Street, Oklahoma City, Okla. 73118. Applicant's representative: William D. Watts, 1600 Midland Center, Oklahoma City, Okla. 73102. Certificate of Public Convenience and Necessity sought to operate a freight service over regular routes, and as a common carrier as follows: Transportation of (1) *General commodities:* beginning in Edmond South on I-35 to Oklahoma City, at the junction of I-40 and I-35 West on I-40 to junction with Hwy. 281 and South on Hwy. 281 to Hinton, Lookeba, Binger and Gracemont. North to Hwy. 281 to junction with Hwy. 9 and West on Hwy. 9 to Carnegie and Mountain View. East on Hwy. 9 to Fort Cobb and East on Hwy. 9 to junction with Hwy. 62 and East to Anadarko. East on Hwy. 62 to intersection with Hwy. 81 and Chickasha. North on Hwy. 81 to I-40 and East into Oklahoma City to junction of I-40 and I-35

serving all intermediary points, (2) *general commodities:* beginning in Edmond South to Oklahoma City on I-35 to junction of I-35 and I-240 and West on I-240 to junction with Hwy. 62 and South on Hwy. 62 to junction with Hwy. 36 and West to Foxon, Chattanooga and junction with Hwy. 5 and West to junction with Hwy. 183 and Frederick. South on Hwy. 183 to junction with Hwy. 70 and Davidson. East on Hwy. 70 to Grandfield and junction with Hwy. 36. North on Hwy. 36 to junction of Hwy. 5 and return by same route from junction of Hwy. 5 to Anadarko and Oklahoma City. Serving all intermediary points; and (3) *general commodities:* between Edmond, Oklahoma and Piedmont, Oklahoma and Oklahoma City, Oklahoma and return via unnumbered State highways, and serving all intermediary towns and points. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place scheduled to be held in the Referee's Court Room, Second Floor, Jim Thorpe Office Building, Oklahoma City, Okla., on the 3rd and 4th day of January 1977, at 9 o'clock A.M., at which time any interested party may appear and be heard. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 39391 filed November 2, 1976. Applicant: R and R TRUCKING, INC., 6708 Eastwood Circle, Oklahoma City, Okla. 73132. Applicant's representative: Bruce Ryan (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except those of unusual value, Class A and B Explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), regular route authority sought, from to and between the following points in Oklahoma via all routes, as follows: 1. Between Oklahoma City and Durant via U.S. Highway 77 to Lexington, thence via State Highway 39 to Asher, thence State Highway 177 to junction of State Highway 13, thence State Highway 13 to Ada serving no intermediate points, thence State Highway 99 to Madill, serving the intermediate point of Tishomingo, thence U.S. 70 to Durant, serving the intermediate point of Kingston, Okla.; and 2. Between Durant, Okla., and Broken Bow, Okla. via U.S. Highway 70; serving the intermediate points of Soper, Boswell, Bennington, Bokchito, Blue, Hugo, Fallon, Fort Towson, Swink, Valliant, Millerton, Idabel, Broken Bow, and the off-line point of Craig, Okla.; and 3. Between Durant, Okla., and the Oklahoma-Texas State Line, serving the intermediate points of Calera and Colbert; Okla.; and 4. Between Oklahoma City and Ada., Okla.; via U.S. Interstate Highway 40 to U.S. Highway Junction 177 thence U.S. 177 to Junction State Highway 13 to Ada. Okla., serving no intermediate points; and 5. Between Ada., Okla., and Broken Bow via Oklahoma State Highway 3 serving no intermediate points, but serving the off-line points of Antlers and Wright City, Okla.; and 6. Between Tupelo, Okla., and Durant, Okla.; via Oklahoma State Highway 48; and 7. Between Clayton and Hugo, Okla., serving U.S. 271 and U.S. 70, serving the intermediate point of Antlers, Okla. Intrastate, interstate and foreign commerce authority sought. Hearing: Date and place scheduled for December 27, 1976, 2nd Floor, Jim Thorpe Bldg., Oklahoma City, Okla. 73105 (time not shown). Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla 73105 and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 39418 filed November 5, 1976. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 793, 1118 South Commerce Street, Ardmore, Okla. 73401. Applicant's representative: Larry Hayes (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service as a regular route common carrier via motor vehicle from, to and between the following points via the following routes, transporting *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), to-wit: (1) Between the points of Oklahoma City, and Marietta, Okla. via U.S. Highway 77 serving all intermediate points as follows: Norman, Noble, Lexington, Purcell, Pauls Valley, Wynnewood, Davis, Springer, Ardmore Industrial Park and Ardmore and serving the off-line point of Sulphur via Oklahoma Highway 7, (2) Between Ardmore and Ringling, Okla. via, U.S. Highway 70 serving all intermediate points as follows: Lone Grove and Wilson, Okla., (3) Between Pauls Valley and Alex via Oklahoma Highway 19 serving all intermediate points as follows: Maysville, Lindsay and Bradley, Okla. (4) Between Lindsay and Hearaldton via Oklahoma Highway 76 serving all intermediate points as follows: Foster, Pernell, Ratliff City and Fox, Okla., (5) Between Foster and Wynnewood via Oklahoma Highway 29 serving the intermediate point of Elmore City; and (6) Between Purcell and Maysville, Okla. via Oklahoma Highway 74. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, and place scheduled for January 17, 1977, 2nd Floor, Jim Thorpe Bldg., Oklahoma City, Okla. 73105 (time not given). Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5406 (Sub-No. 2), filed October 8, 1976. Applicant: JACKSON EXPRESS, INC., 12 Conalco Drive, Jackson, Tenn. 38301. Applicant's representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except household goods, Classes A and B explosives, commodities in bulk and commodities requiring special equipment), (1) Between Jackson, Tenn. and Milan, Tenn.; from Jackson over U.S. Highway 45 to its junction with U.S. Highway 45-E, thence over U.S. Highway 45-E to Milan, and return over the same route serving all intermediate points; (2) Between Jackson, Tenn., and Bolivar, Tenn.; from Jackson over Tennessee Highway 18 to Bolivar, and return over the same route, serving all intermediate points and the off-route point of Toone, Tenn.; (3) Between Jackson, Tenn., and Lexington, Tenn.; from Jackson over U.S. Highway 70 to its junction with Tennessee Highway 20, thence over Tennessee Highway 20 to Lexington, and return over the same route, serving all intermediate points; (4) Alternate route authority for operating convenience only between the following points and over the following routes: (a) Between Jackson, Tenn., and Memphis, Tenn.; from Jackson over U.S. Highway 70 to Memphis, and return over the same route; (b) Between Memphis, Tenn., and Selmer, Tenn,; from Memphis over U.S. Highway 64 to Selmer, and return over the same route; (c) Between Milan, Tenn., and Huntingdon, Tenn.; from Milan over U.S. Alternate Highway 70 to Huntingdon, and return over the same route; (d) Between Whiteville, Tenn. and Nashville, Tenn.; from Whiteville over Tennessee Highway 100 to Nashville and return over the same route; (e) Between Lexington, Tenn. and Jacks Creek, Tenn.; from Lexington over Tennessee Highway 22 to its junction with Tennessee Highway 22A, thence over Tennessee Highway 22-A to Jacks Creek, and return over the same route; (f) Between Lexington, Tenn., and Parsons, Tenn.; from Lexington over Tennessee Highway 20 to Parsons, and return over the same route; and (g) Between Jackson, Tenn., and Nashville, Tenn.; From Jackson over U.S. Highway 70 to Nashville and return over the same route. *RESTRICTION:* Service on Route 1 above is restricted against the handling of traffic originating at, destined to or interchanged at Memphis, Tenn. and its Commercial Zone. All of the above service and alternate routes to be used in conjunction with all of applicant's existing authority, subject to above restriction. Intrastate, interstate and foreign commerce authority sought. *HEARING:* Date, time and place set for January 11, 1977, at 9:30 A.M., at the Commission's Court Room, C-1 Cordell Hull Building, Nashville, Tenn. Requests for procedural information should be addressed to the Tennessee Public Service Commission,

C1–111 Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

Texas Docket No. 002627A7A, filed November 3, 1976. Applicant: CENTRAL FREIGHT LINES, INC., 5601 West Waco Drive, P.O. Box 238, Waco, Tex. 76703. Aplicant's representative: Phillip Robinson, P.O. Box 2207, Austin, Tex. 78768. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, as follows: Between Marshall, Texas and the plant site and warehouse of Little Lake Industries near Jefferson, Texas as follows: From Marshall, Texas over U.S. Highway 59 for approximately 16 miles to Jefferson, Texas, thence over Texas Highway 49 to the intersection of Farm Road 728, thence over Farm Road 728 to the plantsite and warehouse entrance to Little Lake Industries, and return over the same route, serving the termini and all intermediate points.

NOTE.—Applicant proposed to tack and coordinate the proposed additional services with all services authorized in intrastate commerce under Certificates 2627, 2054, 4336 and 4337 and with all services now authorized in interstate and foreign commerce under authorities granted in Docket No. MC 30867 and all subs thereunder. Applicant seeks no duplicate authority. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Tex. 78711 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-34739 Filed 11-23-76;8:45 am]

federal register

WEDNESDAY, NOVEMBER 24, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

NATIONAL DIRECT STUDENT LOAN PROGRAM AND SUPPLEMENTAL EDUCATION OPPORTUNITY GRANTS PROGRAM

Interim Regulations

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 144—NATIONAL DIRECT STUDENT LOANS

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Interim Regulations

1. The National Direct Student Loan Program (NDSL) is a long-term, deferred repayment loan program established at institutions of postsecondary education to provide loans to needy students to meet their educational expenses.

A student may borrow up to a total of: (a) $2,500 if he is enrolled in a vocational program or if he has completed less than two years of a program leading to a bachelor's degree; (b) $5,000 if he is an undergraduate student who has already completed two years of study toward a bachelor's degree; (This total includes any amount he has borrowed under the NDSL Program for his first two years of study) and (c) $10,000 for graduate study. (This total includes any amount the student borrowed under the NDSL Program for his undergraduate study.)

Repayment on these loans begins 9 months from the time a student graduates or ceases to be enrolled as at least a half-time student. Normally the student is allowed ten years to repay the loan. During the repayment period, the interest charge is 3 percent simple interest on the unpaid balance of the loan principal. Loans are repaid directly to the lending institution and are thus available for making new loans to other needy students.

No payments are required and no interest accrues for up to three years while the student borrower serves as a member of the Armed Forces of the United States, Peace Corps, or Vista. Also no payment is required and no interest accrues during periods when the student borrower is enrolled for at least a half-time course of study at an eligible postsecondary institution.

Cancellation of part or all of a loan may be granted to student borrowers who go into certain fields of teaching or specified military duty.

A prospective student borrower should contact the financial aid officer at the institution in which he is enrolled or expects to be enrolled for details concerning an application for such a loan.

A notice of proposed rule making was published in the FEDERAL REGISTER on October 14, 1975 (40 FR 48252–48264) setting forth regulations for the National Direct Student Loan Program authorized by Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1087aa–87ff), and Title II of the National Defense Education Act of 1958 (20 U.S.C. 421–29). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92–318) hearings were held at the U.S. Office of Education in Washington, D.C. and the Regional Offices of Education in Dallas, Texas and San Francisco, California and comments were received on the proposed regulation. In addition, interested persons were invited to submit written comments and recommendations to the U.S. Office of Education, Room 2085, Federal Office Building Six, 400 Maryland Avenue, SW., Washington, D.C., Attention: Chairman, Office of Education Task Force on Section 503. Written comments were received and considered.

Furthermore, the Education Amendments of 1976, Pub. L. 94–482 was enacted which made changes in the operation of the Loan Program. Those changes affecting the operation of the program for the current academic year have been incorporated into these regulations.

As a result of such comments, interim regulations are being published, as set forth below, to enable further public comments, suggestions, and recommendations. These interim regulations, when they become effective in accordance with section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)), will govern the operation of the National Direct Student Loan Program until such time as final regulations are published and become effective.

Interested parties are invited to submit written comments, suggestions, or objections to the Office of Education, Bureau of Postsecondary Education, Division of Student Financial Aid, Room 4004, 7th & D St., S.W., Washington, D.C. 20202. All relevant material must be received not later than February 22, 1976. Comments received will be available for public inspection at the above office Monday through Friday between 8:00 a.m. and 4:30 p.m.

A. *Summary of Comments—Office of Education Response.* The following oral and written comments were received by the Office of Education regarding the notice of proposed rulemaking (NPRM). After a summary of each comment, a response is set forth stating the changes which have been made in the regulation, or the reasons why no change is deemed necessary. In view of the large volume of comments received, the Office of Education has summarized as many of the comments as possible under single headings.

SECTION 144.2 DEFINITIONS

ACADEMIC YEAR

Comment. One commenter requested clarification of the verb "complete" as it is used in this definition, questioning whether it implied a specific requirement upon a student to earn credits or to remain enrolled in a course from which he might otherwise choose to withdraw.

Response. The definition of an "academic year" is an attempt to define a period of time in a manner which will provide comparability among institutions using differing units of measurement for organizing instructional periods. Taken in context, the verb "complete" clearly is used in a general sense as part of the definition of a unit of measurement: "* * * a period of time * * * in which a full-time student would normally be expected to complete the equivalent * * *" Student eligibility requirements are included elsewhere in the regulations.

Comment. Two commenters questioned whether a difference in meaning was intended in the use of the verbs "pursuing" in defining a full-time student and "carrying" in defining a half-time student.

Response. No difference was intended. In response to the commenter's suggestion, the term "carrying" will be used uniformly in both definitions.

GOOD STANDING

Comment. Several commenters recommended that the definition of the term "good standing" be amended to include criteria other than simple eligibility to continue in attendance in accordance with institutional standards and practices. These commenters noted that some public institutions are required by State law to permit any State resident to continue in attendance as long as he or she wishes, without regard to the student's academic performance.

Response. The commenter's recommendation has been adopted. The definition of "good standing" has been expanded to provide that for purposes of student eligibility under the National Direct Student Loan Program, institutional standards must provide that the student is making measurable progress toward the completion of his course of study. Thus a student who fails all of his courses cannot be considered in good standing for purposes of determining his eligibility for continued aid under the National Direct Student Loan Program.

HALF-TIME STUDENT

Comment. One commenter suggested that for purposes of consistency the phrase "whether or not for credit" should either be deleted from the definition of a full-time student or added to the definition of a half-time student.

Response. The commenter's point is well taken; the phrase "whether or not for credit" has been deleted from the definition of a full-time student.

Comment. One commenter suggested that the minimum number of semester or quarter hours cited in § 144.2(u) (formerly § 144.2(p) in the NPRM) as necessary to constitute a half-time academic work load should be increased from six to eight.

Response. The suggestion was not adopted as a requirement for all institutions; however the commenter's institution may use such a higher standard if it chooses to do so. The Office of Education has tried to develop a definition which will accommodate a wide variety of programs and institutions of postsecondary education. The standard for determining half-time student status is to be established by the institution, except that for this program it may not be less than the minimum set by the Office of Education.

Comment. Several commenters noted that institutions frequently have different standards for full-time (and half-time) student status at the graduate

level as compared to their standards for undergraduates, often requiring an academic work load of fewer course hours than that required for undergraduates. Therefore, the commenters suggested that the definition of a "half-time student" should be expanded to include a lower minimum number of hours per term for graduate and professional half-time students.

Response. In accordance with the commenters' suggestions, a definition of the term "half-time graduate student" has been included in the regulations.

Comment. Two commenters suggested the inclusion in the regulations of a definition of "postsecondary student" to facilitate eligibility determinations.

Response. The suggestion was not adopted. The Office of Education considers § 144.9 which sets forth student eligibility criteria to be sufficient to resolve any eligibility questions which may arise.

Comment. Two commenters objected to the requirement set forth in § 144.2 (x) (1) of the regulation (§ 144.2(r) of the NPRM) which defines an institution of higher education as admitting "as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate." One commenter observed that many community colleges regularly enroll students in academic programs without reference to their graduation from high school or other certification. Another commenter noted that some institutions may enroll students who have failed to complete high school and have no recognized equivalent of a diploma, but are considered by the institution to be qualified for admission. One commenter questioned whether an institution following such a practice would be ineligible to participate in the National Direct Student Loan Program and another suggested that the definition be amended to include institutions which admit primarily students with high school diplomas or the equivalent but also others whom the institutions deems qualified.

Response. The definition to which the commenters object is set forth in § 1201 (a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1141), and cannot be changed by regulation. It should be noted that § 1201(a) (1) of the Higher Education Act and § 144.2(x) (1) of the regulations require that institutions of higher education admit as regular students only persons having a high school diploma or the recognized equivalent. Therefore, any institution which admits as regular students persons who do not have a high school diploma or the recognized equivalent may not qualify as an institution of higher education and therefore may not participate in the National Direct Student Loan Program.

PROPRIETARY INSTITUTION OF HIGHER EDUCATION

Comment. One commenter suggested that the resolution of eligibility questions could be facilitated if the definition of an eligible program of study were included.

Response. The commenter's suggestion has been adopted. A minimum standard for an eligible program of study has been included in the definition of a "Proprietary institution of higher education." A similar standard has been included in the definition of "institution of higher education" with respect to a one year vocational technical school.

SELF-SUPPORTING OR INDEPENDENT STUDENT

Comment. The proposed definition included a requirement that the student "has not lived or will not live for more than two consecutive weeks in the home of a parent during the calendar year." Most of the commenters felt that two weeks was too restrictive a period for a student who became ill or for a student recently separated from a spouse. Many commenters offered alternative periods of time for visits, varying from three weeks to four months, while others suggested adding a waiver for exceptional circumstances. One commenter objected to the $600 limitation on the amount of assistance a "self-supporting student" could receive from his or her parent(s), and suggested that it should be raised to a higher level. In addition several commenters were concerned that the definition did not make clear whether one or both parents should be deceased for a student to be declared "self-supporting."

Response. The definition of self-supporting or independent student is an attempt to define in objectively measurable terms the nature of a relationship which is essentially subjective rather than objective. Except with regard to veterans this definition is one which is or will be used by the other programs of student financial aid administered by the Office of Education. (Section 464(e) of the Act (20 U.S.C. 1087dd(e)) in effect requires that veterans be treated as independent students under this part.) It is recognized that the proposed definition is somewhat arbitrary; but for the sake of consistency with other programs it is not being changed. However, to accommodate the concerns which were expressed about this definition, provision was made in § 144.12 to give the student financial aid officer at an institution the discretionary authority to determine in any particular case whether the relationship between a student and his parents is of such a nature that it is unreasonable to expect the parents to contribute towards the student's cost of education, regardless of whether that student qualifies as an independent student.

The intent of the provision concerning a deceased parent is simply to state the obvious: A student cannot be considered to be dependent on a deceased person. However, the death of one parent does not automatically make it unreasonable to expect the surviving parent to contribute towards the student's cost of education. Therefore, if there is a surviving parent, the test enumerated in the first part of the definition would have to be met with respect to the relationship between the student and the surviving parent before the student could be considered self-supporting or independent. Again, any hardship resulting from the definition may be rectified by the institution's financial aid officer.

Comment. Many commenters expressed varying viewpoints on the definition of default as provided in § 144.2(f) (2) of the notice of proposed rule making. Most commenters objected to having default of 120 to 180 days predicated upon the frequency of repayment, i.e., monthly versus bimonthly and quarterly repayment schedules. Most preferred one period of 120 days for default on schedules of any frequency. One commenter suggested a 90 day period on all loans. One commenter suggested a definition of "minor default"—120 days versus "major default"—180 days.

Response. The Education Amendments of 1976 in effect adopted the definition of default set forth in the notice of proposed rule making so no change was made. Furthermore section 130(c) amended section 463 of the Act to require that all institutions report to the Commissioner on at least a semi-annual basis the number of loans in default.

SECTION 144.3 APPORTIONMENT AND REAPPORTIONMENT OF FEDERAL CAPITAL CONTRIBUTIONS TO STATES

Comment. Several commenters suggested alternative methods of apportionment and reapportionment of funds among the States such that distribution should first be made within a State, then within a region and finally nation-wide. One commenter suggested that the formula set forth in § 144.3(a) (1) be amended to include students enrolled on at least a half-time basis rather than only full-time students.

Response. Both the apportionment and reapportionment provisions are required by the authorizing statute (§ 462 of the Act; 20 U.S.C. 1087bb) and therefore may not be changed.

Comment. Several commenters recommended that the method stated in former regulations and in § 144.3(a) (1) of the proposed regulations by which the Commissioner exercises his discretion to apportion 10% of the National Direct Student Loan appropriation be phased out and that the Commissioner exercise his discretion by apportioning this sum in accordance with the statutory formula under which the 90% initial allotment to the States is allocated.

Resonse. The Office of Education concurs in this suggestion and is drafting a new regulation which would put the recommendation into effect. However, since this change would have a substantial impact on the amount of funds that institutions would receive, the Office of Education plans to publish it as a notice of proposed rule making on which public comment will be invited. Meanwhile, no change is made in the regulation.

SECTION 144.5 & 144.6 INSTITUTIONAL APPLICATIONS AND FUNDING CRITERIA

Comment. Several commenters objected to the method used to calculate delinquency rates specified in § 144.5 (a) (11).

Response. New definitions of "Delinquency rate" (§ 144.2(h)) and "Uncollectible" (§ 144.2(gg)) have been included. The effect of these revisions is to exclude from the calculated delinquency rate, for purposes of § 144.5(a)(11), any loan which the institution may return to the Federal Government as uncollectible.

Comment. Two commenters expressed the view that it is unreasonable to require, as does § 144.5(a)(12), that an explanation be given if the estimated amount of funds collected too late for relending exceeds 25 percent of the total amount received during the entire fiscal year, since their last disbursements are made in March and their collections are received in the last quarter of the fiscal year. Both commenters indicate that since this is true, their institutions have always had cash on hand from collections received too late to relend in excess of 25 percent of the total amount received during the entire fiscal year.

Response. Since all loans made after 1965 must be repaid on a monthly, bimonthly, or quarterly basis, the Office of Education does not understand why institutions would receive an unusually large share of their collections in the last quarter of the year. Institutions are expected to anticipate their collections for the entire grant period and make maximum use of monies so collected. Funds collected in the last quarter may also be used to make loans to students enrolled in summer terms, which usually start before June 30.

Comment. One commenter requested clarification of § 144.5(a)(13) (§ 144.5(a)(12) of the NPRM) concerning the $200 average unmet need factor.

Response. Based on the experience gained during the operation of this program, it has been found that a student frequently is able to stay in school despite the fact that his full need is not met, but that the likelihood of this happening is increasingly remote as the amount of unmet need reaches and goes beyond $200. Above this level of unmet need it is to be expected that a large fraction of the group of students with unmet need would be forced to drop out of school because of lack of funds. If this does not occur, it must be assumed that the students have managed to obtain funds from some source not known to the institution.

Comment. One commenter questioned the use of the term "annual per student cost" in § 144.5(a)(4) and suggested that the costs to which it refers are intended to cover an academic year rather than a twelve-month period.

Response. The commenter is correct and the phrase has been changed in the final regulation to cover an academic year.

Comment. A number of commenters objected to the requirement of a justification of any per student costs for books and supplies in excess of $175 and for personal expenses in excess of $450. Their objection was that these figures were unrealistically low, inflexible benchmarks. Some suggested raising these amounts while others felt no specific dollar amounts should be stated. Another commenter suggested, as a substitute, a regulation setting guidelines an institution could follow in determining student costs for various budget items.

Response. The proposed regulation was not changed. These amounts are used as an average for all institutions across the nation, and the Office of Education does not consider them unrealistically low. It is recognized that some institutions may vary from the norm and that higher amounts may be justified in some cases. Furthermore, this requirement does not set fixed standard amounts which may not be exceeded, but merely requires that higher amounts be justified.

Comment. One commenter suggested that § 144.5(a)(4) of the regulation should include benchmark amounts for room and board not provided by the institution and for transportation costs, as well as for personal expenses.

Response. The Office of Education is currently planning to conduct a study which will have as its main purpose the establishment of parameters for these educational costs for use in the application review process. At present no fixed amounts have been established to be used as benchmark figures for these educational costs.

Comment. A number of commenters suggested that § 144.5 include specific reference to the terms and conditions for submitting the abbreviated application, referred to as the "short form," which institutions have been allowed to submit under certain conditions in requesting funds for FY 1976 and FY 1977.

Response. The suggestion of the commenters has been accepted and a new paragraph specifying terms and conditions for submitting a "short form" has been included in the final regulation as § 144.5(c).

Comment. One commenter suggested that the deadline for submitting the application be included in the regulation.

Response. The deadline for submitting the annual tripartite application is published each year in the FEDERAL REGISTER. Since various unforeseen factors may arise which could necessitate a change in the time of this deadline date from one year to another the Office of Education feels that annual publication of the date in the FEDERAL REGISTER is preferable to including it in the program regulations.

Comment. Some commenters felt the wording of § 144.5(b) as related to the remainder of that subsection could be construed to mean that all correspondence on financial aid matters would be addressed to the president of the institution.

Response. The wording of this subsection has been revised in the final regulation to respond to the commenters' concerns.

Comment. One commenter requested a definition of the term "reasonableness" as it is used in this section.

Response. No special definition was considered necessary. The term "reasonableness" as applied to the funding criteria in § 144.6 should not be construed as having any special meaning outside the normal usage of the term as defined in any modern dictionary. The Office of Education considers it an appropriate term to be used as an evaluation criterion by a panel of experts.

SECTION 144.7 APPLICATION REVIEW AND APPROVAL OF REQUEST

Comment. Several commenters suggested that the term "qualified persons" as used in this section of the proposed regulations should be restated to specify experienced individuals who work directly with financial aid programs and also that the regulations should require the inclusion of practicing financial aid officers.

Response. The suggestion was not adopted. The Commissioner feels that the wording of this term in the proposed regulations expresses much of the commenter's intent. The regulation stipulates that the Commissioner shall convene panels of "qualified persons" to evaluate institutional applications; obviously, a person cannot be considered "qualified" unless he is conversant with the administration of student financial aid programs.

Comment. One commenter suggested that the final regulation should require the inclusion of practicing financial aid officers in the regional review process outlined in § 144.7(c) of the proposed regulation.

Response. The regional review procedure outlined in § 144.7(c) does not preclude the use of a panel of practicing financial aid officers if the regional office chooses to employ such a panel. In some instances, however, the issues involved in the review of the original panel's recommendation may be handled more expeditiously by direct negotiation between the regional office and the institution. Therefore, the option to use or not use a panel of practicing financial aid officers at this stage of the review process has been left to each regional office as it deems appropriate. In this context it should be noted that the regulation does provide that an institution may request a national review of the region's recommendation.

Comment. One commenter felt the proposed regulation prevented the introduction of additional material at any point in the appeal process.

Response. The commenter is incorrect in his assumption. Additional information may be presented to the regional office when a review of the original panel recommendation is requested (45 CFR 144.7(c)). However, no new information may be presented to the national review panel, because the regional office should have been given the opportunity to act on any additional information prior to its presentation to a national review panel.

Comment. One commenter suggested that the regulation should require that

the panel review guidelines be supplied to institutions as a guide to assist them in completing the application.

Response. The suggestion was not adopted. The panel review guidelines contain no requirements which are not included in the regulation and are an internal working document intended to assist panel members in the review process.

Comment. One commenter suggested that the time period for submission of a request for national review should be specifically stated in the regulation rather than using the phrase "within such time as may be specified by the Commissioner."

Response. As noted in the earlier comment on the deadline for submitting the application, various unforeseen factors may arise which could necessitate changes in deadline dates or in the time period between the original submission of the application and the convening of the national review panel. Consequently, it is considered inappropriate to include a specific time period in these regulations.

SECTION 144.8 INSTITUTIONAL ARGEEMENT

Comment. Two commenters objected to the language in § 144.8(c)(5) and asked for removal of the phrase, "but does not include costs of employing individual contractors or agents to handle collection duties that reasonably may be expected to be performed by the lending institution's own personnel." Both commenters felt that this language could prevent their use of a billing and/or collection agency.

Response. In response to the concern expressed by the commenters additional language has been added to § 144.8(c)(5) to clarify the intent of the Office of Education, which was to differentiate between routine administrative expenses and other collection costs, not to prohibit the use of a billing and/or collection agency. The Office of Education considers the cost of using a billing service to be a routine administrative expense which may not be charged to the Fund as an other collection cost. A further discussion of other collection costs may be found under the discussion of comments on section 144.46.

Comment. Several commenters recommended that actual procedures be included in § 144.8(d) for the return of defaulted loans to the Federal Government and objected to the fact that such procedures had not already been provided since P.L. 92-318 was effective as of July 1, 1972. Two commenters objected to the provision and felt that institutions should not be allowed to return defaulted notes to the Federal Government. One commenter questioned whether § 144.8(d) is applicable to loans made before and after June 30, 1972. Several commenters were under the impression that "due diligence" as specified in Subpart C would have to be performed on loans on which "due diligence" had previously been performed as set forth in Appendix 17 of the 1967 Manual.

Response. The provision for return of defaulted loans is provided for in the statute (§ 463(a)(4) of the Act; 20 U.S.C. 1087cc(a)(4)) and is applicable to loans granted both before and after June 30, 1972. In answer to the two commenters who objected to this provision the language of the regulation states that "the institution may assign its rights." Thus no institution is required to return defaulted loans to the Federal Government. In regard to the return of defaulted loans in accordance with § 144.8(d), if an institution has used any reasonable standard of "due diligence" with respect to loans in default for 2 years or more prior to the effective date of these regulations, the institution may return such loans to the Federal Government. In order to be considered reasonable any such standard must as a minimum have required extensive collection efforts by the institution or by a commercial collection agency and/or resort to litigation where appropriate.

Comment. One commenter asked if the provision for return of defaulted loans to the Federal Government specified in § 144.8(d) is the only procedure for write-off of loans and also asks what office would be accepting such defaulted loans. One commenter asks whether the assignment of the note to the Federal Government as specified in § 144.8(d) removes the note from being considered delinquent and whether or not the assignment of the note will reduce the base amount against which delinquency is calculated as required in § 144.5(a)(11) of the regulations.

Response. Essentially the provision for turning over defaulted paper is not considered a write-off but rather that the loan is considered "uncollectible". A new definition of uncollectible has been added as § 144.2(gg). Where defaulted loans are returned to the Federal Government the base amount against which delinquency is calculated is taken into account, as set forth in the definition of delinquency rate in § 144.2(h).

SECTION 144.9 STUDENT ELIGIBILITY

Comment. Several commenters interpreted the language in § 144.9(a)(4) of the regulations, which provides that the Commissioner be notified when a student is no longer in "good standing," as requiring them to delay action until the Commissioner's approval is received.

Response. Section 130(d) of the Education Amendments of 1976 deleted the phrase "upon notice to the Commissioner." Thus institutions are not required to notify the Commissioner when a student is no longer in "good standing." The regulation was revised accordingly.

Comment. Several commenters objected in various ways to § 144.9(e) (§ 144.9(d) of the NPRM) concerning the use of the term, "the ranking of eligible students * * *" The most prevalent comment was that "ranking" implies that all applications for a given enrollment period must be in the hands of the institution before any application could be processed.

Response. It was not the intent of the Office of Education that the language of § 144.9(e) should be interpreted as the several commenters suggest. In view of the apparent misinterpretation of § 144.9(e) the word "selection" has been substituted for the word "ranking". The intent of the regulation is to see that the selection of students for loans is made from among students of approximately equal need.

Comment. Several commenters spoke to the apparent contradiction in requiring institutions to make loans to "high risk borrowers" and the stringent collection procedures imposed by Subpart C and the penalty for high delinquency rates specified in § 144.5(a)(11). In general commenters felt that the regulation preempted the general ability of the aid officer to administer the fund due to the lack of flexibility in judgment.

Response. The Office of Education sees no contradiction in making loans to high risk (needy) students and the collection efforts set forth in Subpart C. The intent of the program is to assist students who otherwise might not be able to secure an education and thus improve their economic status and general well being, as well as their financial ability to repay a loan. However, the language of the regulation has been revised to prohibit the making of loans to students who indicate an unwillingness to repay such loans. Delinquency on a prior loan or an established history of nonpayment of debts may be taken as evidence of such an unwillingness.

Comment. One commenter suggested that the regulation be revised to allow institutions to deny loans to students who have had their prior loans discharged in bankruptcy.

Response. The Bankruptcy Act is a Federal law which is intended to assist persons in dire financial straits to get a fresh start in life. A student may not therefore be denied a loan solely on the basis of having had a prior loan discharged in bankruptcy. Moreover, since a debtor is prevented from declaring bankruptcy for a period of 6 years from the date of his debts' being discharged in bankruptcy, he may turn out to be a better credit risk than other students.

Comment. Several commenters objected to the requirement that the student affidavit noted in § 144.9(e) of the proposed regulation be signed in the presence of a notary or other person legally authorized to administer oaths or affirmations. One commenter suggested the regulations should specify that the content of the affidavit form could be integrated into other institutional forms and that other items could be included in the affidavit at the discretion of the institution.

Response. The regulation was not changed. Section 498 of the Higher Education Act of 1965, as amended (20 U.S.C. 1088g), requires an "affidavit," which is a written statement made on oath (or affirmation) before a notary public or other person authorized under State law to witness a signature. Pro-

vided that the affidavit remains clearly identifiable as a sworn statement, it may be integrated into the institution's forms in a manner of the institution's own choosing.

SECTION 144.10 COORDINATION WITH BUREAU OF INDIAN AFFAIRS GRANTS-IN-AID

A notice of proposed rule making pertaining to the coordination of Office of Education sponsored student financial aid programs with Bureau of Indian Affairs grants-in-aid was originally published in the FEDERAL REGISTER of March 7, 1975, (40 FR 10686) as a proposed amendment to the regulations for the Supplemental Educational Opportunity Grant Program. This provision was republished as § 144.10 of the notice of proposed rule making for the National Direct Student Loan Program. The final regulation for the Supplemental Educational Opportunity Grant Program was published in the FEDERAL REGISTER of August 27, 1976 (41 FR 36320). The final regulation for the National Direct Student Loan Program has been changed in accordance with the comments received for the Supplemental Educational Opportunity Grant Program. Furthermore, the comments received with regard to § 144.10 are basically the same comments received on the Supplemental Educational Opportunity Grant Program provision, and such comments were discussed in the preamble to the Supplemental Educational Opportunity Grant Program regulation.

SECTION 144.11 COST OF EDUCATION

Comment. A number of commenters objected to the lack of comparability with regard to transportation costs related to a program of study abroad as a cost of education in the proposed National Direct Student Loan Program and College Work-Study Program regulations and the Supplemental Educational Opportunity Grant final regulations.

Response. In response to the commenter's concern and in order to make all three regulations comparable, this section has been revised to provide that in the case of a student enrolled in an eligible program of study outside the United States his cost of education may not exceed his cost of education at the location of the campus of the institution he normally attends.

SECTION 144.12 EXPECTED FAMILY CONTRIBUTION

Comment. A number of commenters requested clarification of § 144.12(c) and suggested that the subsection be rephrased in more specific terms.

Response. The suggestion of the commenters was not adopted. In the past financial aid officers have frequently complained that the standards prescribed by the Office of Education for determining self-supporting student status did not permit them to exercise professional judgment in cases which seemed to them to warrant special consideration. In response to this frequently voiced complaint § 144.12(c) was written in general terms specifically with the intention of providing the latitude for the financial aid officer to exercise his professional judgment on a case-by-case basis.

Comment. One commenter suggested that the phrase "dependent children attending institutions of higher education" in § 144.12(a)(3) should be restated as "dependent children attending institutions of postsecondary education."

Response. The recommendation was not adopted. "Institution of higher education" is a statutory term with a specific meaning. "Institution of postsecondary education" is not included in the statute.

Comment. One commenter pointed out that § 176.12 of the Supplemental Educational Opportunity Grant regulations specifically includes the requirement that the financial aid officer shall take into consideration tuition incurred by dependent children attending elementary and secondary schools in determining the expected family contribution. The commenter objected to the omission of this term in the National Direct Student Loan regulation as creating a double standard in determining eligibility for assistance under the two programs.

Response. The requirement in the Supplemental Grant regulation to which the commenter refers is set forth in the authorizing statute governing that program (§ 413C(a)(2) of the Higher Education Act of 1965, as amended) and therefore must be reflected in the regulations for that program. Since this category of family costs is not specifically addressed in the authorizing statute for the National Direct Student Loan Program, it is not specifically cited in the program regulations. However, such family costs may be considered by the financial aid officer in calculating a family contribution to determine National Direct Student Loan eligibility pursuant to § 144.12(a)(4), which requires that the financial aid officer shall take into account such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

SECTION 144.13 APPROVED NEED ANALYSIS SYSTEMS

Comment. A number of commenters recommended that the Uniform Methodology for Measuring Ability to Pay, developed by the National Task Force on Student Aid Problems, be adopted by the Office of Education as the only acceptable method of need analysis for the National Direct Student Loan Program.

Response. The suggestion was not adopted. The annual review procedures outlined in § 144.13 of the final regulations will accommodate those systems which use the Uniform Methodology. However, the Office of Education does not wish to mandate the use of the Uniform Methodology to the exclusion of all other systems.

Comment. Some commenters objected to the inclusion of the Basic Grants and the Income Tax methods of calculating expected family contributions as approved need analysis systems.

Response. The proposed regulation was not changed. The Income Tax method of culculating expected family contributions and the method used by the Basic Grants Program are only two of several such methods or systems of need analysis approved for this purpose. No institution which objects to either method is required to use it.

Comment. One commenter questioned the omission in § 144.13(b) of the College Scholarship Service and the American College Testing Program as specifically designated approved need analysis systems.

Response. The Commissioner has the statutory responsibility to provide basic criteria and schedules for the guidance of institutions in making awards to needy students. Prior to 1975, the regulations governing this program had approved certain, specifically named need analysis systems, without specifying any duration for approval, and had provided for the approval of other systems which produced comparable figures for expected parental contributions. The Commissioner has concluded, however, that he should review on an annual basis such need analysis systems as are used for dependent students and should publish each year a list of those systems which he has approved for use by institutions during the subsequent academic year. The proposed rule set forth the procedures and standards for such review and approval. The two systems cited by the commenter will be required to follow the annual review procedure applicable for all need analysis systems except Basic Grants and Income Tax.

Comment. One commenter suggested that the Office of Education should develop benchmarks for approving need analysis systems for independent students in a format similar to that for systems to be used with respect to dependent students. The commenter apparently assumed that any need analysis system developed for use with respect to independent students must follow the methodology of the College Scholarship Service.

Response. The suggestion was not adopted. At present the Commissioner does not plan to provide a set of criteria and schedules for the guidance of institutions in making awards to needy independent students. The elements which such a system must take into account are included in § 144.12(b) of the final regulations. To be approved by the Commissioner, a proposed need analysis system for independent students must provide results which are comparable to those of currently approved systems. Although the College Scholarship Service System is among those which have received this approval, it is a misinterpretation of the regulation to assume that approval of all future systems is contingent upon their use of CSS methodology.

Comment. One commenter suggested that a family residence of $25,000 or

$30,000 should not be included as an asset in computing the expected parental contribution of dependent students, and only the value of the residence in excess of that amount should be taxed as an asset.

Response. The suggestion was not adopted. The regulation governing the methodology for determining an expected parental contribution stipulates that the net market or cash value of the parent's assets remaining after deduction of related debt and a standard asset reserve of $10,000 should be considered. Thus in the case of the parent's home, the value minus the mortgage, rather than the total value of the home, would be considered in the computation of the expected parental contribution.

Comment. One commenter suggested that the Commissioner encourage independent research by outside agencies in the area of measuring the ability of families to contribute toward the cost of postsecondary education and incorporate the results of such research into Federal need analysis system guidelines.

Response. The Commissioner does encourage such independent research and would welcome with great interest the results of any such research which may be brought to his attention.

SECTION 144.14 COORDINATION OF STUDENT FINANCIAL AID PROGRAMS, LOAN AMOUNT, AND OVERAWARD

Comment. One commenter suggested that the responsibility for determining a student's eligibility for Federal interest benefits on a Guaranteed Student Loan should rest with the financial aid officer rather than the lending agency from which the loan is received.

Response. The commenter's suggestion relates to statutory and regulatory provisions governing the Guaranteed Student Loan Program. Therefore, the change suggested by the commenter would have to be addressed in regulations for that program.

Comment. One commenter suggested that the requirement set forth in § 144.14 (a) of the proposed regulation concerning the appointment of an official to be responsible for coordinating the National Direct Student Loan Program with the institution's other student financial aid programs should be put into the form of an agreement to be accepted annually by the chief fiscal officer of the institution and circulated to department chairmen and other institutional officials. The commenter felt that such an agreement would be of value to the coordinator when reductions in financial aid packages were necessary as a result of overawards caused by departmental jobs, scholarships or loans.

Response. The suggestion was not adopted. Section 144.14(a) of the regulations requires that each institution shall appoint an official to be responsible for coordinating the National Direct Student Loan Program with the institution's other student financial aid programs. The Commissioner feels that an institution should have discretion to carry out this requirement as the commenter suggests or in some other appropriate manner.

Comment. One commenter noted that a student could receive financial assistance in an amount greater than his financial need if the institution did not take into account, when awarding his financial aid, the amount of a Basic Grant which that student would be entitled to receive.

Response. The commenter's point is well taken; therefore, § 144.14(c) has been amended to include as a "resource" the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program regardless of whether the student has applied for such funds. The consequence of this inclusion is that an institution shall, when calculating a student's financial need, subtract from the student's cost of education the amount of a Basic Grant to which that student is entitled as well as the student's expected family contribution.

Section 128(c)(3) of the Education Amendments of 1976 amended the College Work-Study Program to permit a student to continue on a subsidized work-study job even if his documented need was exceeded if such excess was a result of earnings from additional employment, as long as that excess did not exceed $200. In order to coordinate this change in the Work-Study Program with the other college based student financial aid programs, section 144.14 of the National Direct Student Loan Program and section 176.14 of the Supplemental Educational Opportunity Grant Program were amended by adding a new paragraph (f).

SECTION 144.15 DISBURSEMENT OF LOANS

Comment. Several commenters requested clarification of the language in § 144.15(a) concerning disbursement of funds. One commenter favored a single disbursement of funds during an academic year. Most, however, preferred disbursement related to enrollment periods similar to that set forth in § 176.17 (a) of the Supplemental Educational Opportunity Grants regulations.

Response. The Office of Education agrees that more than one disbursement during an academic year is needed. Accordingly, this section of the regulations has been revised to require that where a loan is made for an entire academic year, the loan must be disbursed in equal installments and there must be at least one installment per semester, trimester, or quarter if the institution uses such academic terms. If an institution does not use such academic terms, there are to be two equal installments per year payable at the beginning and midpoint of the academic year. If a loan is made for a period shorter than an academic year the institution may disburse the loan to the student as funds are needed by the student.

Comment. Many commenters expressed the opinion that the Truth in Lending requirements were never intended to apply to student loans and therefore should not be included in § 144.15(c) of the National Direct Student Loan regulations (§ 144.15(c) of the NPRM). Also several commenters expressed the view that the administration of the Truth in Lending Act is the responsibility of another Federal agency and not that of the Office of Education.

Response. The Office of Education has been informed by the Federal Reserve Board that these loans are subject to the Truth in Lending requirement. The final determination as to a penalty for the violation of this requirement by an institution rests with the Federal Reserve Board. If a loan is determined invalid because of the institution's noncompliance with the Truth in Lending Act, the institution will be deemed not to have made a loan under this part.

SECTION 144.16 SPECIAL SESSIONS

Comment. One commenter felt that the definition of the term "half-time student" should be expanded to reflect the difference in the number of hours necessary to be considered enrolled half-time during a regular period of enrollment and during a special session.

Response. No change was made in response to this comment. The Commissioner feels that the use of the term "equivalent" in the definition of half-time undergraduate student will cover the situation mentioned in the comment. For example, a three credit-hour course completed in half the normal length of time in a summer session may be considered the equivalent of a six credit-hour course in a regular session.

Comment. Another commenter suggested that § 144.16 should include the requirement of acceptance for enrollment rather than merely the student's intention to enroll at the next regular session of the institution, since at many institutions acceptance for enrollment during a summer session does not necessarily constitute acceptance for enrollment at the next regular session.

Response. The Commissioner agrees with the commenter and the regulation has been changed accordingly.

SECTION 144.17 ADMINISTRATIVE EXPENSE

Comment. Several commenters objected to the three percent administrative expense allowance as inadequate and recommended that it be increased to five percent. One of the commenters suggested that the funds should be specifically earmarked solely for the administrative use of the institution's financial aid office.

Response. These suggestions were not adopted. Section 493 of the Higher Education Act sets the percentage of the administrative expense allowance at 3 percent of amounts lent from the fund in a fiscal year and provides that the funds are a payment in lieu of reimbursement for an institution's administrative expenses in operating the National Direct Student Loan Program. Since the amount is a payment for expenses presumed to have already been met by the institution, there is not requirement that the funds be spent for the same purpose

for which the original expenses were incurred.

SECTION 144.18 FISCAL PROCEDURES AND RECORDS

Comment. A number of commenters objected to the five-year period of retention of records set forth in § 144.18(c)(2) as excessive. Some commenters questioned whether it would be permissible to dispose of records in a shorter period of time if they had been reviewed in a Federal audit and all audit questions were considered resolved by the Office of Education.

Response. The proposed regulation was not revised. The period of record retention is identical to the records retention requirements in Section 434(a) of the General Education Provisions Act (20 U.S.C. 1232c(a)). Records may not be disposed of before five years even if they have been audited and all audit questions are considered resolved by the Office of Education.

Comment. A number of commenters suggested that the requirement for an audit no less frequently than once every two years set forth in § 144.18(e) should be accompanied by a prescribed audit format and a procedure for reimbursing the institution for the cost of the audit.

Response. In response to the commenter's concern, § 144.18 has been revised to require that the institution use the audit guide prescribed by the DHEW Audit Agency in official audits of the institution's National Direct Student Loan Program. Copies of this guide may be obtained from the DHEW regional office serving the institution. While the Office of Education recognizes the validity of institutional complaints concerning the cost of a program audit, the authorizing statute does not permit the recovery of such costs in excess of the three percent payment in lieu of reimbursement for administrative expenses cited in § 144.17 of the regulation.

SECTION 144.19 FEDERAL INTEREST IN ALLOCATED FUNDS—TRANSFER OF LOAN FUND

Comment. Several commenters have raised a question as to whether the language in this section would prevent the short-term investment of Fund capital during periods such as the summer when not needed for loans to students.

Response. The language in § 144.19 is in no way intended to preclude short-term investment of Fund capital during periods in which not needed for loans. The Office of Education encourages such investments. However, all income earned due to such investments must be deposited into and become part of the Fund. Institutions wishing to make such investments must make sure that funds so invested are secure ones such as: (1) high-grade commercial paper, (2) Federal certificates of deposit and (3) interest-bearing checking accounts.

This section has also been expanded to clarify the required procedures to be followed where an institution ceases operation, or is no longer willing or capable of maintaining its Fund or collecting loans.

SECTION 144.31 (FORMERLY SECTION 144.21 OF THE NPRM) LIMITATIONS GOVERNING AGGREGATE AMOUNT OF LOANS

Comment. Several commenters raised questions with regard to the eligibility for a loan of a borrower who has received his first baccalaureate degree and later wishes to pursue a second baccalaureate degree or a vocational course of study. Clarification was also sought with regard to the $2,500 maximum which might be loaned to a student who has not completed a program of study leading to a first baccalaureate degree. A few commenters suggested a change in language of the regulation in order to accommodate special circumstances. One commenter suggested that the definition of graduate student be redefined to include or exclude persons with a first baccalaureate degree.

Response. The language of § 144.31 is taken from the statute, section 464(a)(2) of the Act (20 U.S.C. 1087dd(a)(2)). In answer to the first question expressed in the comment, a borrower who has received his first baccalaureate degree but who has not received more than $5,000 in National Direct Student Loans would be eligible to receive additional loans up to a total of $5,000 (including all earlier National Direct Student Loans received) for pursuing a second baccalaureate degree. Thus, a borrower who has received his first baccalaureate degree and has borrowed only $2,500 would be eligible for an additional $2,500 for purposes of pursuing a second baccalaureate degree. When a borrower has received the maximum of $5,000 in loans, he is not eligible to receive further loans unless he is enrolled as a "half-time graduate student" as defined in § 144.2(t) of this part.

In the case of a borrower who has received a first baccalaureate degree and later wishes to pursue a terminal occupational curriculum of less than two years duration, he may receive $2,500 for such purpose only if he has not received that amount while obtaining his first baccalaureate degree. Furthermore, if a borrower is enrolled in a course of study leading to a baccalaureate degree and has received $2,500 in the first year of study, the borrower would not be eligible for a further loan until he has completed the second year of study toward his baccalaureate degree.

The definition of graduate student was not changed, because the Commissioner feels that, for purposes of this program, the pertinent criterion is the curriculum being pursued by the student, not his prior attainment of a degree.

SECTION 144.32 (FORMERLY SECTION 144.22 OF THE NPRM) PROMISSORY NOTE-LOAN REPAYMENT

Comment. One commenter suggested that a time limit of 30 days be included in § 144.32(a) which specifies that a copy of the executed promissory note be supplied to the borrower.

Response. The suggestion was not adopted. Apparently the commentor is under the impression that a borrower must be given a copy of the promissory note each time a loan is made or each time an advance is made on the approved loan. If the standard "open-end" note form (see Appendix B) is used, that promissory note can be used as long as the borrower continues to receive loans from the Fund of the institution. This note contains a "schedule of advances" which the borrower signs each time an advance is made. The institution must supply the borrower with a copy of an open-end note only once, when the borrower leaves the institution or is no longer in attendance as a half-time student.

A "closed-end" note on the other hand is a note form which provides for the specific amount of the approved loan for the academic year to be entered on the face of the note so that a new promissory note must be executed each time a new loan is made to the borrower. Such loans are generally made on an annual basis. This note also requires the inclusion of a "schedule of advances" since advances on an approved loan must be signed for by the borrower. If the "closed-end note" is used, a copy of the note must be provided to the borrower annually.

Comment. One commenter objected to the provision that a borrower may request a graduated repayment schedule and suggested that this would create problems in automated billings.

Response. No change was made. The language is required by § 464(c)(1)(A) of the Act (20 U.S.C. 1087dd(c)(1)(A)). Also, section 130(e) of the Education Amendments of 1976 amended § 464(c)(1)(A) of the Act to provide that a borrower's repayment period may begin earlier than the normal nine month grace period upon request of the borrower.

Comment. Several commenters expressed opposition to the provision in § 144.32(c) requiring that a copy of a repayment plan be attached to the promissory note and that a copy of it be supplied to the borrower. Some commenters felt that this would require the institution to write a repayment plan each time a loan and/or an advance was made.

Response. The suggestion was not adopted. It was not the intent of the regulation to require an institution to write a new repayment schedule each time the borrower receives a loan and/or each time an advance is made. The Office of Education feels that it is necessary for a copy of the promissory note with a copy of the repayment schedule attached to be provided to the borrower when he graduates or ceases at least half-time study at an institution. In the event a borrower leaves the institution without notification, the institution must

make every possible effort to see that the borrower receives a copy of the promissory note and the repayment schedule by mail.

Comment. Several commenters objected to the provision of § 144.32(e) that the $15 minimum monthly repayments on Defense Loans and the $30 minimum monthly repayments on Direct Loans must include both principal and interest. The commenters cited the Office of Education memorandum of July 17, 1972 which accompanied the new sample promissory note in which the language dealing with the optional $30 minimum repayment provision states, "the maker shall repay the total principal amount of this loan at the rate of not less than $30 per month."

Response. No change was made in response to these comments. The position previously taken by the Office of Education on this matter has been determined to have been in error.

Comment. Several commenters stated that the language of § 144.22(e) of the notice of proposed rule-making was difficult to understand and did not cover every possible situation where a borrower had both Defense and Direct Loans subject to the minimum repayment rate or where a borrower had loans at two or more institutions.

Response. In response to the concerns expressed by the commenters the discussion of this topic has been revised and expanded. These provisions now appear in §§ 144.32(e) and 144.33. The Commissioner recognizes that this particular area is complicated and difficult to understand. Therefore when these interim regulations are republished the Office of Education will include numerous examples covering the many variables possible under this provision.

The underlying concept of these provisions is the fact that the minimum repayment rates are not cumulative. For example, if a borrower received a Defense Loan from two institutions and each of them exercised the minimum payment option the maximum monthly payment under such loans is $15 and not $30. Similarly if a borrower received both Defense and Direct Loans and the institution exercised both minimum payment options the maximum monthly amount a borrower would be required to repay is $30, not $45.

Section 144.33 was designed to explain and clarify situations where a borrower has both Defense and Direct Loans which are subject to the minimum repayment provision. The maximum loan amount where the minimum rate would apply when a borrower has a combination of Defense and Direct Loans, or if the borrower has only Direct Loans is approximately $3,100. Therefore, if the borrower's loans exceed this amount, the minimum rate of repayment could not be invoked and the borrower would be entitled to a full ten-year repayment plan on all loans pursuant to § 144.32 (c). For example, if the monthly amount the borrower would otherwise be required to repay pursuant to § 144.32(c) on his Defense and Direct Loans was at least $30 (Defense Loan $10—Direct Loan $20) the minimum repayment provision may not be invoked (§ 144.33(b)). Similarly, if the monthly amount the borrower would be required to repay pursuant to § 144.32(c) on his Defense and Direct Loans is less than $30 (Defense Loan $10—Direct Loan $15) the maximum monthly amount that may be charged if both options were exercised would be $30 (§ 144.33(c)). If a borrower has a Defense Loan subject to the $15 minimum rate and a Direct Loan subject to the $30 minimum rate and the maximum that the institution could charge on the Defense Loan would be $15 (§ 144.33 (d)).

Comment. Several commenters objected to the provision in § 144.34(b) (formerly § 144.22(f)(2) of the NPRM) which requires the institution to request approval from the Commissioner to extend a repayment schedule beyond 10 years due to "extraordinary circumstances."

Response. No change was made in response to this comment, because the wording of this provision is required by statute (20 U.S.C. 1087dd). It should, however, be pointed out that a request for approval by the Commissioner is only required in those cases where such a revision would extend the borrower's repayment period beyond 10 years. This provision does not require the forwarding of a copy of the revised schedule, but rather a written reason for the granting of such a request. If the institution revises a repayment schedule without extending the normal ten-year repayment period, no approval by the Commissioner is required. Based on program experience to date it is anticipated that there will be no undue delays in approving the small number of requests for such extensions which is expected. Additionally, section 130(f) of the Education Amendments of 1976 amended section 464(c)(1)(C) of the Act to provide that where an institution has opted to invoke the $30 minimum monthly repayment provision, the institution may permit a borrower to pay less than $30 per month on all such loans where necessary to avoid hardship to the borrower for a period of not more than one year provided that the ten-year maximum repayment period is not extended. The purpose of this provision is to prohibit an institution from giving a hardship deferment or from revising a borrower's repayment schedule for more than one year at a time without reassessing the ability of the student to repay the note at the scheduled rate. However, as long as the ten-year repayment period is not breached this provision does not limit the aggregate number of periods that deferments or schedule revisions may be granted. Thus, if an institution modifies its minimum repayment schedule or defers repayments, it must, when the period is over and the students requests a further postponement or revision, reevaluate the student's financial situation to determine whether another deferment or revision is warranted. If additional deferment or revision is justified, such a deferment or revision period cannot exceed one year.

Comment. One commenter asked why the provision for deferment of repayment for part-time study specified in § 144.34(c) (formerly § 144.22(f)(3) of the NPRM) for Defense Loans would not apply to Direct Loans.

Response. Section 205(b)(2)(D) of the National Defense Education Act of 1958 (20 U.S.C. 425(b)(2)(D)) provided, at the option of the institution, for a deferment of repayment for a period of not to exceed 3 years during which time the borrower was enrolled in an institution of higher education as less than a half-time student. Title IV-E of the Higher Education Act (which was authorized by the Education Amendments of 1972, Pub. L. 92-318) contains no similar language; thus this provision is not applicable to loans made after June 30, 1972. It should be noted that interest continues to accrue during such a period of deferment, and the borrower should be alerted to this fact.

Comment. Several commenters pointed out the view that the language concerning penalty charges in § 144.22(g)(2) of the NPRM was in conflict with § 464(c)(4)(B) of the Act.

Response. The Office of Education concurs with the commenters and the regulation has been changed accordingly (see § 144.32(f)(2) of the regulation). The Act stipulates that on loans subject to a bimonthly repayment plan, the penalty charge assessed may be $3 for the first bimonthly repayment interval or part thereof by which an installment or evidence of entitlement to deferment or cancellation is late and $3 for each such bimonthly interval thereafter. On loans subject to a quarterly repayment plan, the Act stipulates that the penalty charge assessed may be $6 for the first quarterly repayment interval or part thereof by which the installment or evidence is late and $6 for each such quarterly interval thereafter. Since the Act specifies that penalty charges are based on "installments" past due, they are cumulative in nature. An illustrative example is set forth in Appendix C of this part.

Comment. Several commenters asked for clarification of § 144.32(h) of the regulation (formerly § 144.22(i) of the NPRM) which provides for assignment of notes. One commenter suggested the language be revised to provide that assignment of a note could be made only upon approval by the transferee institution.

Response. An "assignment" would allow the borrower's loans to end up with the last institution from which he borrowed and he would thus be obligated to one institution with a single repayment schedule. This provision is not new and was contained in the original Act, but has been seldom used because any institution is reluctant to sacrifice the asset to its own Fund which each loan represents. Approval of both the assignee and the

assignor institution is required before an assignment of notes can be made.

SECTION 144.35 POSTPONEMENT OF LOAN REPAYMENTS IN ANTICIPATION OF CANCELLATION

This new section was added to set forth a long-standing policy of the Office which was inadvertently omitted from the NPRM. It makes provision for excusing a borrower from making repayments which might subsequently have to be refunded as a result of the borrower's earning an entitlement to partial cancellation of his loan.

SECTION 144.36 TREATMENT OF LOAN REPAYMENTS WHERE CANCELLATION, LOAN REPAYMENTS, AND MINIMUM MONTHLY REPAYMENTS APPLY

This new section was added to clarify the procedures to be followed in handling repayments and minimum repayment provisions if a borrower has received both Defense and Direct Loans and is entitled to cancellation on one of those loans, but not the other.

SECTION 144.41 (formerly § 144.31 of the NPRM) LOAN COLLECTION PROCEDURES

General comment on Subpart C. In view of the many questions received and in order to set forth in more detail the steps required in the exercise of "due diligence" in the collection of loans, § 144.31 of the NPRM has been split into several sections as follows:

§ 144.41	General
§ 144.42	Contact with the borrower prior to repayment period
§ 144.43	Billing procedures
§ 144.44	Skip-tracing activities
§ 144.45	Collection procedures

Comment. Several commenters objected to the language of § 144.41(a) of the regulation (§ 144.31(a) of the NPRM) which provides for full disclosure of a borrower's rights and obligations no later than the time he signs his promissory note. Clarification of the language was requested, because the commenters felt that this requirement duplicates the Truth in Lending requirement.

Response. No change was made in the regulation. The Office of Education does not agree that the requirements of the Truth in Lending Act are identical to our "full-disclosure" requirement. The Truth in Lending Act does not require that the borrower be informed of the various rights which he has under this part, such as partial cancellation for certain forms of public service and deferment. The Office of Education feels that at the minimum the institution must be required to inform the borrower that he is receiving a loan which must be repaid, require that he read the note before signing it, and provide him with a copy of the note, which sets forth all his various rights and obligations.

Comment. Several commenters requested clarification as to how complete the repayment schedule should be.

Response. The Office of Education encourages the use of an amortized repayment schedule, i.e., one that requires the institution to set forth the amount of principal and interest due on each installment for the number of installments required to repay the loan in full. However, this is not a requirement. As a minimum the repayment schedule should set forth the number of principal repayments or the number of equal payments as the case may be, the rate of interest, the date the first repayment is due and the frequency of the repayments. The Office of Education realizes that a great many amortized repayment schedules are out of date before the last payment becomes due because of any one of several circumstances such as the various deferment and cancellation provisions, delinquency where extra interest accrues, etc.

Comment. Several commenters suggested that the exit interview before a borrower leaves school is of little value and could be done by mail before the expiration of the grace period. Many commenters feel that it is impossible to conduct an exit interview for each individual borrower since the borrower in the final term is occupied with graduation, job hunting, relocation, etc. Also, it was pointed out that many borrowers leave school without proper notification thus making it impossible to have personal exit interviews, dsepite the positive value of such a procedure.

Response. The regulation was revised. See §§ 144.41(b)(2) and 144.42(c). The Office of Education feels that the exit interview is an integral part of "due diligence" and the entire collection procedure. Although the Office of Education encourages individual interviews, mass exit interviews may be used where individual interviews are not feasibly possible. In those cases where a borrower for any reason does not show up for the interview or leaves school without proper notification, the institution shall make every possible effort to contact the borrower by mail as specified in the revised § 144.42, in order to inform him of his rights and responsibilities. As specified in the regulation the institution is required to maintain contact with the borrower while he is in his grace period. The primary purpose of this provision is to keep the borrower's mailing address current. This includes the sending of no less than three letters, i.e., of (1) disclosure, (2) notification of end of grace period, and (3) first payment approximately 30 days before the first payment is due. If the borrower's address is found to be unknown as a result, the institution must take corrective skip-trace activities. These include routine checks with all appropriate institutional offices, or if that fails, the performance of an extensive skip-trace by the institution's own personnel or by using a commercial skip-trace agency.

Comment. One commenter objected to the provision of § 144.42 which requires the institution to maintain contact with borrowers and to keep them informed of all changes in the program affecting their rights and obligations. The commenter claims that it is impossible to do this in all cases.

Response. The regulation was not changed. The Office of Education agrees that it is impossible in the case of a lost borrower to maintain contact and always keep the borrower informed. However, if the institution performs "due diligence" as specified in Subpart C and can prove that every attempt was made to maintain contact and keep the borrower informed, it will be considered to have fulfilled its responsibilities under this regulation.

Comment. One commenter objected to the language in § 144.44 mandating an institution to use the services of a commercial skip-trace agency for the purpose of locating a borrower in default. The commenter pointed out that his institution recently turned over 103 accounts to such an agency but had received successful addresses only in 16. The cost was cited at $35 per account whether or not the agency was successful.

Response. The Office of Education considers such a fee structure to be unreasonable and will not approve it as an "other collection cost." In no instance should an institution contract for such services on a non-contingent basis. All such contracts should be on a contingency fee basis and the costs incurred must be reasonable. Previously other collection costs were not allowed if done by the institution itself. The regulation does not mandate the use of a commercial skip-trace agency. The institution may perform its own skip-trace, the costs of which could be charged to the Fund.

Comment. Several commenters stated that the bond requirements for commercial collection agencies as required by § 144.45 were too high.

Response. The Office of Education concurs and the language of the regulation has been revised to require bonding in an amount to cover those particular assets of the Fund which are under the control of the collection agency at any particular time. The Office of Education feels that if such agencies promptly deposit collections in an institutional bank account through a "lock-box" or other similar system, the possibility of loss to the Fund would be greatly reduced and thus the amount of required bonding could be reduced accordingly.

Comment. One commenter suggested that § 144.45 mandates the use of a commercial collection agency.

Response. The regulation does not mandate the use of a commercial collection service. The regulation has been revised to provide that if an institution performs this collection activity itself, the reasonable costs of collection incurred may be charged directly to the Fund.

Comment. One commenter suggested that State higher education authorities which administer State loan programs be allowed to contract with the Federal Government to do billing and collection on the National Direct Student Loan Program for institutions located in a particular State.

Response. This suggestion was not adopted. Each National Direct Student Loan Fund represents a distinct and separate revolving trust fund at the institution. The institution itself is charged

with the responsibility of administering its own Fund. The Office of Education does not have authority to contract directly with a State in the manner suggested by the commenter.

Comment. Several commenters raised the question of retroactivity of the due diligence requirements of Subpart C and felt that the proposed regulation would require institutions which have performed "due diligence" in accordance with Appendix 17 of the 1967 National Defense Student Loan Manual to perform "due diligence" again as set forth in the revised regulations.

Response. Regulations are prospective, not retroactive. Therefore, if the institution has used Appendix 17 and has litigated and/or used a collection agency, where appropriate, it will be considered to have performed due diligence.

Comment. One commenter asked that consideration be given to cancellation on loans for borrowers whom an institution is unable to contact after "due diligence" as set forth in Subpart C has been followed.

Response. This suggestion was not adopted. There is no statutory authority for such a regulation. Furthermore the Office of Education would not consider such a provision to be advisable even if there were statutory authority for it.

Comment. Numerous commenters offered many and varied objections and suggestions for revision and clarification of § 144.31(e) of the NPRM. Most commenters objected to the 15 day cycle as proposed with the statement that the change would be expensive and time consuming. Also mentioned was the fact that a more frequent billing cycle would cause crossing in the mail of past due notices and repayments, leading to disgruntled borrowers. Several commenters whose institutions were on a manual system rather than a computer stated that it would be impossible to adhere to the proposed cycle. Most commenters suggested an increase in administrative expense allowance if the regulation were adopted. Most preferred the retention of the 30 day cycle set forth in Appendix 17 of the 1967 Manual.

Response. Due to the many comments on § 144.31 of the notice of proposed rule making this section has been revised. The regulation now calls for a first past due notice within 15 days after the due date with a 30 day billing cycle thereafter until the loan is "in default" as defined in § 144.2(v) of the regulations. The Office of Education agrees that sending an overdue notice within 15 days of the due date may be somewhat more expensive than waiting for 30 days, but feels that it is in conformance with good commercial billing practices and further is of the opinion that this essential step may prove to make the overall billing process less expensive in the long run. As to the question of an increase in routine administrative expense allowance, the 3 percent allowance is set by statute and cannot be increased by regulation.

Comment. One commenter suggested the use of the Internal Revenue Service in withholding of income tax refunds and application of such withholdings to delinquent amounts due on the borrower's National Defense/Direct Student Loans.

Response. This suggestion should be directed to the Internal Revenue Service, since it is beyond the authority of the Office of Education.

Comment. One commenter requested clarification as to what steps must be taken before the costs of (1) litigation, (2) using a commercial collection agency or a commercial skip-trace agency and/or (3) the costs of more stringent collection efforts by the institution itself may be charged to the Fund as other collection costs.

Response. Sections 144.41–144.43 set forth the procedures which must be performed before these collection costs may be charged to the Fund.

Comment. One commenter objected to the use of a commercial skip-trace and commercial collection agencies entirely, citing as a reason the boon to profit-making organizations.

Response. The Office of Education does not agree with the comment that its billing and collection requirements are just a boon to profitmaking organizations (i.e., the various commercial billing services and collection agencies). Those requirements may be met by the institutions in any manner of their own choosing, including performance of these functions by their own personnel.

Comment. Several commenters suggested that a minimum write-off be provided for small balances on loans, because of the reluctance of borrowers to pay small disputed amounts and the excessive cost of attempting to collect such amounts.

Response. To help solve the problems cited by the commenters, § 144.32(c) has been revised to include a new subparagraph (2) which provides that a repayment schedule which results in a final payment of $2 or less may be revised to include that amount in the next-to-last payment. Use of this provision should prevent such problems from arising in the future. To help solve the problem caused by borrowers' refusal to pay small balances of long standing, § 144.45(c) has been added to provide for the write-off of balances of $2 or less.

SECTION 144.46 (FORMERLY § 144.33 OF THE NPRM) OTHER COLLECTION COSTS

Comment. Two commenters objected to the prohibition of charges to the fund for "other collection costs" performed by an institutional employee.

Response. The Office of Education concurs with the commenters' suggestion that such reasonable "other collection costs" performed by an employee of the institution are a legitimate charge to the Fund and the regulation has been revised accordingly.

SECTION 144.47 (FORMERLY § 144.34 OF THE NPRM) UTILIZATION OF FISCAL AGENT

Comment. One commenter objected to the fact that the role of a fiscal agent utilized by institutions in billing or collection of National Direct Student Loans was covered in a single paragraph of two sentences. The suggestion was made that, since the several billing services are now possibly handling one-half or more of the total accounts in billing status, § 144.47 should be expanded in order that all concerned would be made more conversant with those requirements which relate specifically to them.

Response. The comment is well taken, and this section has been expanded to some extent. Furthermore § 144.48 has been added to forbid the use of a billing service and collection agency which share a common ownership or control because of the potential for conflict of interest in such a situation. In the event that an institution uses the services of a collection agency or a commercial skip-trace agency the fees charged may be on a contingency basis only. Charges which are not contingent on results are not allowed as other collection costs.

SECTION 144.49 (FORMERLY SECTION 144.32 OF THE NPRM) BANKRUPTCY OF BORROWER

Comment. Several commenters recommended elimination of this provision insofar as educational loans are concerned and wished to know whether or not consideration is being given to a revision of the law to exclude Federal educational loans from the bankruptcy law.

Response. The Office of Eduaction has proposed that the Federal bankruptcy statute be amended to exclude from its provisions any Federal educational loan during the first five years of the repayment period. Bills have been introduced in Congress to this effect but none has yet been enacted.

Comment. A few commenters raised a question as to a possible conflict between State law and the last sentence of § 144.32 of the NPRM, which provided that if a borrower who has had his loan discharged in bankruptcy subsequently makes a payment on that loan, such payment revives the entire loan.

Response. The Office of Education agrees that the sentence to which reference is made in the comment is not the law in all States and it has therefor been deleted. The Office of Education wishes to alert institutions that, while the bankruptcy statute is Federal and therefore uniformly applied in all States, the provisions governing reaffirmation of a loan may vary from State to State in accordance with State law. Each institution should seek the counsel of its own attorney if any questions arise on this matter, but should be alert to the fact that a bankrupt borrower may reaffirm his debt voluntarily. The procedures according to which this is done may vary from State to State.

Comment. One commenter asked for clarification of procedures to be followed when a borrower enters the "Wage Earner Plan," which is part of Chapter 13 of the Bankruptcy Act.

Response. Institutions should seek the advice of their own attorney in all cases where doubt exists as to the legality of actions to be taken under Chapter XIII of the Bankruptcy Act. For further in-

formation on bankruptcy or the wage earner plan institutions should contact the Administrative Office of the United States Courts, Supreme Court Building, Washington, D.C. 20544. That Office will furnish bulletins on both subjects written in laymen's language.

SUBPART D—LOAN CANCELLATION

SECTION 144.51 (FORMERLY SECTION 144.41 OF THE NPRM) SPECIAL DEFINITIONS

Comment. Several commenters questioned the fairness of the definition of "full-time teacher" as provided by § 144.51(c) in regard to Defense Loans where a borrower is teaching part-time at two or more "institutions of higher education" and in the case of both Defense and Direct Loans where a borrower is teaching part-time in two or more local jurisdictions. It has been pointed out that neither the present regulation nor the proposed regulations accommodate the equivalency of an academic year for purposes of National Direct Student Loan cancellation for borrowers in such instances. The commenters suggest that due to the abundance of qualified teachers some equivalency standard should be established by regulation in order that persons having received loans and who are unable to secure a full-time teaching position might be able to take advantage of the cancellation provision.

Response. The regulation was not changed. However if a borrower can obtain appropriate certifications that he has taught in two half-time teaching positions for a complete academic year in two elementary or secondary schools or in two institutions of higher education, he will be considered to have been a full-time teacher for that academic year.

SECTION 144.53 (FORMERLY SECTION 144.43 OF THE NPRM) TEACHER CANCELLATIONS—DIRECT LOANS

Comment. One commenter suggested that the $3,000 low-income factor in selection of designated schools in which teachers are eligible for cancellation as provided in § 144.53(a)(1) is unrealistically low and suggests that this figure be changed to $6,000. One commenter opposes all cancellation provisions.

Response. The cancellation provision and the $3,000 figure in § 144.53(a)(1) are statutory (§ 465 of the Act; 20 U.S.C. 1087ee) and cannot be changed by regulation.

Comment. One commenter suggested that teaching service in preschool and early childhood education programs be mentioned in §§ 144.52 and 144.53.

Response. The suggestion was not adopted. There is no statutory provision for cancellation of a Direct or Defense Loan for teaching in preschool or early childhood education programs unless such programs are part of elementary education under State law. (Direct Loans, however, are cancellable for teaching service in a Head Start Program. See § 144.54). Therefore, unless preschool or early education programs are recognized under State law as providing elementary or secondary education, neither a Direct nor a Defense Loan borrower performing teaching service in such programs is eligible for partial cancellation on his loan. In any questionable case, it is incumbent upon the institution to contact the appropriate official in the State educational agency in order to determine whether the school in which the borrower is teaching is providing elementary and/or secondary education under State law.

SECTION 144.55 (FORMERLY SECTION 144.45 OF THE NPRM) MILITARY CANCELLATION

Comment. One commenter asks who is to certify that a borrower is entitled to military cancellation benefits under section 310 of Title 37 of the U.S.C. as provided for in § 144.55(b).

Response. Normally this certification is supplied by the borrower's commanding officer or a member of his staff. However, verification of such service in the case of a discharged borrower may be made from form DD-214, the borrower's discharge papers. The Office of Education has been advised by the Department of Defense that there are presently 3 areas of hostility. These are North Vietnam, South Vietnam and Cambodia, including the air space and surrounding waters of these areas. Also, until June 4, 1974, Laos was on the list. It is, therefore, conceivable that a borrower may be able to cancel a portion of his loan for service there.

Comment. One commenter raised a question concerning borrowers who leave military service prior to receiving the maximum 50 percent military cancellation benefits and subsequently reenlist.

Response. An interruption in military service need not eliminate the borrower's eligibility for receiving military cancellation benefits for his subsequent military service. Thus, a borrower could, for example, serve in the Armed Forces for two years, cancelling 25 percent of his loan (12½ percent each complete 12 month period), terminate his military service, then at some later point during his repayment period reenlist and again receive cancellation for his military service up to an additional 25 percent of the loan so that he ultimately would have received the maximum allowable cancellation for military service.

SECTION 144.55 (FORMERLY SECTION 144.46 OF THE NPRM) CANCELLATION FOR DEATH OR DISABILITY

Comment. Numerous commenters spoke to the fact that no provision was included in the proposed regulations for cancellation on Direct Loans made after June 30, 1972 due to the death or permanent and total disability of a borrower as was the case for Defense Loans made before June 30, 1972. Many commenters complained that the Office of Education has been derelict in its efforts to get this matter settled and also complained that they were misled by officials of the Office of Education in the past by statements that the problem could be solved by revised regulations.

Response. The Office of Education regrets the delay in resolving this problem. Originally it was felt that this obvious oversight in the statute could be rectified by regulation. After it was determined that this could not be done by regulation, the Office of Education submitted a request for enabling legislation. Section 130 of the Education Amendments of 1976 amended section 464(c)(1) of the Act to provide for cancellation of Direct Loans due to death or disability. This provision is retroactive to June 23, 1972.

Comment. One commenter commented on § 144.56(b) and objected to the wording that cancellation shall be made "upon the permanent and total disability of the borrower." The commenter suggested the phrase be changed to "if the borrower becomes permanently and totally disabled after the loan has been made" to cover the situation where a student who is already permanently or totally disabled applies for a loan.

Response. The Office of Education concurs and the regulation has been revised accordingly. Institutions should be cautioned against making loans to a student who is totally and permanently disabled at the time of enrollment. Although an institution could not deny a loan to such a student on these grounds, it should make clear to the student that the loan could not later be cancelled on the grounds of the borrower's pre-existing impairment. The Office of Education suggests that institutions make every effort to meet such a student's need through other more appropriate sources of financial aid.

SECTION 144.57 (FORMERLY SECTION 144.47 OF THE NPRM) RESPONSIBILITY FOR DETERMINATION OF CANCELLATION ENTITLEMENT

Comment. One commenter suggested that a formal procedure be established to review determinations by an institution concerning cancellation entitlement.

Response. This suggestion was not adopted. The determination of a borrower's eligibility for cancellation is the sole responsibility of the lending institution. Where a fiscal agent is involved, that agent may make a routine decision as to approval or disapproval in the matter, subject to review by the appropriate institutional officials.

SECTION 144.58 (FORMERLY SECTION 144.48 OF THE NPRM) CANCELLATION PROVISION NOT RETROACTIVE—NO REFUND

Comment. Two commenters requested clarification of the refund policy set forth in § 144.58(b) of this regulation.

Response. It was not the intent of this section to deny a refund to a borrower in the case of an obvious error on the part of the institution. Thus in any case where a borrower overpays due to incorrect accounting or billing on the part of the institution, a correction is in order, and such a correction may involve a refund. Also as provided in Subpart C, it is incumbent upon the institution to keep the borrower informed of all changes in the program which affect his rights and

obligations. For example the 1964 Amendments (Pub. L. 88-665) provided for cancellation for teaching service in institutions of higher education. A borrower graduating before the 1964 academic year could not have had this provision in his promissory note. If there is no proof that the institution attempted to notify the borrower of this retroactive benefit and if the borrower later teaches in an institution of higher education and makes timely payments, a refund would be in order if such a refund is required to give the borrower the cancellation benefit which he was previously erroneously denied.

GENERAL

Comment. Several commenters questioned whether the regulations would apply retroactively and expressed concern about institutional liability for procedures not required by statute and which had not been included in previous regulations.

Response. The procedures for establishing the effective date of these regulations are set forth below. Prior to the effective date the institution remains responsible for administering the program in accordance with the terms of the statute and applicable previously published regulations. Any requirement in these regulations which does not appear in the statute or in previously published regulations is not retroactive.

B. *Other changes.* Other technical and typographical changes have been made in the regulation.

C. *Adoption of Regulation.* After consideration of all comments, the Commissioner hereby adopts the proposed regulation which was published in the FEDERAL REGISTER on October 14, 1975 with the changes noted above as interim regulations. This regulation is set forth below.

2. The Supplemental Educational Opportunity Grant Program (SEOGP) is a program of grants established at institutions of postsecondary education to assist their students of exceptional financial need who without the grant would be unable to continue their education.

A student is eligible to apply for an SEOG if he is enrolled as at least a half-time undergraduate student in a postsecondary institution which is participating in the program. Graduate students are not eligible for an SEOG.

If a student receives an SEOG, it cannot be for less than $200 nor more than $1,500 a year. Normally, a student may receive an SEOG for no more than four years. However, the SEOG may be received for five years under certain special circumstances. The total SEOG award may not exceed $4,000 for four years or $5,000 for five years.

If a student receives an SEOG, the institution must provide him with additional financial assistance from other sources (such as a Basic Grant, a National Direct Student Loan, or employment under the College Work-Study Program) in an amount which is at least equal to the amount of the SEOG.

A student should apply for an SEOG through the financial aid officer at the educational institution in which he is enrolled or expects to be enrolled.

Pursuant to the authority set forth in 20 U.S.C. 1070b the Commissioner is also adopting as interim regulations the amendments to the Supplemental Educational Opportunity Grant regulations set forth below. These amendments change provisions which are common to two or more of the three "campus-based" Federal programs of student financial aid (which are the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan programs) in order to standardize such common provisions. The majority of these changes are as a result of public comment on the notices of proposed rule making published on October 14, 1975, for the National Direct Student Loan and College Work-Study programs.

In view of the fact that (1) the National Direct Student Loan, Supplemental Educational Opportunity Grant, and College Work-Study programs are Federal student assistance programs administered by institutions of higher education, (2) that many regulatory provisions involving these three programs are applicable to all three programs, (3) that it is in the interest of the institutions and the Office of Education that these common provisions be standardized and that these provisions be identical for each program so that any change in the common regulatory provisions in one program is also made in the other two, (4) that changes being made in these common provisions are as a result of public comment, and (5) that further public comment on these provisions is being requested, it has been determined that resort to public participation in rule making with regard to these interim regulations set forth below for the Supplemental Educational Opportunity Grant Program is unnecessary and contrary to the public interest. (5 U.S.C. 553(b))

3. Effective date: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with their publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 13.418; Supplemental Educational Opportunity Grants; No. 13.471, National Direct Student Loans)

Dated: August 13, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: November 4, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

1. Part 144 of Title 45 of the Code of Federal Regulations is amended to read as follows:

Subpart A—General Provisions

Sec.
144.1 Scope and purpose.
144.2 Definitions.
144.3 Apportionment and reapportionment of Federal capital contributions to States.
144.4 Allocation, reallocation and payment of Federal capital contributions to institutions.
144.5 Institutional applications.
144.6 Funding criteria.
144.7 Application review and approval of request.
144.8 Institutional agreement.
144.9 Student eligibility.
144.10 Coordination with Bureau of Indian Affairs grants-in-aid.
144.11 Cost of education.
144.12 Expected family contribution.
144.13 Approved need analysis systems.
144.14 Coordination of student financial aid programs, loan amount and overaward.
144.15 Disbursement of loans.
144.16 Special sessions.
144.17 Administrative expense.
144.18 Fiscal procedures and records.
144.19 Federal interest in allocated funds—transfer of Loan Fund.
144.20 Termination and suspension.
144.21 [Reserved]

Subpart B—Terms of Loans

144.31 Limitations governing aggregate amount of loans.
144.32 Promissory note-loan repayment.
144.33 Minimum rate of repayment if the borrower received both Defense and Direct Loans.
144.34 Deferment of repayment.
144.35 Postponement of loan repayments in anticipation of cancellation.
144.36 Treatment of loan repayments where cancellation, loan repayments, and minimum monthly repayments apply.

Subpart C—Loan Collection—Due Diligence

144.41 General.
144.42 Contact with the borrower prior to repayment period.
144.43 Billing procedures.
144.44 Skip tracing activities.
144.45 Collection and write-off procedures.
144.46 Other collection cost-litigation costs.
144.47 Utilization of fiscal agent.
144.48 Use of commonly owned billing service and collection agency prohibited.
144.49 Bankruptcy of borrower.

Subpart D—Loan Cancellations

144.50 [Reserved]
144.51 Special definitions.
144.52 Teacher cancellation—Defense loans.
144.53 Teacher cancellation—Direct loans.
144.54 Head state cancellation.
144.55 Military cancellation.
144.56 Cancellation for death or disability.
144.57 Responsibility for determination of cancellation entitlement.
144.58 Cancellation provision not retroactive.
144.59 Reimbursement by the Commissioner of amounts cancelled.

Subpart E—Loans to Institutions for "Institutional Capital Contributions."

144.61 Institutional loan.
144.62 Application.
144.63 Allocation of Federal institutional loans.
144.64 Federal institutional loan agreements.

Appendix A—Allotment of funds to States for fiscal year 1972.

AUTHORITY: Title IV, Part E of the Higher Education Act of 1965, as added by section

137(b) of Public Law 92-318, 86 Stat. 273 (20 U.S.C. 1087aa-87ff), and Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-29), unless otherwise noted.

Subpart A—General Provisions

§ 144.1 Scope and purpose.

(a) Title IV, Part E of the Higher Education Act of 1965 authorizes the National Direct Student Loan Program for the purpose of assisting in the establishment and maintenance of funds at participating institutions of higer education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

(b) The National Direct Student Loan Program is and shall be deemed to be a continuation of the National Defense Student Loan Program authorized by Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-429). Except as otherwise provided in this part 144, all rights, privileges, duties, functions, and obligations under such Title II prior to the enactment of the Education Amendments of 1972 (Public Law 92-318) shall be deemed to be vested under Title IV, Part E of the Higher Education Act of 1965. Any student loan Fund established under an agreement under such Title II shall, to the extent not otherwise provided in this part 144, be deemed to have been established under such Part E, and any assets of such student loan Fund of any institution shall be deemed to be the assets of a student loan Fund established under an agreement of that institution with the Commissioner under such Part E.

(20 U.S.C. 1087aa; Public Law 92-318, section 137(d)(1))

§ 144.2 Definitions.

For the purposes of this part:

(a) "Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(b) "Act" means Title IV—Part E of the Higher Education Act of 1965, as amended.

(c) "Basic Educational Opportunity Grants Program" means the program authorized by Title IV-A, Subpart 1 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070a)

(d) "Clock hour" means a period of time which is the equivalent of (1) a 50 to 60 minute class, lecture or recitation, or (2) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

(20 U.S.C. 1087aa-ff)

(e) "College Work-Study Program" is a federally supported program of part-time employment authorized by Title IV, Part C, of the Higher Education Act of 1965.

(42 U.S.C. 2751-2756)

(f) "Commissioner" means the United States Commissioner of Education.

(20 U.S.C. 1141(b))

(g) "Defense Loan" means a loan made under this part before July 1, 1972.

(h) "Delinquency rate" means with regard to loans made under this part the amount of principal "in default" but not "uncollectible" divided by the amount of principal paid, cancelled, or past due, but not "uncollectible." No loan currently in deferred status is considered past due, even if it was past due before the beginning of the deferment period.

(i) "Dependent student" means any student who does not qualify as a "self-supporting or independent student" as defined in § 144.2(dd).

(j) "Direct Loan" means a loan made under this part after June 30, 1972.

(k) "Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 144.11 and the amount which reasonably may be expected to be made available to him by his parents for such purpose.

(l) "Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 144.11.

(m) "Federal capital contribution" means the portion of a Fund deriving from Federal contributions, or a specific amount provided by the Commissioner to augment such Fund.

(n) "Federal institutional loan" means a loan made by the Commissioner to an institution to enable that institution to make an institutional capital contribution to its Fund.

(20 U.S.C. 1087aa-ff)

(o) "Financial need" means the difference between a student's cost of education and his expected family contribution.

(p) "Full-time student" means a student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered full-time study.

(20 U.S.C. 1088(c)(2))

(q) "Fund," or "National Direct Student Loan Fund," means a Fund established and maintained in accordance with § 144.8.

(r) "Good standing" means, with regard to a student, that the institution in which the student is enrolled has determined that (1) the student is eligible, in accordance with its own standards and practices to continue in attendance at the institution, and (2) the student is making measurable progress toward the completion of his course of study.

(s) "Graduate or professional student" means, in general, a student who is enrolled in an academic program of instruction above the college level which is provided at an institution of higher education. The term includes (1) that portion of any program involving a period of study beyond four years of study at the college level, or (2) any portion of a program leading to (i) a degree beyond the bachelor's or first professional degree, or (ii) a first professional degree, when at least three years of study at the college level are required for entrance into a program leading to such degree.

(20 U.S.C. 1087aa-ff)

(t) "Half-time graduate student" means a graduate or professional student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered half-time graduate study.

(u) "Half-time undergraduate student" means an undergraduate student who is carrying a half-time undergraduate academic work load measured in terms of (1) the tuition and fees customarily charged for such half-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled: *provided*, however, that such course work and activities amount to the equivalent of a minimum of (i) 6 semester hours or 6 quarter hours per academic term for institutions utilizing semester, trimester, or quarter hour systems; (ii) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 12 clock hours per week for institutions which utilize clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week shall be considered half-time students for purposes of this part.

(20 U.S.C. 1088(c)(2))

(v) "In default" means with regard to a loan made under this part that (1) the borrower failed to make an installment payment when due, and (2) such failure persisted (i.e., was not cured either by payment or other appropriate arrangements) for 120 days in the case of loans repayable in monthly installments, or for 180 days in the case of loans repayable in less frequent installments.

(w) "Institutional capital contribution" means the portion of a Fund deriving from institutional contributions or a specific amount provided by the institution to augment such Fund.

(20 U.S.C. 1087cc)

(x) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to pro-

vide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) (i) is accredited by a nationally recognized accrediting agency or association, or (ii) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or (iii) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (iv) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5) of this paragraph. For purposes of this part a one-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction. The term "institution of higher education" also includes any proprietary institution of higher education, as defined in § 144.2 (bb), which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(20 U.S.C. 1087–1(b), 1088(b) and 1141(a))

(y) "National of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22))

(z) "Nonprofit" as applied to a school or institution means a school or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(20 U.S.C. 1141(c))

(aa) "Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's support and claims or is eligible to claim the student as an exemption for Federal income tax purposes, in which case such person shall be considered a parent.

(20 U.S.C. 1087aa–ff)

(bb) "Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (3) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other nonprofit institution, and (6) which has been in existence for at least two years. For purposes of this part a six-month program of training means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correspondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(3))

(cc) "Public" means under public administrative control and direction.

(20 U.S.C. 1087aa–ff)

(dd) "Self-supporting or Independent Student" means a student who is either (1) a veteran as defined in § 144.2(hh) or (2) a student who:

(i) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested;

(ii) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested; and

(iii) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a loan.

(20 U.S.C. 1087aa–ff; 20 U.S.C. 1087dd(c))

(ee) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

(ff) "Supplemental Educational Opportunity Grant Program" means a grant program for students with exceptional financial need authorized by Title IV–A–2 of the Higher Education Act of 1965.

(20 U.S.C. 1070b *et seq.*)

(gg) "Uncollectible," with regard to a loan made under this part, means a loan which is "in default" for two years or more despite the institution's exercise of due diligence. For loans which become past due after the effective date of this regulation, "due diligence" means that the institution has undertaken all the steps set forth in Subpart C of this part.

(hh) "Veteran" means a person who served in the active military, naval, or air service of the United States, and who was discharged or released therefrom under conditions other than dishonorable.

(38 U.S.C. 101(2))

(20 U.S.C. 1087aa–ff unless otherwise noted)

§ 144.3 Apportionment and reapportionment of Federal capital contributions to States.

(a) *Apportionment.* (1) From 90 percent of the sums appropriated for Federal capital contributions pursuant to section 461(b)(1) of the Act for any fiscal year, the Commissioner will apportion to each State an amount which bears the same ratio to the total amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education in such State, as determined by the Commissioner for the most recent year for which satisfactory data are available to him, bears to the total number of such persons so enrolled in all the States. If the amount so apportioned to any State is less than its allotment under section 202(a) of the National Defense Education Act of 1958 for fiscal year 1972, additional sums shall then be apportioned to each such State from the remaining 10 percent of the sums appropriated pursuant to section 461(b)(1) to make its apportionment for such year equal to its allotment for fiscal year 1972 under section 202(a). (The table set forth as Appendix A to this part indicates the amounts apportioned to each State under section 202(a) for the fiscal year ending June 30, 1972.) In the event that the funds available are insufficient to meet that level, the Commissioner will instead apportion the remaining 10 percent of the sums appropriated so that no State will receive less than a uniform minimum percentage of its fiscal year 1972 allotment under section 202(a).

(2) The Commissioner will apportion any sums remaining after the apportionment of funds under subparagraph (1) of paragraph (a) of this section to those States which received the lowest percentage of approved requests for Federal capital contributions as a result of the apportionment under subparagraph (1) of paragraph (a) of this section, so that

no State will receive less than a uniform minimum percentage of its total approved requests for Federal capital contributions.

(b) *Reapportionment.* If the amount of an apportionment to a State under paragraph (a) of this section exceeds the total amount of approved requests for Federal capital contributions of institutions of higher education in that State, such excess shall be available for reapportionment from time to time on such date or dates as the Commissioner shall fix. From the aggregate of such excess for any fiscal year, the Commissioner will reapportion to each State in which the total approved requests for Federal capital contributions of institutions of higher education in that State exceeded the amount of funds apportioned to that State an amount which bears the same ratio to such aggregate as the total amount of such shortfall in that State bears to the total amount of such shortfalls in all the States.

(20 U.S.C. 1087bb)

§ 144.4 Allocation, reallocation and payment of Federal capital contributions to institutions.

(a) *Allocation of funds to institutions.* (1) Subject to the provisions of subparagraphs (2) and (3) of this paragraph, when funds available for distribution among the institutions within a State for Federal capital contributions are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including both apportionments and reapportionments, bears to the total approved requests for that State.

(2) If the amount of the institutional capital contribution is less than the amount required under § 144.8(b)(2) to match the Federal capital contribution which the institution will receive in accordance with subparagraph (1) of this paragraph, then the amount of the Federal capital contribution which would have been awarded under subparagraph (1) of this paragraph shall be reduced to an amount equal to not more than nine times the amount of institutional capital contribution that the institution is able to contribute to its Fund.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, amounts which would otherwise be granted to proprietary institutions of higher education for any fiscal year shall be proportionately reduced to the extent necessary to produce an aggregate of such amounts which does not exceed the amount by which sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year exceeds $190,000,000.

(b) *Reallocation.* If an institution fails to accept all of the Federal capital contribution that has been granted to it, or if it projects that it will not use a portion of its allocation by the end of the period for which such funds were made available, the amount not accepted or used shall be restored as part of the apportionment of the State in which such institution is located. When the aggregate of funds thus restored to a State's apportionment becomes sufficient to increase significantly the amount of the Federal capital contributions that can be awarded to other institutions within the State, such funds shall be granted to such other institutions in accordance with subparagraph (1) of paragraph (a) of this section.

(c) *Payment.* Payment of the Federal capital contribution will be made in such installments as the Commissioner determines will not result in unnecessary accumulations of capital in the student loan Fund of the applicant.

(20 U.S.C. 1087bb)

§ 144.5 Institutional applications.

(a) An institution that wishes to participate in the National Direct Student Loan Program shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such application shall contain the following information, except as provided in paragraph (c) of this section, and shall be in such form and contain such other information as the Commissioner may from time to time prescribe:

(1) The institution's requests for Federal student financial aid funds under this part, the College Work-Study Program, the Supplemental Educational Opportunity Grants Program, and its anticipated disbursements under the Basic Educational Opportunity Grants Program;

(2) The institution's anticipated enrollment for the forthcoming academic year;

(3) The anticipated number of enrolled students eligible for loans;

(4) The institution's average cost of education, including a justification of any annual per student costs in excess of $175 for books or $450 for personal expenses for an academic year;

(5) An estimate of the average amount which reasonably may be expected to be made available by the parents of students at the institution who are expected to be eligible for such loans;

(6) The anticipated average loan;

(7) The amount of financial assistance awarded by the institution from its own scholarship and student aid programs for the most recent academic year for which information is available;

(8) The anticipated amount of other financial assistance available to students with financial need at the institution, such as State scholarships, Veteran's Benefits, and off-campus employment;

(9) The amount of cash carryover in the Fund available for relending;

(10) The qualifications of the professional personnel who will be administering the National Direct Student Loan Program including their ability to conduct a vigorous and effective collection effort;

(11) The institution's loan "delinquency rate." If this rate exceeds 10%, an institution shall provide an explanation as to why this rate exceeds 10%;

(12) The total amount of collections and other income of the Fund received by the institution during the fiscal year and the total amount of such collections and other income received too late to relend; if the total amount received too late for relending exceeds 25% of the total amount received during the fiscal year, the reason why this percentage exceeds 25%;

(13) The average unmet need per student; if the average amount of unmet need exceeds $200, the reason why this figure exceeds $200;

(14) Whether the institution intends to apply for Federal institutional loans pursuant to subpart E of this part; and

(15) The amount of funds the institution has available to use as its institutional capital contribution and the extent, if any, that such amount consists of an anticipated Federal institutional loan under subpart E of this part.

(b) The application shall be signed by the official authorized to submit the application and by the institution's Director of Student Financial Aid, and shall contain the name of the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds.

(c) An institution may file an application omitting the information required by subparagraphs (4), (5), (8), and (13) of paragraph (a) if (i) it has received an allocation under this part for the two academic years prior to the academic year for which assistance is requested, (ii) it is requesting not more than 110% of its approved request for the academic year prior to the academic year for which assistance is requested, and (iii) it has filed an application containing the information required by subparagraphs (a) (4), (5), (8), and (13) for one of the three preceding academic years. (20 U.S.C. 1087bb)

§ 144.6 Funding criteria.

An institution's request for funds under this part will be reviewed in accordance with the following criteria:

(a) The reasonableness of the institution's total request for Federal student financial aid funds under this part (1) in light of its requests under the College Work-Study Program and the Supplemental Educational Opportunity Grants Program, and (2) in relation to the institution's anticipated enrollment, its average cost of education, and the average expected family contribution of its students eligible under those programs;

(b) The reasonableness of the institution's projections of its anticipated enrollment and of its average cost of education and the average expected family contribution of its students eligible under those programs;

(c) The reasonableness of the anticipated number of students eligible for loans, in view of the institution's anticipated enrollment;

(d) The reasonableness of the amount of the average loan anticipated in relation to the average need per student at

the institution, after taking into account other available student financial aid resources;

(e) The extent to which the institution has effectively utilized Federal financial aid funds allocated in previous years;

(f) The amount of cash carryover in the Fund available for relending;

(g) The adequacy of explanations provided by the institution pursuant to § 144.5(a) (4), (11), (12), or (13), and

(h) The extent to which the institution has effectively administered or made provision for the effective administration of the program, including the extent to which it has made a vigorous and effective effort on collection of loans, and the extent to which it has effectively coordinated this program with institutional and other programs of student financial aid. In making this evaluation, consideration will be given to the adequacy of the qualifications and experience of the personnel designated by the institution to administer the program.

(20 U.S.C. 1087bb)

§ 144.7 Application review and approval of request.

(a) (1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education, to review applications submitted under this part by institutions situated in those regions. The review panel shall evaluate each institution's request for funds in accordance with the criteria set forth in § 144.6 and shall recommend an amount which it deems appropriate.

(2) No panelist shall participate in the consideration of any application from his own institution or any application from any other institution which he has prepared or assisted in preparing or in which he has any personal or financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel pursuant to paragraph (a) of this section. If the amount recommended is less than the institution's request, the reasons for such a reduction will be forwarded to the institution. The institution shall notify the regional office of the Office of Education serving the area in which the institution is located of any arithmetic or other technical errors with regard to the panel recommendation. The regional office will adjust the recommendation to correct such errors.

(c) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors, it shall submit a written request for such review to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review such a request and will notify the institution in writing of its decision and the reasons therefor.

(d) (1) If an institution wishes a review of the regional office recommendation made pursuant to paragraph (c) of this section, it may request a review by a national review panel. Such a national review panel shall consist of institutional student financial aid officers from each of the regions served by the Office of Education and personnel of the Office of Education.

(2) A request for national review shall be submitted in writing by the institution to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution pursuant to paragraph (c) of this section will be considered.

(3) The national review panel will review such request and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(20 U.S.C. 1087bb)

§ 144.8 Institutional agreement.

An institution of higher education which desires to participate in the National Direct Student Loan Program shall enter into an agreement with the Commissioner for that purpose. Such agreement shall:

(a) Provide for the establishment and maintenance of a Student Loan Fund (Fund) by the institution;

(b) Provide for the deposit in the Fund of:

(1) Federal capital contributions;

(2) A capital contribution by the institution in an amount equal to not less than one-ninth of the amount of the Federal contribution (institutional capital contribution);

(3) Collections of principal and interest on student loans made from the Fund;

(4) Payments to the institution by the Commissioner pursuant to section 465(b) of the Act as a result of cancellations on Direct Loans;

(5) Penalty charges collected pursuant to § 144.32(f); and

(6) Any other earnings of the Fund;

(c) Provide that the Fund be used only for:

(1) Loans to students in accordance with the agreement;

(2) Payments to the institution in lieu of reimbursement for administrative expenses in the amount provided for in § 144.17;

(3) Capital distributions as provided in section 466 of the Act;

(4) Costs of litigation; and

(5) Other collection costs agreed to by the Commissioner in connection with the collection of principal, interest, and penalty charges, if any, on a loan made from the Fund. Such "other collection costs" are described in § 144.46 but do not include costs of employing individual contractors or agents to handle collection duties that reasonably may be expected to be performed by lending institution's own personnel as part of the routine administration of this program.

(d) Provide that where a note or written agreement evidencing a loan has been in default (as defined in § 144.2(v)) for at least two years despite due diligence on the part of the institution in making collection thereon as provided in Subpart C of this part, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general Fund of the Treasury;

(e) Provide that the institution shall submit a report to the Commissioner, on at least a semi-annual basis, indicating the total number of loans made from its fund which are in default;

(f) Provide that the institution shall make loans from the Fund reasonably available (to the extent of the available funds in such Fund) to all eligible students in the institution in need thereof; and

(g) Contain such other provisions as the Commissioner finds necessary, in light of special and unusual circumstances, to protect the financial interest of the United States and to promote the purposes of this part.

(20 U.S.C. 427, 1087bb, 1087cc)

§ 144.9 Student eligibility.

(a) *General.* A student is eligible for a loan under this part if such student:

(1) Is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Is in need of the amount of the loan to pursue a course of study at an eligible institution;

(3) Is capable, in the opinion of the institution, of maintaining good standing in such course of study; and

(4) Has been accepted for enrollment as at least a half-time undergraduate, graduate, or professional student in such institution or, in the case of a student already attending such institution, is in good standing and is enrolled as at least a half-time undergraduate, graduate, or professional student in such institution. In any case in which a student who has been determined to be eligible for a loan and thereafter fails to maintain good standing, the eligibility of such student shall be suspended, and no loan payments to, or on behalf of, such student shall be made until he regains good standing.

(b) *Programs of study abroad.* A student participating in a program of study abroad will be considered to be enrolled in his "home" institution if (1) the program of study abroad is arranged or approved in advance by the home institution and (2) the student's academic performance during the program of study abroad becomes a part of his permanent

academic record at the home institution in the same manner as if performed at that institution.

(c) *Need.* For purposes of paragraph (a) (2) of this section a student shall be considered in need if his cost of education at the institution at which he is enrolled or accepted for enrollment exceeds his expected family contribution as determined pursuant to § 144.12.

(d) *Religious communities.* For purposes of paragraph (a) (2) of this section a member of a religious community, society, or order who by direction of his or her community, society or order is pursuing a course of study in an institution of higher education or who receives support and maintenance from the community, society, or order shall be deemed not to have financial need.

(e) *Selection.* Loans made under this part shall be made reasonably available to all eligible student applicants except that no loan may be made under this part to any student who indicates an unwillingness to repay that loan. In the event applications for loans exceed available funds, the order of selection shall be made on the basis of need. The institution shall establish procedures for selecting among eligible students and such procedures shall be (1) set forth in writing, (2) available for public inspection, and (3) maintained in the files of the institution's office which selects students as loan recipients.

(20 U.S.C. 1087dd)

(f) *Affidavit of educational purpose.* No loan may be made under this part unless the student to whom it is made has filed with the institution of higher education which he intends to attend, or is attending, an affidavit on a form approved by the Commissioner stating that the money attributable to such loan will be used solely for expenses related to attendance or continued attendance at such institution. The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at such institution. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(20 U.S.C. 1088g)

(20 U.S.C. 1087dd)

§ 144.10 Coordination with Bureau of Indian Affairs grants-in-aid.

(a) In determining the amount, if any, of a loan to be made to a student who is eligible for such a loan and, in addition, is eligible for an educational grant-in-aid under a program administered by the Bureau of Indian Affairs (BIA), the institution shall observe the following practice:

(1) A "package" of student assistance will be prepared in accordance with § 144.14 for each such student from resources other than BIA grants-in-aid. In preparing such a package, the institution shall not take into consideration any BIA grant-in-aid which the student has received or is expected to receive and such package shall be consistent, as to the types and amounts of the respective awards included therein, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages.

(2) The amount of any BIA grant-in-aid, whether received by the student prior to the preparation of the package described in paragraph (a) of this section or subsequent thereto, shall be supplementary to the package of aid from other resources, and no adjustment shall be made to such package so long as the total of such package and the BIA grant-in-aid does not exceed the institution's determination of the student's need (i.e., the difference between the student's cost of education at the institution and his expected family contribution).

(3) If the total amount of the BIA grant-in-aid, when combined with the package of other assistance prepared in accordance with paragraph (a) of this section exceeds the institution's determination of the student's need, the amount of such excess only shall be deducted from the package of other assistance. Except as provided for in paragraph (a) (4) of this section, such deduction shall be done in sequence, so that such excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all such loan awards have been adjusted, deductions shall next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all such work-study awards have been adjusted, deductions shall be made from any award, or proposed award, in the form of a grant, other than a grant under the Basic Educational Opportunity Grants Program.

(4) If requested by an eligible recipient, the sequence of deductions provided in subparagraph (3) of this paragraph may be altered if such an alteration more adequately meets the need of that student.

(b) In determining the amount of financial need of students eligible for BIA grants-in-aid, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA post-secondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(20 U.S.C. 1087dd)

§ 144.11 Cost of education.

(a) The amount required to enable a student to pursue his education at an institution of higher education includes amounts charged for tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of a student's dependents. (b) In the case of a student engaged in a program of study by correspondence only his costs of tuition and fees shall be recognized as a cost of education for the purpose of this part; *provided,* however, that travel and room and board costs incurred specifically in fulfillment of a required period of residential training may be considered a cost of education for such a student. (c) If a student is enrolled in a program of study outside the United States which has been determined to be an eligible program pursuant to § 144.9 (b), his cost of education may not exceed his cost of education at his home campus.

(20 U.S.C. 1087dd)

§ 144.12 Expected family contribution.

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student, the student's spouse, and the student's parents to meet that student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parents may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student's parents;

(3) The number of such dependent children attending institutions of higher education; and

(4) Such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet such student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of such dependent children attending institutions of higher education; and

(4) Such other circumstances as may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) *Special considerations.* Upon the request of a student who does not live with his parents, who visits his parents for periods of time no longer than those which are typical for adults visiting their parents, and who does not receive from his parents gifts which exceed in value the amounts typically given by parents as incidental gifts to their adult, non-dependent offspring, the student financial aid officer shall make a determina-

tion as to whether the relationship between that student and his parents is of such a nature that it is unreasonable to expect the parents to contribute toward his cost of education, regardless of their ability to do so. The student financial aid officer shall make the reasons for such a determination part of the institution's written records. In any event, before making such a finding, the student financial aid officer shall make such efforts as he deems appropriate to ascertain whether the student's parents are in fact willing to contribute toward the student's cost of education.

(20 U.S.C. 1087dd)

§ 144.13 Approved need analysis systems.

(a) *General.* In order to comply with the requirements of § 144.12 of this part, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) *Dependent students.* (1) The Commissioner has approved the following systems for the purpose of § 144.12, with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of $12,500 if such assets do not include farm or business assets and $25,000 if such assets do include farm and business assets, except that no more than $12,500 may be deducted from non-farm and non-business assets, and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.12, for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (*a*) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for such sample cases by the following calculations:

(*a*) From the sum of the adjusted gross income and non-taxable income of the parents, there will be deducted the amount of Federal income taxes and Social Security taxes, an allowance of 8 percent of total income for state and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(*b*) To the remainder obtained in subparagraph (*a*) will be added 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve of $10,000; and

(*c*) The following rate schedule of expected contributions will then be applied to the sum obtained in subparagraph (*b*):

If the sum is—		The expected contribution is—
At least—	But less than—	
$0	$4,000	22 pct of the amount over $0.
$4,000	5,000	$880+25 pct of the amount over $4,000.
$5,000	6,000	$1,130+29 pct of the amount over $5,000.
$6,000	7,000	$1,420+34 pct of the amount over $6,000.
$7,000	8,000	$1,760+40 pct of the amount over $7,000.
$8,000		$2,160+47 pct of the amount over $8,000.

(iii) In developing the sample cases for the purposes of this paragraph, the Commissioner shall select only cases in which the age of the main wage earner is 45 years and in which the elements set forth in paragraph (b)(2)(ii) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, housekeeping allowances, farm or business assets, more than one family member attending post-secondary institutions, Social Security or Veteran's benefits or any unusual family circumstance.

(iv) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero shall be treated as zero.

(v) The figures for the set of sample cases used for purposes of this paragraph shall be revised annually for inflation by adjusting the deductions for family maintenance, the $10,000 standard deduction from assets and the rates of contribution from income and assets as necessary in such a manner that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars.

(c) *Independent students.* (1) The Commissioner has approved the following systems for the purpose of § 144.12, with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service; and

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.12, for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (*a*) increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in subparagraph (1) of this paragraph.

(d) *Application procedures for system approval.* Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to subparagraph (b)(2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to subparagraph (c)(2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) *Duration of approval.* Need analysis systems approved pursuant to subparagraphs (b)(1) and (c)(1) of this section are approved without a specific expiration date. A need analysis system approved pursuant to subparagraph (b)(2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (i) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (ii) in determin-

ing the eligibility of students for loans under this part, and in calculating the amount of such loans, to be used by the students during any academic year commencing not earlier than 9 months and not later than 22 months following that September 1. A need analysis system approved pursuant to subparagraph (c)(2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that subparagraph.

(f) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1087dd)

§ 144.14 Coordination of student financial aid programs, loan amount, and over-award.

(a) *Coordinating official.* The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Total award.* The institution shall not award assistance under this part to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 144.13(c); *provided,* however, that in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) *Resources.* For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to, the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program, regardless of whether the student has applied for such funds, any waiver of tuition and fees, any scholarship or grant-in-aid including Supplemental Educational Opportunity Grants and athletic scholarships, any fellowships or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (d) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) *Treatment of Guaranteed Loans.* (1) Except as provided in paragraph (d)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 144.13. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution if (i) the borrower has an adjusted family income of more than $15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or (ii) the amount of the loan would cause the total amount of the borrower's loan insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed $2,000 for the academic year.

(e) *Institutional responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know or can reasonably anticipate at the time that the assistance under this part is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic year and/or special session during which the student is receiving assistance under this part shall be deemed to have been known by the institution at the time of the disbursement of such assistance.

(f) An institution will be deemed to have violated the requirements of this section only if the sum of all the resources made available to the student, including assistance under this part, exceeded the student's need by more than $100. However, if the resources made available to the student included compensation for work-study employment and the student earned additional money from other employment, the institution will be deemed to have violated the requirements of this section only if the sum of the assistance received by the student exceeded the student's need by more than $200.

(20 U.S.C. 1087dd)

§ 144.15 Disbursement of loans.

(a) A loan for an academic year shall be advanced by the institution to the student borrower in equal installments in each semester, trimester, or quarter if the institution uses such academic periods; otherwise, for those institutions not using such academic periods, advances shall be made at least twice per academic year with one advance being at the beginning and the other at the midpoint of that academic year.

(b) A loan for a period shorter than an academic year shall be advanced by the institution to the student borrower in such installments as are deemed appropriate so as to enable the borrower to apply such payments to the costs reasonably necessary for his attendance at the institution during the academic period for which the loan was approved; except that no borrower may receive, during a given academic period, a loan in an amount in excess of the amount of his need for such a loan during that period, determined pursuant to § 144.14.

(c) For purposes of this section a program of training of at least six months' duration to prepare students for gainful employment in a recognized occupation shall be considered an academic year.

(d) Loan payments from a Fund shall be evidenced in the institution's records by cancelled checks or vouchers or, if the institution elects any other method of disbursement by a clear audit trail including an acknowledgement of receipt from each borrower indicating the method by which payments to him were made.

(e) Loan payments from a Fund shall not be made unless the borrower has filed with the institution the affidavit required pursuant to § 144.9(f) of this part and the institution has complied with the Truth in Lending requirements of Regulation Z (12 CFR 226).

(20 U.S.C. 424, 1087cc)

§ 144.16 Special sessions.

(a) A student enrolled in an institution of higher education in one or more classes during a period of special enrollment, such as a special summer term, will be eligible for a National Direct Student Loan if he (i) meets the other eligibility requirements of this part, (ii) is registered as at least a half-time student at that institution during such session, and (iii) is either in attendance as at least a half-time student at that institution during the regular term immediately preceding such session or will be enrolled or has been accepted for enrollment as at least a half-time student during the subsequent regular term at that institution.

(20 U.S.C. 1087aa-ff)

§ 144.17 Administrative expenses.

An institution shall be entitled for each fiscal year during which it makes loans from its Fund to a payment in lieu of reimbursement for its expenses in administering its National Direct Student Loan Program during such year. Such

payment shall be payable from the institution's Fund and shall be in an amount equal to three percent of the principal amount of loans made from such Fund during the fiscal year, except that the aggregate amount paid to an institution under this paragraph plus the amount paid to such institution in lieu of expenses for administration under the College Work-Study and the Supplemental Educational Opportunity Grant Programs shall not exceed $125,000 for any fiscal year.

(20 U.S.C. 424, 1087cc, 1088b)

§ 144.18 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) The institution shall administer the National Direct Student Loan Program in such a manner as to provide for an adequate system of internal controls. The various administrative procedures shall be divided so as to provide for a system of checks and balances under which no person will be directly responsible for all aspects of the program. The functions of authorizing payment and disbursing funds shall be divided in such a fashion that no office has responsibility for both functions with respect to any particular student aided under the program.

(2) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions shall give notice to any bank in which they deposit Federal funds of all accounts in that bank in which such funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Records and reporting.* (1) Each institution shall establish and maintain on a current basis such general ledger control accounts and related subsidiary accounts as are necessary to identify all transactions involving Federal funds available under this part and to separate records of such transactions from all other institutional assets and activities. Such records shall afford ready identification of each student's account and the status thereof, and shall be adequate to demonstrate the eligibility of every student aided under the program, shall indicate the amount of need determined for each student and the way that need has been met, and shall identify the institutional officer who made the determination of such need.

(2) An institution shall submit an annual Institutional Fiscal-Operations Report and such other reports and information in such form and at such times as the Commissioner may require in connection with the administration of this part and shall comply with such requirements as the Commissioner may find necessary to insure the correctness of such reports.

(c) *Retention of records.* (1) *Records.* Each institution shall keep intact and accessible records relating to the receipt and expenditure of Federal funds, including all accounting records and related original and supporting documents that substantiate costs charged to the Fund.

(2) *5 year period.* Except as provided in subparagraps (3) and (5) of this paragraph, the records specified in subparagraph (1) of this paragraph shall be retained for five years after the close of the fiscal year to which they pertain or the date of submission of a report required by the Commissioner under this part for such fiscal year, whichever occurs later.

(3) *Loan records.* An institution shall retain all financial and repayment records pertaining to any individual loan made under this part for not less than five years from the date on which the entire amount of the loan has been repaid, cancelled, or assigned in accordance with this part.

(4) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(5) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit question; *provided,* however, that records need not be retained if they relate to a payment with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(6) *Audit and examination.* The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in subparagraphs (1) and (3) of this paragraph and to any other pertinent books, documents, papers, and records of the recipient.

(d) An institution need not maintain separate records for National Defense Student loans as opposed to National Direct Student loans except with respect to loan cancellation.

(e) *Audits—non-Federal.* All of an institution's transactions involving the assets of its Fund shall be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. The frequency of such audits shall depend on the size and complexity of the activity of the Fund except that such audits shall be carried out at least once every two years.

(f) Such audit reports shall be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located. The Audit Agency and the Commissioner shall also be given access to records or other documents as may be necessary to review the results of such audits.

(g) Promissory notes and student loan ledgers shall be maintained in good order in a locked fireproof container. Only authorized personnel shall have access to these documents.

(20 U.S.C. 424, 1087cc)

§ 144.19 Federal interest in allocated funds—transfer of Loan Fund.

(a) Funds received by an institution pursuant to this part, excluding funds authorized for administrative expenses, are to be held in trust for the intended student beneficiary. Such funds may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(b) (1) If an institution responsible for the maintenance of a Loan Fund established pursuant to § 144.8, including the collection of outstanding loans, ceases operation or is no longer willing to participate in the program, the Commissioner will take such steps as are necessary to protect the Federal interest in that Loan Fund and in those outstanding loans. Such steps may include (i) the undertaking of a capital distribution of the liquid assets of the Fund in accordance with § 466(c) of the Act, (ii) the transfer of the outstanding loans of the Funds to another institution in the same State, or (iii) the transfer of the outstanding loans to the Office of Education if no institution in that State wishes to receive such loans.

(2) The cost of collecting the transferred loans described in subparagraph (1) of this paragraph shall be deemed to equal the institutional share of such loans.

(3) If the loans described in subparagraph (1) of this paragraph are transferred to another institution in the same State, the transferee institution may deposit all the funds it collects on such loans in its own Loan Fund established pursuant to § 144.8 and the transferror institution's share of such collections shall be deemed the transferee institution's institutional capital contribution.

(4) If the loans described in subparagraph (1) of this paragraph are transferred to the Office of Education, the Commissioner may use the institutional share of the funds he collects to pay for the costs of collecting such loans.

(c) If more than one institution in that State offers to undertake the collection of the outstanding loans referred to in paragraph (b) of this section, the Commissioner will select the transferee institution primarily on the basis of the institution's demonstrated capability in the area of loan collection and secondarily on the basis of the number of students of the transferror institution expected to enroll in the transferee institution.

(d) If a transfer of a Fund is made pursuant to paragraph (b) (1) (ii) of this section, no audit exceptions will be taken against the transferee institution on account of actions or omissions of the transferror institution in the administra-

tion of its Fund prior to such transfer. Such a transferred Fund shall be maintained by the transferee institution as a segregated account until an audit satisfactory to the Commissioner has been performed on the operation of the program at the transferror institution.

(20 U.S.C. 1087aa–ff; 1087cc(a)(5))

§ 144.20 Termination and suspension.

(a) If the Commissioner finds that any of the assurances or representations made by an institution in connection with the administration and operation of the National Direct Student Loan Program is incomplete or inaccurate in any material respect, or that there has been a failure to comply with any of the provisions of this part, or that there has been a failure to carry out any of the provisions agreed to by the institution pursuant to § 144.8, he may, after giving the institution notice and an opportunity for a hearing, terminate the agreement entered into pursuant to § 144.8 or take such other actions as may be necessary and appropriate to protect the interest of the United States. The termination of the institution from the program shall not affect the obligations previously incurred by either party under that agreement or this part.

(b) *Notice of termination.* Proceedings with respect to the termination of the program shall be initiated by the mailing of a notice to the institution setting forth the basis of the proposed termination and the procedures available to the recipient under this section.

(c) *Suspension of assistance.* Subject to paragraph (e) of this section, assistance may be suspended while a termination proceeding initiated pursuant to this section is pending.

(d) *Notice of suspension.* If the Commissioner determines that it is necessary to suspend assistance while a termination proceeding is pending, notice of the suspension shall be mailed to the recipient (which may be included in the notice of termination). The notice of suspension shall: (1) inform the recipient of that determination; (2) advise the recipient of the effective date of the suspension; and (3) offer the recipient an opportunity to show cause why such action should not be taken.

(e) *Opportunity to show cause.* If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for that purpose.

(20 U.S.C. 1087aa–ff

§ 144.21 [Reserved]

Subpart B—Terms of Loans

§ 144.31 Limitations governing aggregate amount of loans.

The aggregate of the loans for all years made by institutions of higher education from Loan Funds established pursuant to agreements under this part may not exceed:

(1) $10,000 in the case of any graduate or professional student, including any loans from such Funds made to such person before he became a graduate or professional student;

(2) $5,000 in the case of a student who has successfully completed two academic years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree, and including any loans from such Funds made to that person before he became such a student; and

(3) $2,500 in the case of any student who has not completed two academic years of a program of education leading to a bachelor's degree.

(20 U.S.C. 1087dd)

§ 144.32 Promissory note—loan repayment.

(a) *Evidence of indebtedness.* A loan shall be evidenced by a promissory note executed by the student borrower. A promissory note acceptable to the Commissioner is set forth in Appendix B. Except for optional provisions permitted under this section, any substantive deviation from the provisions of this promissory note form must be approved by the Commissioner prior to the making of any loans to be evidenced thereby. A copy of the executed note shall be supplied to the borrower.

(b) *Rate of interest.* The note evidencing a loan shall provide that the loan shall bear interest on the unpaid balance at the rate of three percent per annum, except that no interest shall accrue prior to the date of commencement of repayment as specified in paragraph (c) of this section or during any period in which repayment is deferred in accordance with § 144.34(a).

(c) *Repayment.* (1) Except as provided in paragraph (c)(2) and paragraph (e) of this section (minimum repayments), and in § 144.34 (deferments), the note evidencing a loan shall provide for repayment of the principal amount, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Commissioner) payable quarterly, bimonthly, or monthly, at the option of the institution, or a period beginning nine months after the date on which the borrower ceases to carry, at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner, at least one-half the normal full-time academic work load (half-time work load), except that such period may begin earlier at the request of the borrower, and ending 10 years and nine months after the date on which the borrower ceases to carry a half-time work load. Selection of a repayment plan shall be made prior to the date on which the student ceases to be enrolled on at least a half-time basis at the lending institution. A copy of the repayment plan, when established, must be attached to the promissory note and a copy shall also be supplied to the student borrower.

(2) If the applicable repayment plan results in a final payment of not more than $2, the institution may increase the next-to-last payment of the repayment plan to include that amount.

(3) Any loan repayment made by a borrower shall first be applied against any interest due on the loan with the remainder of that repayment against principal.

(d) *Accelerated repayment.* (1) The note evidencing a loan shall provide that a borrower may, at his option and without penalty, accelerate repayment of the whole or any part of the loan at any time except that any refund attributable to a loan made under this part and any repayment made by the student during the academic year for which the loan was made shall be treated as a reduction in the original amount of the loan and not as a repayment.

(2) Unless the borrower indicates otherwise, any amount paid by the borrower which exceeds the amount due for that period or any previous period shall be considered as a repayment of principal rather than an advance payment on any subsequent installment.

(e) *Minimum rates of repayment.* (1) *Defense Loans.* (i) If monthly repayment amounts of principal and interest which would otherwise be required pursuant to paragraph (c) of this section on a Defense Loan are less than $15 a month (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may at its option and if it has so provided in the note evidencing the loan, require a student borrower to make such payments of principal and interest at a monthly rate of not more than $15. (ii) If a borrower has obtained Defense Loans from more than one institution and if the monthly repayment amounts of principal and interest are less than the equivalent of $15 per month, and only one institution exercises the $15 minimum monthly repayment option, the institution which exercises the option shall receive the difference between $15 and the monthly repayment rate of principal and interest owed to the other institution. (iii) If a borrower has obtained Defense Loans from more than one institution and if the monthly repayment amounts of principal and interest are less than the equivalent of $15 per month and each of the institutions exercises the $15 minimum monthly repayment option, such $15 minimum repayment shall be divided among such institutions in proportion to the total amount of principal advanced by each of the institutions.

(2) *Direct Loans.* (i) If monthly repayment amounts of principal and interest which would otherwise be required pursuant to paragraph (c) of this section on a Direct Loan are less than $30 a month (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may at its option and if it has so provided in the note evidencing the loan, require a student borrower to make such payments of principal and interest at a monthly rate of not more than $30. (ii) If a borrower has obtained Direct Loans from more than one institution and if the monthly

repayment amounts of principal and interest are less than the equivalent of $30 per month, and only one institution exercises the $30 minimum monthly repayment option, the institution which exercises the option shall receive the difference between $30 and the monthly repayment rate of principal and interest owed to the other institution. (iii) If a borrower has obtained Direct Loans from more than one institution and if the monthly repayment amounts of principal and interest are less than the equivalent of $30 per month and each of the institutions exercises the $30 minimum monthly repayment option, such $30 minimum repayment shall be divided among such institutions in proportion to the total amount of principal advanced by each of the institutions.

(f) *Penalty charges.* An institution may provide in the note evidencing a loan for the assessment of a charge for the failure of the borrower to pay all or any part of an installment when due, or to file timely and satisfactory evidence of an entitlement to deferment benefits under § 144.34 or cancellation benefits under subpart D of this part. The amount of any such charge may not exceed:

(1) In the case of a loan which is repayable in monthly installments, $1 for the first month or part thereof by which each such installment or evidence is late and $2 for each such month or part thereof thereafter; or

(2) In the case of a loan which is repayable in bimonthly or quartely installments $3 and $6 respectively for each such interval or part thereof by which each such installment or evidence is late and for each such bimonthly or quarterly period or part thereafter.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) *Security and endorsement.* The note evidencing a loan shall provide that the loan shall be made without security and without endorsement, except that security or endorsement may be required if the borrower is a minor and if under applicable State law a note executed by him would not create a binding obligation.

(20 U.S.C. 425 and 1087dd)

(h) *Assignment of notes.* The note evidencing a loan shall provide that the note may not be assigned except to the United States (or to a party specifically approved by the Commissioner), or to another institution to which the borrower transfers which is participating in the program, or if not so participating, is eligible to do so and is approved by the Commissioner for receipt of the assignment of such notes.

(20 U.S.C. 1087cc-dd)

(i) *Acceleration.* The note evidencing a loan shall provide that in the event of a failure by the borrower to make a scheduled repayment of any of the installments due on the note, the entire unpaid indebtedness, including interest due and accrued thereon and any penalty charges assessed pursuant to paragraph (f) of this section shall, at the option of the institution, become immediately due and payable.

(j) *Costs of collection.* The note evidencing a loan may, at the option of the institution, provide that the borrower shall be liable for all attorneys' fees and other costs and charges necessary for the collection of any repayment installment not paid when due.

(20 U.S.C. 425 and 1087dd)

§ 144.33 Minimum rate of repayment if the borrower received both Defense and Direct Loans.

(a) The provisions of this section shall apply to the repayment of loans by a borrower who has received both Defense and Direct Loans.

(b) If the sum of the monthly repayment amounts of principal and interest that a borrower would otherwise be required to repay on his Defense and Direct Loans pursuant to § 144.32(c) is at least $30 (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may not exercise the option provided in either promissory note to increase the minimum monthly repayment amount even though the amount to be repaid by the borrower on his Defense Loans is less than the equivalent of $15 per month or the amount to be repaid on his Direct Loans is less than the equivalent of $30 per month.

(c) If the sum of the monthly repayment amounts of principal and interest that a borrower would otherwise be required to repay on his Defense and Direct Loans pursuant to § 144.32(c) is less than $30 (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may not exercise the option provided in either promissory note to increase the minimum monthly repayment amount of principal and interest in such a fashion as to require a monthly repayment greater than $30 (or the equivalent amount for loans paid on a bi-monthly or quarterly basis).

(d) If (1) the sum of the monthly repayment amounts of principal and interest that a borrower would otherwise be required to repay on his Defense and Direct Loans pursuant to § 144.32(c) is less than $30 (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), (2) the amount otherwise required to be repaid on the Defense Loan pursuant to § 144.32(c) is less than $15 per month (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), and (3) the institution exercises its option for a minimum monthly repayment as provided in § 144.32(e) under one or both loans, no more than $15 (or the equivalent amount for loans paid on a bi-monthly or quarterly basis) may be attributed to the Defense Loan and that $15 may be attributed to the Defense Loan only if the institution exercises its minimum repayment option on the Defense Loan.

(20 U.S.C. 425 and 1087dd; Section 137d of Pub. L. 92-318)

§ 144.34 Deferment of repayment.

(a) The note evidencing a loan shall provide that installments of principal need not be paid and interest shall not accrue on the loan during any period (1) in which the borrower is carrying at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner, at least one-half the normal full-time academic work load as determined by the institution; (2) not in excess of three years during which the borrower is a member of the Armed Forces of the United States; (3) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act; or (4) not in excess of three years during which the borrower is a VISTA volunteer under Title I—Part A of the Domestic Service Act of 1973 Pub. L. 93-113, (formerly Title VIII of the Economic Opportunity Act of 1964). Any such periods shall not be included in determining the 10 year repayment period specified in § 144.32(c).

(b) *Extraordinary circumstances.* If a student who has borrowed from a Fund is unable, due to extraordinary circumstances such as prolonged illness or unemployment, to make a payment when due in accordance with his repayment plan, he may apply to the institution to whose Fund he is indebted for revision of his schedule of repayment. The institution may then revise the borrower's repayment plan except that where the action taken by the institution would involve an extension of the repayment period provided for in § 144.32(c), such action must first be approved by the Commissioner. Interest, however, shall continue to accrue.

(c) (1) If an institution elects the minimum monthly repayment rate set forth in § 144.32(e) with regard to a borrower, and the borrower is unable due to extraordinary circumstances such as prolonged illness or unemployment, to make a payment when due, the institution may, upon application of the borrower, defer the borrower's repayments or revise his repayment schedule for a period of not more than one year. If, at the end of such a period, the borrower is still unable to repay his loan at the rate of $30 per month, the institution may, upon reevaluation of the borrower's financial situation, defer or revise the borrower's repayment schedule for another period of not more than one year. Interest, however, continues to accrue.

(2) The institution may not grant the relief described in subparagraph (1) of this section if the revision or deferment

will result in a repayment period longer than the one provided in § 144.32(c).

(d) *Less than half-time attendance.* For Defense Loans, the institution may provide that installments need not be paid during any period or periods, aggregating not in excess of three years, during which the borrower is enrolled and in attendance as less than a half-time student at an institution of higher education taking courses which are creditable toward a degree. The institution may also provide that any such period will not be included in determining the 10-year period during which the repayment must be completed, but interest shall continue to accrue during any such period.

(20 U.S.C. 425 and 1087dd)

§ 144.35 Postponement of loan repayments in anticipation of cancellation.

(a) An institution shall postpone loan repayments for a twelve month period if the borrower

(1) Will be teaching or providing other services which would enable him to have a portion of his loan cancelled and

(2) Has submitted a statement signed by a responsible official of the military, agency, school or institution employing the borrower that the borrower will be so employed. Such a statement should include the borrower's job description, the period of employment, and the full-time or part-time nature of the employment.

(b) If a borrower has received both Defense loans and Direct loans and he is eligible for cancellation benefits on only one of those loans, only the loan repayments due on the loan for which cancellation is available may be postponed.

(20 U.S.C. 425 and 1087dd-ee)

§ 144.36 Treatment of loan repayments where cancellation, loan repayments, and minimum monthly repayments apply.

(a) *Minimum monthly repayment rate.* Notwithstanding the provisions of §§ 144.32(e) or 144.33 if (1) a borrower has received Defense Loans or Direct Loans or both and the notes evidencing such loans include a minimum monthly repayment provision, (2) the institution postpones the borrower's loan repayments under one or both loans pursuant to § 144.35, and (3) the borrower receives a partial cancellation on one or both of such loans for that period, the institution may not exercise the minimum monthly repayment provision in the note or notes which are subject to partial cancellation for the period covered by the postponement.

(b) If a borrower has received both Defense and Direct Loans and is eligible to have only one of those loans cancelled, the amount due on the loan not being cancelled shall be at the rate established pursuant to § 144.32(c) or (e), whichever is applicable.

(20 U.S.C. 425 and 1087dd-ee)

Subpart C—Loan Collection—Due Diligence

§ 144.41 General.

Each institution at which a Fund is established shall exercise due diligence as described in this subpart in the collection of the amounts due and payable to its Fund. In the exercise of such responsibility each institution must consistently utilize extensive and forceful collection practices. In particular, an institution shall:

(a) Provide to each borrower, not later than the time when he signs his promissory note, full disclosure of his rights and obligations thereunder;

(b) (1) Conduct an exit interview as described in § 144.42 with each borrower prior to his leaving the institution and provide the borrower at that time with a copy of his repayment schedule specifying the total amount of the loan and the dates and amounts of installments as they become due;

(2) If a borrower leaves the institution without notice, the institution shall mail the borrower a copy of his note and 2 copies of his repayment schedule and shall request the borrower to sign and return one of the copies of the repayment schedule.

(c) Maintain a written record of the exit interview, including a repayment schedule signed by the borrower which shall be made a part of the borrower's file;

(d) Maintain contact with the borrower after his leaving the institution in order to facilitate billing and in order to keep him informed on a timely basis of all changes in the program affecting his rights and obligations.

(20 U.S.C. 1087cc)

§ 144.42 Contact with the borrower prior to repayment period.

(a) *Coordination of institutional offices.* Each institution shall provide for the exchange of information among all appropriate institutional offices, e.g., the registrar, student financial aid, business, and alumni offices in order to determine (1) the approximate time a borrower will graduate in order that an exit interview may be conducted, or (2) whether a student has left school without proper notice so that it may mail the borrower required information.

(b) *Exit interview.* (1) Each institution shall, if possible, conduct an exit interview with each borrower prior to the time the borrower leaves the institution. The exit interview shall be conducted on an individual basis, except that, if individual interviews are not feasible, the institution may conduct group exit interviews.

(2) During the exit interview the institution shall provide the borrower with a detailed explanation of his obligations and rights. It shall advise the borrower: (i) Of the fact that he has received a loan which must be repaid on a timely basis as called for in his repayment schedule, (ii) of his responsibility to inform the institution immediately of any change of address, (iii) of the full amount of his loan including the interest rate, (iv) of the date and amount when the first payment becomes due, (v) of his responsibility to contact the institution prior to the due date of any installment if payment cannot be made for any reason, (vi) of his rights to deferment pursuant to § 144.34, postponement pursuant to § 144.35, and/or cancellation pursuant to § 144.51 through § 144.56 as well as his responsibility to submit timely certification of such right to the deferment, postponement, and/or cancellation, (vii) of his right to accelerate loan repayments without penalty, (viii) of any optional features which the institution has inserted in its note including the minimum monthly repayment provision pursuant to § 144.32(e), total costs of collection chargeable to the borrower pursuant to § 144.32(j), and penalty charges pursuant to § 144.32(f).

(c) The institution shall contact each borrower no less than three times during the borrower's 9 month grace perior as follows: (1) 90 days into the grace period the institution shall transmit to the borrower in writing the information described in paragraph (b) (2) of this section and such other information as is necessary to satisfy Truth in Lending Act regulations; (2) 180 days into the grace period the institution shall notify the borrower of the date of expiration of the borrower's grace period; and (3) no less than 30 days preceding the due date of the first repayment installment the institution shall notify the borrower of the date when his first payment becomes due and of the amount of principal and interest due at that time.

(d) If the institution finds that a borrower's address has changed, it shall implement the procedures set forth in § 144.43(a) (4) in order to secure the borrower's correct address.

(20 U.S.C. 425 and 1087cc)

§ 144.43 Billing procedures.

(a) Each institution shall establish and maintain regular billing and follow-up procedures during the period in which any outstanding balance remains unpaid, including:

(1) The sending of:

(i) A letter of notice and a statement of account to each borrower no later than 30 days preceding the date on which the first repayment installment is due;

(ii) A statement of account to each borrower no fewer than 10 days preceding the due date of each payment subsequent to the first payment, unless a coupon system is established;

(iii) When any payment is not received within 15 days of the due date, a telephoned or written demand to the borrower for payment followed by two more such demands spaced 30 days apart if no response to the initial demand is received;

(2) The maintenance of a monthly list of payments in arrears with respect to loans not paid when due;

(3) Other procedures for effecting prompt and regular repayment including personal or telephonic contact where possible;

(4) In the case of a borrower whose address is no longer known, which may be evidenced by return of mail, performance of a thorough search of all reasonably accessible information which may lead to the borrower's current address, including records checks in all appropriate institutional offices, checks of the telephone directory or information operator in the city or town of the borrower's last known address, long distance phone calls to the borrower if a phone number has been obtained and the use of the Office of Education's skip-tracing service, which will be provided free of charge to the institution.

(b) Costs incurred by the institution in carrying out the activities enumerated in paragraph (a) of this section shall be considered routine administrative expenses which may not be charged to the Fund, except for the costs of long distance phone calls to the borrower described in paragraphs (a) (3) and (a) (4) of this section, which may, in accordance with § 144.46, be considered other collection costs chargeable to the Fund.

(20 U.S.C. 424 and 1087cc)

§ 144.44 Skip-tracing activities.

(a) If an institution is still unable to locate a borrower, in spite of its efforts pursuant to § 144.43(a) (4), it shall engage the services of a commercial skip tracing organization or perform equivalent skip tracing activities with its own personnel.

(b) If the borrower's address is located as a result of the activities described in paragraph (a) of this section, the institution shall immediately contact the borrower for the purpose of collecting amounts past due.

(20 U.S.C. 424 and 1087cc)

§ 144.45 Collection procedures.

(a) If an institution is still unable to obtain payment from a borrower after performing all of the activities set forth in §§ 144.43 and 144.44, it shall utilize the services of a collection agency or perform such collection activities with its own personnel or shall resort to litigation.

(b) If a collection agency is used it must be bonded in an amount to cover those particular assets of the Fund which are under the control of the agency at any particular time.

(c) Notwithstanding the provisions of paragraph (a) of this section, if the amount of principal and interest outstanding on a loan is not more than $2, the institution may write-off that amount and need not take any further collection action with regard to that loan.

(20 U.S.C. 424 and 1087cc)

§ 144.46 Other collection costs—litigation costs.

(a) Reasonable costs incurred in carrying out the activities described in §§ 144.44(a) and 144.45 and the costs of long distance calls incurred in carrying out § 144.43 (a) (3) and (a) (4) and § 144.44(b) shall be considered other collection costs and may be charged to the Fund, except that any collection costs paid by the borrower may not be charged to the Fund. For audit purposes, such costs must be supported by appropriate financial statements (e.g. telephone bills and collection agency bills). The statement of the collection agency shall indicate specific amounts collected and charges retained.

(b) If an institution elects to perform its own collections, rather than using a collection agency, its actual costs of colleciton may be considered an other collection cost and charged to the Fund, so long as such costs do not exceed the costs that would have been permitted under paragraph (a) of this section if the institution had used a commercial collection agency.

(c) Reasonable litigation costs incurred in carrying out this subpart may be charged to the Fund.

(20 U.S.C. 424 and 1087cc)

§ 144.47 Utilization of fiscal agent.

(a) If an institution utilizes a billing service, collection agency or any other type of fiscal agent in carrying out its functions under this part, the function of such service or agency must be limited solely to the performance of ministerial acts. The ultimate responsibility of the institution to make determinations relative to the making and collection of loans and decisions relative to cancellation and deferment of loans cannot be delegated.

(b) If a billing service is used to carry out the functions pursuant to § 144.43, the billing service may not deduct its fee from the funds it receives from borrowers.

(20 U.S.C. 424 and 1087cc)

§ 144.48 Use of commonly owned billing service and collection agency prohibited.

If in carrying out the activities required under § 144.43 an institution uses a commercial billing service, it may not utilize a collection agency pursuant to § 144.45 which owns or controls, or is owned or controlled by, the billing service or which is owned and controlled by a corporation, partnership, association or individual which also owns or controls the billing service.

(20 U.S.C. 1087cc)

§ 144.49 Bankruptcy of borrower.

An institution shall refrain from collection activity with respect to a loan in the event the borrower is adjudicated a bankrupt and such loan has been discharged. However, no such loan shall be written off until an official notice of the adjudication has been received by the institution. Such notification must be maintained in the file of that borrower to support the writeoff entry. If the institution receives any payment from a borrower subsequent to his adjudication as a bankrupt, it shall deposit such payment in its Fund.

(20 U.S.C. 424, 1087cc)

Subpart D—Loan Cancellation

§ 144.51 Special definitions.

For purposes of this subpart:

(a) "Academic year or its equivalent" means

(1) With respect to elementary and secondary school teachers and teachers of handicapped children in a public or nonprofit elementary or secondary school system, a school year or two complete and consecutive half years from different school years, excluding summer sessions, falling generally within a 12 month period; and

(2) With respect to teachers in institutions of higher education, the equivalent of two semesters, two trimesters or three quarters generally falling within a 12 month period.

(b) "Elementary school" means a school which provides elementary education including education below grade 1, as determined under State law, or, if such a school is not in any State, as determined by the Commissioner.

(c) "Full-time teacher" means a person professionally employed on a full-time basis by, and to carry out the curriculum of, (1) an elementary school or secondary school, or (2) several elementary or secondary schools within the same local school district or local educational agency, or (3) a public or nonprofit private elementary or secondary school system with regard to the teaching of handicapped children, or (4) an institution of higher education, or (5) a consortium of institutions of higher education. This term includes persons engaged in classroom instruction and also includes persons otherwise engaged in a professional capacity in providing direct and personal services to students, which services have the objective of furthering the educational development of such students enrolled in such school(s) or institution(s).

This term, with respect to a teacher in an institution of higher education, does not include persons engaged in teaching any program of elementary or secondary education unless the program is specifically designed to prepare high school graduates for a program of postsecondary education.

(d) "Handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or otherwise health-impaired who by reason thereof require special education and related services.

(e) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school

districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(f) "Secondary school" means a school which provides secondary education as determined under State law, or if such school is not in any State, as determined by the Commissioner, except that such education does not include any education provided beyond grade 12.

(g) "State educational agency" means the State board of education or other agency or officer primarily responsible in a State for the supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 425, 1087ee, 1141)

§ 144.52 Teacher cancellation—Defense Loans.

The following provisions apply to Defense Loans:

(a) (1) Except as provided for in paragraphs (b) and (c) of this section, a borrower is entitled to have up to 50 percent of any loan plus the interest thereon cancelled for services as a full-time teacher in (i) a public or other nonprofit elementary or secondary school in a State, (ii) an institution of higher education or (iii) an elementary or secondary school overseas of the Armed Forces of the United States.

(2) Loans under this paragraph will be cancelled at the rate of 10 percent of the total amount of such loans plus the interest thereon for each complete academic year or its equivalent of such teaching service.

(b) (1) A borrower is entitled to have the entire amount of any loan plus the interest thereon cancelled for services as a full-time teacher in a public or other nonprofit elementary or secondary school (i) which is in the school district of a local educational agency which is eligible in that year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965, and (ii) which, for the purpose of this subparagraph and for that year, has been determined by the Commissioner after consultation with the State educational agency of the State in which the school is located, to be a school in which there is a high concentration of students from low-income families; however, that determination shall not be made with respect to more than 25 percent of the total of the public and other nonprofit elementary and secondary schools in any State for any one year unless all of the schools so determined are schools in which the enrollment of children described in section 103(c) (1) (A), (B), or (C), (formerly section 103(a) (2) (A), (B), or (C)) of Title I of the Elementary and Secondary Education Act of 1965, using a low-income factor of $3,000 exceeds 50 percent of the total enrollment of that school. For purposes of this paragraph low income families are those families whose adjusted gross income is not more than $3,000.

(2) Loans under this paragraph will be cancelled at the rate of 15 percent of the total amount of such loans plus the interest thereon for each complete academic year or its equivalent of teaching service.

(3) The Commissioner's determination in paragraph (b) (1) of this section will be based upon a ranking of such schools submitted by the State educational agency for the State in which the schools are located. Such schools shall be ranked on the basis of objective standards and methods approved by the Commissioner which take into account the numbers and percentages of students from low-income families in attendance in such schools. For each school year the Commissioner will make available to each institution of higher education participating in the program a list of schools which have been determined to be those with a high concentration of students from low-income families.

(4) Cancellation as described in this paragraph is only available for teaching service commencing with the 1966–67 academic year.

(c) (1) A borrower is entitled to have the entire amount of any loan plus the interest thereon cancelled for service as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system.

(2) Loans under this paragraph will be cancelled at the rate of 15 percent of the total amount of such loans plus the interest thereon for each complete academic year or its equivalent of such teaching service.

(3) Cancellation as described in this paragraph is only available for teaching service commencing with the 1967–68 academic year.

[20 U.S.C. 425(b) (3))

§ 144.53 Teacher cancellation - Direct Loans.

The following provisions apply to Direct Loans:

(a) (1) A borrower is entitled to have the entire amount of any loan plus the interest thereon cancelled for services as a full-time teacher in a public or other nonprofit elementary or secondary school (i) which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965 and (ii) which for the purpose of this paragraph and for that year has been determined by the Commissioner after consultation with the State educational agency of the State in which the school is located, to be a school in which the enrollment of children described in section 103(c) (1) (A), (B), or (C) (formerly section 103(a) (2) (A), (B), or (C)) of Title I of the Elementary and Secondary Education Act of 1965, using a low-income factor of $3,000, exceeds 30 percent of the total enrollment of that school, except that such determination shall not be made with respect to more than 50 percent of the total number of schools in that State receiving assistance under such Title I.

(2) If more than 50 percent of the schools in a State receive assistance under Title I of the Elementary and Secondary Education Act of 1965 and also satisfy the conditions specified in subparagraph (1) of this paragraph concerning enrollment of children, the Commissioner will list schools for which cancellation is permitted under this paragraph from among those eligible schools based upon a ranking of such schools submitted by the State educational agency for the State in which the schools are located. Such schools shall be ranked on the basis of objective standards and methods approved by the Commissioner which take into account the number and percentages of students described in subparagraph (1) of this paragraph in such schools. With respect to each school year, the Commissioner will make available to each institution participating in the program a list of schools for which cancellation for teaching service is permitted under this paragraph.

(b) A borrower is entitled to have his entire loan cancelled for service as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system.

(c) Borrowers qualifying for cancellation under paragraphs (a) and (b) of this section will have their loans cancelled at the following rates: (1) 15 percent of the total amount of such loans plus the interest thereon for each of the first and second complete academic years or their equivalent of such teaching services, (2) 20 percent of the total amount of such loans plus the interest thereon for each of the third and fourth complete academic years or their equivalent of such teaching service, and (3) 30 percent of the total amount of such loans plus the interest thereon for the fifth complete academic year or its equivalent of such teaching service.

(20 U.S.C. 1087ee)

§ 144.54 Head Start cancellation.

(a) A borrower whose loan was made under this part after June 30, 1972 is entitled to have the entire amount of any such loan plus the interest thereon cancelled for services as a full-time staff member in a preschool program carried out under section 222(a) (1) of the Economic Opportunity Act of 1964 (Head Start) if that program is operated for a period which is comparable to a full school year in the locality; provided, however, that the borrower's salary as a full-time staff member is not more than the salary of a comparable employee of the local educational agency in the area served by the preschool program. Loans under this section will be cancelled at the rate of 15 percent of the total amount of such loans plus the interest thereon for each complete school year or its equivalent of such service.

(b) For purposes of paragraph (a) of this section "Full-time staff member" means any person regularly employed in a professional capacity on a full-time

basis in carrying out the educational component of a Head Start program.

(20 U.S.C. 1087ee)

§ 144.55 Military cancellation.

(a) (1) A borrower is entitled to have up to 50 percent of any loan made under this part after April 13, 1970 but before July 1, 1972 plus the interest thereon cancelled for services after June 30, 1970 as a member of the Armed Forces of the United States.

(2) Loans under this paragraph will be cancelled at the rate of 12½ percent of the total amount of such loans plus the interest thereon for each year of consecutive service as a member of the Armed Forces.

(b) (1) A borrower is entitled to have up to 50 percent of any loan made under this part after June 30, 1972 plus the interest thereon cancelled for service as a member of the Armed Forces of the United States in an area that qualifies for special pay under section 310 of Title 37 of the United States Code.

(2) Loans under this paragraph will be cancelled at the rate of 12½ percent of the total amount of such loans plus the interest thereon for each year of qualifying service.

(c) For purposes of this section, a borrower's entitlement to deferment of repayment pursuant to § 144.34 shall be deemed to run concurrently with any periods during which the cancellation entitlement has been granted.

(d) For purposes of this section and § 144.34, "Member of the Armed Forces of the United States" means an individual who is on full-time active duty in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

(20 U.S.C. 425(b) (3), 20 U.S.C. 1087ee)

§ 144.56 Cancellation for death or disability.

(a) *Death.* Any loan made under this part and the interest thereon shall be cancelled upon the death of the borrower. A determination as to whether or not such cancellation is warranted shall be made by the institution to whose fund the borrower is indebted on the basis of a certificate of death or such other official proof as is conclusive under State law.

(b) *Permanent and total disability.* Any loan made under this part and the interest thereon shall be cancelled if the borrower becomes permanently and totally disabled after receiving his loan. A determination as to whether or not a borrower is entitled to such cancellation shall be made by the institution to whose Fund the borrower is indebted on the basis of medical evidence supplied by the borrower or his representative, subject to the approval of the Commissioner where such entitlement is found.

(c) For purposes of this section "Permanent and total disability" means the inability to engage in any gainful activity because of a medically determinable impairment, which impairment is expected to continue for a long and indefinite period of time, or to result in death.

(d) *No Federal reimbursement.* No Federal reimbursement shall be made to an institution for cancellation of loans under this section.

(e) This section applies retroactively to all Defense and Direct Loans whenever made.

(20 U.S.C. 425 and 1087dd and section 130 (g) (2) of the Education Amendments of 1976, Pub. L. 94-———.)

§ 144.57 Responsibility for determination of cancellation entitlement.

The determination as to whether or not a borrower is entitled to have any portion of his loan cancelled under §§ 144.52–144.55 shall be made by the institution to whose Fund such loan is payable upon receipt and approval of an application for cancellation from such student, to be provided in a form specified by such institution.

(20 U.S.C. 425, 1087cc)

§ 144.58 Cancellation provision not retroactive—No refund.

(a) No portion of any loan made under this part shall be cancelled for services performed by a borrower prior to the date of execution of his loan note.

(b) Nothing in this subpart shall be construed to authorize refunding of any repayment of a loan, except that, where an overpayment is made by a borrower as a result of an institutional error, a refund will be allowed.

(20 U.S.C. 425, 1087cc)

§ 144.59 Reimbursement by the Commissioner of amounts cancelled.

(a) With respect to loans made prior to July 1, 1972, the Commissioner will pay to each institution for each fiscal year an amount which bears the same ratio to the interest which has been prevented from accruing and the portion of the principal which has been cancelled on student loans pursuant to §§ 144.52 and 144.55(a) as the total amount of the institution's capital contributions to its Fund under this part bears to the sum of the institution's capital contributions and the Federal capital contributions to such Fund.

(20 U.S.C. 428)

(b) With respect to loans made after June 30, 1972, the Commissioner will pay to each institution, for deposit into its Fund, for each fiscal year, an amount equal to the amount of principal and interest thereon which has been cancelled from its student loan Fund for such year pursuant to §§ 144.53, 144.54, and 144.55(b).

(20 U.S.C. 1087ee)

Subpart E—Loans to Institutions for Institutional Capital Contributions

§ 144.61 Institutional loans.

(a) The Commissioner may make a loan to an institution with which he has an agreement pursuant to § 144.8 for the purpose of assisting that institution in financing its "institutional capital contribution" to its Student Loan Fund if he determines that the institution is unable to secure such funds from non-Federal sources upon terms and conditions which are reasonable and consistent with the purposes of this part.

(b) Loans made to institutions under this section shall bear interest at a rate which the Commissioner determines to be adequate to cover:

(1) The cost of the funds to the Treasury as determined by the Secretary of the Treasury taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Commissioner under this section;

(2) The cost of administering this section; and

(3) Probable loss.

(c) Loans made under this section shall mature within such periods as may be determined by the Commissioner but such period may not exceed fifteen (15) years.

(20 U.S.C. 427)

§ 144.62 Application.

(a) Any institution requesting a loan under this subpart shall file an application with the Commissioner before the closing date for such application established by the Commissioner. Such application shall contain the following information and shall be in such form and contain such other information as the Commissioner shall from time to time prescribe:

(1) The amount of institutional capital contribution needed to match the institution's Federal capital contribution for the academic year;

(2) The steps taken by the institution to obtain loan funds from non-Federal sources including the names of and addresses of the lending institutions contacted;

(3) A description of the best terms available to the institution from non-Federal sources for borrowing such funds, including the interest rate, duration of repayment, and the collateral or security required; and

(4) If non-Federal sources were not contacted, an explanation as to why non-Federal sources were not contacted.

(b) The application shall contain the name of the official authorized to submit the application and the name of the individual or official who will be responsible for carrying out the program. Unless otherwise indicated in the application, the former individual or official will be deemed to be the individual or official to whom communications shall be directed, the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds, and the individual or official who shall have ultimate responsibility for the accounting of such Federal funds.

(20 U.S.C. 427)

§ 144.63 Allocation of Federal institutional loans.

(a) If the amount of funds available to make institutional loans under this subpart for any fiscal year is less than the amount approved for institutions for

that year, the Commissioner will allocate such available funds among all such approved requests in the same ratio as the amount of each approved request bears to the sums of the amounts of all such requests.

(b) If an institution fails to accept all of the funds that would otherwise be lent to it, the Commissioner shall reallocate such unaccepted funds to other institutions if the amount of such funds is sufficient to increase significantly the size of the loans to such other institutions.

(20 U.S.C. 427)

§ 144.64 Federal institutional loan agreements.

An institutional capital contribution loan shall be evidenced by a promissory note executed by an official who is duly authorized to execute such notes on behalf of the borrowing institution. The note shall contain such provisions as will effectuate the carrying out of the purposes of this subpart.

(20 U.S.C. 427)

APPENDIX A

ALLOTMENT OF FUNDS TO STATES FOR FISCAL YEAR 1972

Alabama	$4,329,888
Alaska	143,019
Arizona	3,025,951
Arkansas	2,457,919
California	30,963,291
Colorado	4,163,216
Connecticut	3,790,537
Delaware	663,468
District of Columbia	2,167,676
Florida	7,872,683
Georgia	4,919,990
Hawaii	1,137,046
Idaho	1,220,847
Illinois	14,264,322
Indiana	7,496,071
Iowa	5,075,628
Kansas	4,125,849
Kentucky	4,117,819
Louisiana	4,863,504
Maine	1,175,287
Maryland	4,453,186
Massachusetts	10,510,277
Michigan	12,724,387
Minnesota	6,340,123
Mississippi	3,292,103
Missouri	6,686,416
Montana	1,233,084
Nebraska	2,719,537
Nevada	443,641
New Hampshire	1,228,222
New Jersey	5,036,568
New Mexico	1,570,800
New York	23,755,497
North Carolina	6,796,494
North Dakota	1,339,610
Ohio	13,598,996
Oklahoma	4,489,951
Oregon	3,944,044
Pennsylvania	14,293,876
Rhode Island	1,501,312
South Carolina	2,631,093
South Dakota	1,322,457
Tennessee	5,330,199
Texas	15,388,640
Utah	2,976,511
Vermont	901,213
Virginia	4,928,348
Washington	5,811,589
West Virginia	2,695,336
Wisconsin	7,300,992
Wyoming	578,575
Canal Zone	$19,503
Guam	50,368
Puerto Rico	2,114,959
Virgin Islands	18,082
Total	286,000,000

APPENDIX B—PROMISSORY NOTE

NATIONAL DIRECT STUDENT LOAN PROGRAM

(Bracketed clause may be included at option of institution)

I, _____, promise to pay to _____, hereinafter called the Lending Institution located at _____, the sum of such amounts as may from time to time be advanced to me and endorsed in the Schedule of Advances set forth below [together with all attorney's fees and other costs and charges necessary for the collection of any amount not paid when due].

I further understand and agree that:

GENERAL

I. All sums advanced pursuant to this note are drawn from a fund created under Part E of Title IV of the Higher Education Act of 1965, hereinafter called the Act, and are subject to the Act and the Federal Regulations promulgated pursuant to the Act. The terms of this note shall be construed in accordance with the Act and Federal Regulations, copies of which shall be kept by the Lending Institution.

REPAYMENT

II. (1) Interest shall accrue from the beginning of the repayment period and shall be at the rate of 3 per centum on the unpaid balance except that no interest shall accrue during any period described in paragraph III (3).

(Bracketed clause shall be included if the institution uses paragraph II(3))

(2) [Except as provided in paragraph II (3)] Repayment of principal, together with interest thereon, shall be made over a period beginning 9 months after the date on which I cease to be at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the United States Commissioner of Education, and ending, unless paragraph III (3) applies, 10 years and 9 months after that date. I may however request that the payment period start on an earlier date. I shall repay the principal and interest over the course of the repayment period in equal monthly, bimonthly or quarterly installments, as determined by the Lending Institution, except that, if I request, such payments shall be made in graduated installments determined in accordance with such schedules as may be approved by the Lending Institution and the Commissioner. In either case, a schedule of repayment shall be attached to and made part of this note.

(Bracketed paragraph may be included at option of institution)

[(3) If the repayment schedule that would otherwise be established in accordance with paragraph II (2) would provide for payments of principal and interest at a rate of less than $30 per month, I shall repay the total amount of this loan plus the interest thereon at the rate of $30 per month, which shall include repayment of principal and interest. In the event I receive or have received National Direct or Defense Student Loans from other lending institutions, I shall repay this note at a monthly rate equal to not less than the amount by which $30 exceeds the total monthly rate of principal and interest repaid on the other loans. A schedule of repayment shall be attached to and made part of this note. The Lending Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless such an action would extend the repayment period in paragraph 2 of this article.]

III. This note is also subject to the following conditions:

PREPAYMENT

(1) I may at my option and without penalty prepay all or any part of the principal, plus the accrued interest thereon, at any time.

DEFAULT

(2) If I fail to meet a scheduled repayment of any of the installments due on this note, the entire unpaid indebtedness including interest due and accrued thereon, shall, at the option of the Lending Institution, become immediately due and payable.

DEFERMENT

(3) Interest shall not accrue, and installments need not be paid (A) while I am enrolled and in attendance as at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner, or (B) for a period not in excess of 3 years during which I am (i) on full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard), (ii) in service as a volunteer under the Peace Corps Act, or (iii) a VISTA volunteer under Title I—Part A of the Domestic Service Act of 1973, P.L. 93-113, (formerly Title VIII of the Economic Opportunity Act of 1964).

The Lending Institution may, upon my application, defer or reduce any scheduled repayments if, in the view of the Lending Institution, extraordinary circumstances such as prolonged illness or unemployment, prevent me from making such payments. However, interest shall continue to accrue.

CANCELLATION FOR TEACHING

(4) I am entitled to have the entire amount of this loan plus the interest thereon cancelled if I undertake service (A) as a full-time teacher in a public or other nonprofit elementary or secondary school which is in a school district of a local educational agency which is eligible for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965 and which for the purposes of this clause has been designated by the Commissioner in accordance with the provisions of Section 465(a)(2) of the Higher Education Act as a school with a high enrollment of students from low-income families, or (B) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

This loan shall be cancelled for teaching service in accordance with the following rates: 15 per centum of the total principal amount of the loan plus interest thereon shall be cancelled for the first and second complete academic years of teaching service; 20 per centum of the total principal amount plus interest thereon for the third and fourth complete academic years of such service; and 30 per centum of the total principal amount plus interest thereon for the fifth complete academic year of such service.

HEAD START CANCELLATION

(5) I am entitled to have the entire amount of this loan plus the interest thereon cancelled if I undertake service as a full-time staff member in a preschool program carried on under Section 222(a)(1) of the Economic Opportunity Act of 1964 (Head Start) at the rate of 15 per centum of the total principal amount of the loan plus interest thereon for each complete school year or its equivalent of such service, if that Head Start program is operated for a period which is comparable to a full school year in the locality, and if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency.

MILITARY CANCELLATION

(6) If I serve as a member of the Armed Forces of the United States, up to 50 per centum of the principal amount of this loan plus the interest thereon shall be cancelled at the rate of 12½ per centum of the total principal amount of the loan plus interest thereon for each complete year of service in an area of hostilities that qualifies for special pay under Section 310 of Title 37 of the United States Code.

DEATH AND DISABILITY CANCELLATION

(7) If I should die or become permanently and totally disabled, the entire amount of this loan plus the interest thereon shall be cancelled.

ADDRESS CHANGE

(8) I am responsible for informing the Lending Institution of any change or changes in my address.

PENALTY CHARGE

(Bracketed clause may be included at option of institution)

[(9) If I fail to make timely payment of all or any part of a scheduled installment, or if I am eligible for deferment or cancellation of payment (pursuant to paragraphs III (3), (4), (5), or (6)), but fail to submit timely and satisfactory evidence thereof, I promise to pay the charge assessed against me by the Lending Institution. No charge may exceed (1) where the loan is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late, and $2 for each month or part of a month thereafter; or (2) in the case of a loan which is repayable in bimonthly or quarterly installments, $3 and $6, respectively, for each installment interval or part thereof by which such installment or evidence is late. If the Lending Institution elects to add the assessed charge to the outstanding principal of the loan, it shall so inform me prior to the due date of the next installment.]

ASSIGNMENT

IV. This note may be assigned by the Lending Institution only (A) to another institution upon my transfer to that institution if that institution is participating in this program (or, if not so participating, is eligible to do so and is approved by the Commissioner for such purpose) or (B) to the United States if this note has been in default for two years. The provisions of this note that relate to the Lending Institution shall, where appropriate, relate to an assignee.

PRIOR LOANS

V. I hereby certify that I have listed below all of the National Direct Student Loans (or National Defense Student Loans) I have obtained at other institutions. If no prior loans have been received state "None."

Schedule of national direct student loans and national defense student loans at other institutions

	Amount	Date	Institution
1	$		
2	$		
3	$		
4	$		

VI. Schedule of advances.

	Amount	Date	Signature of maker
1	$		
2	$		
3	$		
4	$		

Signature _____ Date _____, 19____

Permanent address _____
(Street or Box Number, City, State, and Zip Code)

Caveat—This note shall be executed without security and without endorsement, except that if I am a minor and this note would not, under the law of the State in which the Lending Institution is located, create a binding obligation, either security or endorsement may be required. The Lending Institution shall supply a copy of this note to me.

Signature of endorser _____

Date _____, 19____

Permanent Address _____
(Street or Box Number, City, State, and Zip Code)

APPENDIX C.—*Example for computing penalty charges—6 mo.*

	Jan. 2	Feb. 2	Mar. 2	Apr. 2	May 2	June 2	Total per payment
Monthly:							
1st past due	$1	$1+$2	$3+$2	$5+$2	$7+$2	$9+$2	$11
2d past due		1	1+2	3+2	5+2	7+2	9
3d past due			1	1+2	3+2	5+2	7
4th past due				1	1+2	3+2	5
5th past due					1	1+2	3
6th past due						1	1
Total, all payments							36
Bimonthly:							
1st past due	3		3+3		6+3		9
2d past due			3		3+3		6
3d past due					3		3
Total, all payments							18
Quarterly:							
1st past due	6			6+6			12
2d past due				6			6
Total, all payments							18

2. Part 176 of Title 45 of the Code of Federal Regulations is amended to read as follows:

Sec.
176.1 Purpose.
176.2 Definitions.
176.3 Apportionment and reapportionment.
176.4 Allocation, reallocation, and payment of funds to institutions.
176.5 Institutional applications.
176.6 Funding criteria.
176.7 Application review and approval of request.
176.8 Institutional agreement.
176.9 Student eligibility.
176.10 Duration of student eligibility.
176.11 Cost of education.
176.12 Expected family contribution.
176.13 Approved need analysis systems.
176.14 Coordination of student financial aid programs, grant amount, and overaward.
176.15 Coordination with Bureau of Indian Affairs grants-in-aid.
176.16 Amount of grant.
176.17 Payment of grant.
176.18 Special sessions.
176.19 [Reserved]
176.20 Maintenance of effort.
176.21 Transfer of funds.
176.22 Use of funds.
176.23 Fiscal procedures and records.
176.24 Federal interest in allocated funds.
176.25 Termination and suspension.

Appendix A

AUTHORITY: Sec. 131(b)(1) of Title I of Pub. L. 92-318, 86 Stat. 251-255 (20 U.S.C. 1070b), unless otherwise noted.

§ 176.1 Purpose.

It is the purpose of this part to provide, through institutions of higher education, Supplemental Educational Opportunity Grants (Supplemental Grants) to assist in making available the benefits of post-secondary education to qualify students, who for lack of financial means of their own or of their families, would be unable to obtain such benefits without such a grant.

(20 U.S.C. 1070b)

§ 176.2 Definitions.

For the purposes of this part:

(a) "Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(b) "Act" means Title IV–Part A Subpart 2 of the Higher Education Act of 1965, as amended.

(c) "Clock hour" means a period of time which is the equivalent of (1) a 50 to 60 minute class, lecture or recitation or (2) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

(d) "College Work-Study Program" is a federally-supported program of part-time employment authorized by Title IV, Part C, of the Higher Education Act of 1965.

(42 U.S.C. 2751–2756)

(e) "Continuing grant" means an award of a Supplemental Educational Opportunity Grant (Supplemental Grant) to a student that does not qualify as an "initial grant" as defined in § 176.2.

(f) "Dependent student" means any student who does not qualify as a "self-supporting or independent student" as defined in § 176.2.

(g) "Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 176.11 and the amount which reasonably may be expected to be made available to him by his parents for such purpose.

(h) "Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 176.11.

(i) "Financial need" means the difference between a student's cost of education and his expected family contribution.

(j) "Full-time student" means a student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered full-time study.

(20 U.S.C. 1088(c)(2))

(k) "Good standing" means, with regard to a student, that the institution in which the student is enrolled has determined that (1) the student is eligible, in accordance with its own standards and practices, to continue in attendance at the institution, and (2) the student is making measurable progress toward the completion of his course of study.

(l) "Half-time student" means a student who is carrying a half-time academic work load measured in terms of (1) the tuition and fees customarily charged for half-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled; *provided, however,* That such course work and activities amount to the equivalent of a minimum of (i) 6 semester hours or 6 quarter hours per academic term for institutions utilizing semester, trimester, or quarter hour systems; (ii) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 12 clock hours per week for institutions which utilize clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week shall be considered half-time students for purposes of this part.

(20 U.S.C. 1088(c)(2))

(m) "Initial grant" means the first Supplemental Educational Opportunity Grant (Supplemental Grant) awarded to a student. Payment for the first year of a Supplemental Grant shall not be considered to be an initial grant payment if the grant was awarded for the continuing education of a student who (1) had been previously awarded a Supplemental Grant (whether or not by another institution), and (2) had received any payment of that Supplemental Grant.

(n) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) (i) is accredited by a nationally recognized accrediting agency or association, or (ii) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or (iii) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (iv) is an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

The term "institution of higher education" also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of subparagraphs (1), (2), (4), and (5) of this paragraph. For purposes of this part a one-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction. The term "institution of higher education" also includes any proprietary institution of higher education, as defined in § 176.2(r), which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(20 U.S.C. 1087–1(b), 1088(b) and 1141(a))

(o) "National Direct Student Loan Program" is the student loan program authorized by Title IV, Part E of the Higher Education Act of 1965.

(20 U.S.C. (1087 aa–ff))

(p) "National of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22))

(q) "Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's support and claims or is eligible to claim the student as an exemption for Federal income tax purposes, in which case such person shall be considered a parent.

(r) "Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (3) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other nonprofit institution, and (6) which has been in existence for at least two years. For purposes of this part a six-month program of training

means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correspondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(3))

(s) "Self-supporting or Independent Student" means a student who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested.

(2) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and

(3) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received $600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an applicantion for a grant.

(t) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

(u) "Undergraduate course of study" means a regularly prescribed curriculum for an undergraduate student at an institution of higher education.

(v) "Undergraduate student" means a student who (1) is in attendance at an institution of higher education and (2) has not earned his first baccalaureate or professional degree. A student who has not earned his first baccalaureate or professional degree and who is enrolled in a program of study at the postsecondary level which is designed to extend for more than four academic years shall not be considered as an undergraduate student in that portion of the program that involves study beyond the fourth academic year unless that program leads to a first degree and is designed to extend for a period of five academic years.

(20 U.S.C. 1070b unless otherwise noted)

§ 176.3 Apportionment and reapportionment.

(a) *Initial grant—apportionment.*—(1) From 90 percent of the sums appropriated for making initial grants for the Supplemental Educational Opportunity Grant Program (Supplemental Grant Program) for any fiscal year, the Commissioner will apportion to each State an amount which bears the same ratio to such sums as the number of persons enrolled full time and the full-time equivalent of the number of persons enrolled part time in institutions of higher education in such State bears to the total number of such persons enrolled in all the States. If the amount so apportioned to any State is less than its allotment for initial year Educational Opportunity Grant Program grants (20 U.S.C. 1061(b)) for fiscal year 1972, additional sums will be apportioned to each such State from the remaining 10 percent of the sums appropriated for initial grants to make its apportionment for such year equal to such allotment for fiscal year 1972. (The table set forth as appendix A indicates the amounts allotted to each State for such purposes for the fiscal year ending June 30, 1972.) In the event that the funds available are insufficient to meet that level, the Commissioner will instead apportion the remaining 10 percent of the sums appropriated for initial grants so that no State will receive less than a uniform minimum percentage of its fiscal year 1972 allotment.

(2) The Commissioner will apportion the sums remaining for initial grants, after making the apportionments of funds specified in paragraph (a)(1) of this section, to those State(s) which received the lowest percentage of approved requests for funds for initial grants as a result of the apportionment under subparagraph (a)(1) of this section, so that no State will receive less than a uniform minimum percentage of its total approved requests for funds for initial grants.

(b) *Initial grants—reapportionment.*—The amount of any State's apportionment under subsection (a) which exceeds the total amount of approved requests for funds for initial grants of the institutions of higher education in that State will be reapportioned among the remaining States in such a manner that no State will receive less than a uniform minimum percentage of its total approved requests for funds for initial grants.

(c) *Continuing grants—apportionment.*—The Commissioner will apportion the sums appropriated for continuing grants for the Supplemental Grant program among the States in such a manner so that each State will receive the same percentage of the total of its approved requests for funds for continuing grants.

(d) *Continuing grants—reapportionment.*—Any funds apportioned under paragraph (c) of this section which are later determined by the Commissioner to be in excess of the total amount required by any State for continuing grants will be reapportioned among the remaining States in such a manner as the Commissioner, pursuant to published criteria, determines will best achieve the purpose of the program.

(20 U.S.C. 1070b-3)

§ 176.4 Allocation, reallocation and payment of funds to institutions.

(a) *Allocation of funds to institutions.*—When funds available for distribution among the institutions within a State for initial grants are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State. Similarly when funds available for distribution among the institutions within a State for continuing grants are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State.

(b) *Reallocation of funds.* Funds allocated to an institution for initial grants which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State or, if no institution in that State has a need for such funds, such funds may be reapportioned in accordance with § 176.3 for use in other States. Similarly funds allocated to an institution for continuing grants which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State or, if no institution in that State has a need for such funds, such funds may be reapportioned in accordance with § 176.3 for use in other States.

(c) *Payment of funds.* Funds will be made available for both initial and continuing grants for a specific period of time as determined by the Commissioner and may be payable in advance or by way of reimbursement on the basis of substantiated need and periodic fiscal reports submitted by the institution.

(20 U.S.C. 1070b-3)

§ 176.5 Institutional applications.

(a) An institution that wishes to participate in the Supplemental Grants Program shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such application shall contain the following information, except as provided in paragraph (c), and shall be in such form and contain such other information as the Commissioner may from time to time prescribe:

(1) The institution's requests for Federal student financial aid funds under this part, the College Work-Study Program, the National Direct Student Loan Program, and its anticipated disbursements under the Basic Educational Opportunity Grants Program;

(2) The institution's anticipated enrollment for the forthcoming academic year;

(3) The anticipated number of enrolled students eligible for initial and continuing grants;

(4) The institution's average cost of education, including a justification of per student costs in excess of $175 for books or $450 for personal expenses for an academic year;

(5) An estimate of the average amount which reasonably may be expected to be made available by the parents of students at the institution who are expected to be eligible for such grants;

(6) The anticipated average grants;

(7) The amount of financial assistance awarded by the institution from its own scholarship and student aid programs for the most recent academic year for which information is available;

(8) The anticipated amount of other financial assistance available to students with financial need at the institution, such as State scholarships, Veterans Benefits, and off-campus employment;

(9) The average unmet need per student; if the average amount of unmet need exceeds $200, the explanation for this situation; and

(10) The qualifications of the professional personnel who will be administering the Supplemental Grants Program.

(b) The application shall be signed by the official authorized to submit the application and by the institution's Director of Student Financial Aid, and shall contain the name of the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds.

(c) An institution may file an application omitting the information required by subparagraphs (4), (7), (10), and (11) of paragraph (a) if (i) it has received an allocation under this part for at least the two academic years prior to the academic year for which assistance is requested, (ii) it is requesting not more than 110% of its approved request for the previous academic year, and (iii) it has filed an application containing the information required by subparagraphs (a) (4), (7), (10), and (11) for one of the three preceding academic years.

(20 U.S.C. 1070b-3(b))

§ 176.6 Funding criteria.

Institutional applications for funds under this part will be reviewed in accordance with the following criteria:

(a) The reasonableness of the institution's total request for Federal student financial aid funds under this part (i) in light of its requests under the College Work-Study Program and the National Direct Student Loan Program, and (ii) in relation to the institution's anticipated enrollment, its average cost of education, and the average expected family contribution of its students eligible under those programs;

(b) The reasonableness of the institution's projections of its anticipated enrollment and of the average cost of education and the average expected family contribution of its students eligible under those programs;

(c) The reasonableness of the anticipated number of students eligible for initial and continuing grants, in view of the institution's anticipated enrollment;

(d) The reasonableness of the amount of the average grant anticipated in relation to the average need per student at the institution, after taking into account other available student financial aid resources;

(e) The extent to which the institution has effectively utilized Federal financial aid funds allocated in previous years;

(f) The nature of the institution's demonstrated commitment to enroll students with exceptional financial need;

(g) The adequacy of the reasons provided by the institution pursuant to § 176.5(a) (4) and (9); and

(h) The extent to which the institution has effectively administered or made provision for the effective administration of the program, including effective coordination with institutional and other programs of student financial aid. In making this evaluation, consideration will be given to the adequacy of the qualifications and experience of the personnel designated by the institution to administer the program.

(20 U.S.C. 1070b-3)

§ 176.7 Application review and approval of request.

(a) (1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education, to review applications submitted under this part by institutions situated in those regions. The review panel shall evaluate each institution's request for funds in accordance with the criteria set forth in § 176.6 and shall recommend an amount which it deems appropriate. (2) No panelist shall participate in the consideration of any application from his own institution or any application from any other institution which he has prepared or assisted in preparing or in which he has any personal financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel pursuant to paragraph (a) of this section. If the amount recommended is less than the institution's request, the reasons for such a reduction will be forwarded to the institution. The institution shall notify the regional office of the Office of Education serving the area in which the institution is located of any arithmetic or other technical errors with regard to the panel recommendation. The regional office will adjust the recommendation to correct such errors.

(c) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors, it shall submit a written request for such review to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review such a request and will notify the institution in writing of its decision and the reasons therefor.

(d) (1) If an institution wishes a review of the regional office recommendation made pursuant to paragraph (c) of this section, it may request a review by a national review panel. Such a national review panel shall consist of institutional student financial aid officers from each of the regions served by the Office of Education and personnel of the Office of Education.

(2) A request for national review shall be submitted in writing by the institution to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution pursuant to paragraph (c) of this section will be considered.

(3) The national review panel will review such requests and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(20 U.S.C. 1070b-3)

§ 176.8 Institutional agreement.

An institution of higher education which desires to participate in the Supplemental Grants Program shall enter into an agreement with the Commissioner for that purpose. Such agreement shall:

(a) Provide that funds received by the institution under this part will be used solely for the purposes specified in, and in accordance with, the provisions of this part;

(b) Provide that, in determining whether a student meets the requirements of exceptional financial need, the institution will consider the source of such student's income and that of any individual or individuals upon whom the student relies primarily for support and will make an appropriate review of the assets of the student and of such individuals;

(c) Provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and encourage them to continue their education beyond secondary school through programs and activities such as (1) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating such students to complete secondary school and pursue post-secondary school educational opportunities, and (2) making, to the extent feasible, conditional commitments for

student financial aid to qualified secondary school students who, but for such grants, would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

(d) Specify that the institution must make Supplemental Grants under this part reasonably available (to the extent of funds available) to all eligible students at the institution;

(e) Specify that the institution will comply with the provisions of § 176.20 relating to maintenance of effort and § 176.22 relating to costs of administration; and

(f) Include such other provisions as may be necessary in light of special and unusual circumstances to protect the financial interest of the United States and promote the purposes of this part.

(20 U.S.C. 1070b–2)

§ 176.9 Student eligibility.

(a) A student is eligible for a grant under this part if such student:

(1) is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territories of the Pacific Islands;

(2) has been accepted for enrollment as at least a half-time undergraduate student at an institution of higher education or, in the case of an undergraduate student already attending such institution, is in good standing and is enrolled on at least a half-time basis at such institution;

(3) shows evidence of academic or creative promise and capability of maintaining good standing in his course of study;

(4) is of exceptional financial need as determined in accordance with paragraph (b) of this section; and

(5) would not, but for a Supplemental Grant, be financially able to pursue a course of study at such institution.

(b) A student participating in a program of study abroad will be considered to be enrolled in his "home" institution if (1) the program of study abroad is arranged or approved in advance by the home institution and (2) the student's academic performance during the program of study abroad becomes a part of his permanent academic record at the home institution in the same manner as if performed at that institution.

(c) (1) For purposes of paragraph (a) (4) of this section a student shall be considered in exceptional financial need if his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 176.13, does not exceed 50 percent of his cost of education at the institution in which he is enrolled or accepted for enrollment.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, the institution may determine that a student is of exceptional financial need where the student financial aid officer of the institution is of the view that it is impracticable for such student to obtain from employment, loans, or grants other than a Supplemental Grant all of that portion of his cost of education not covered by his expected family contribution. However this provision does not waive the requirements of paragraphs (a) and (b) of § 176.16.

(3) If the institution determines, pursuant to subparagraph (2) of this paragraph, that a student is of exceptional financial need, the reasons for such a determination shall be made a part of the institution's written records.

(d) A member of a religious community, society, or order who (1) by direction of his or her community, society, or order is pursuing a course of study in an institution of higher education or (2) receives support and maintenance from the community, society, or order shall be deemed not to have financial need.

(e) No grant may be made under this part unless the student to whom it is made has filed with the institution of higher education which he intends to attend, or is attending, an affidavit on a form approved by the Commissioner stating that the money attributable to such grant will be used solely for expenses related to attendance or continued attendance at such institution. The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at such institution. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(20 U.S.C. 1070b–2, 1088g)

§ 176.10 Duration of student eligibility.

(a) The period during which a student may receive a Supplemental Grant shall be the period required for the completion of the undergraduate course of study being pursued by the student, except that such period may not exceed a total of four academic years unless (1) the student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or (2) because of his particular circumstances, the student is determined by the institution to need an additional year to complete a course of study normally requiring four academic years, in which case such a period may be extended for not more than one additional academic year.

(b) For purposes of paragraph (a) of this section, an academic year means the period of time necessary for the student to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(20 U.S.C. 1070b–1)

§ 176.11 Cost of education.

(a) The amount required to enable a student to pursue his education at an institution of higher education includes amounts charged for tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of a student's dependents.

(b) In the case of a student engaged in a program of study by correspondence only his costs of tuition and fees shall be recognized as a cost of education for the purpose of this part; *provided, however,* That travel and room and board costs incurred specifically in fulfillment of a required period of residential training may be considered a cost of education for such a student.

(c) If a student is enrolled in a program of study outside the United States which has been determined to be an eligible program pursuant to § 176.9(b), his cost of education may not exceed his cost of education at his home campus.

(20 U.S.C. 1070b)

§ 176.12 Expected family contribution.

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student, the student's spouse, and the student's parents to meet that student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parent may claim an exemption under § 151 of the Internal Revenue Code);

(2) the number of dependent children of the student's parents;

(3) the number of such dependent children attending institutions of higher education;

(4) tuition incurred by such dependent children who are attending elementary and secondary schools; and

(5) such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet such student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student:

(3) The number of such dependent children attending institutions of higher education;

(4) Tuition incurred by such dependent children who are attending elementary and secondary schools; and

(5) Such other circumstances as may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) Upon the request of a student who does not live with his parents, who visits his parents for periods of time no longer than those which are typical for adults visiting their parents, and who does not receive from his parents gifts which exceed in value the amounts typically given by parents as incidental gifts to their adult, nondependent offspring, the student financial aid officer shall make a determination as to whether the relationship between that student and his parents is of such a nature that it is unreasonable to expect the parents to contribute toward his cost of education, regardless of their ability to do so. The student financial aid officer shall make the reasons for such determination part of the institution's written records. In any event, before making such a finding, the student financial aid officer shall make such efforts as he deems appropriate to ascertain whether the student's parents are in fact willing to contribute to the student's cost of education.

(20 U.S.C. 1070b-2)

§ 176.13 Approved need analysis systems.

(a) In order to comply with the requirements of § 176.12, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) *Dependent students.* (1) The Commissioner has approved the following systems for the purpose of § 176.12(a), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of $12,500 if such assets do not include farm or business assets and $25,000 if such assets do include farm or business assets, except that no more than $12,500 may be deducted from non-farm and non-business assets, and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(a), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (*a*) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for such sample cases by the following calculations:

(*a*) From the sum of the adjusted gross income and non-taxable income of the parents, there will be deducted the amount of Federal income taxes and Social Security taxes, an allowance of 8 percent of total income for state and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(*b*) To the remainder obtained in subparagraph (*a*) will be added 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve of $10,000; and

(*c*) The following rate schedule of expected contributions will then be applied to the sum obtained in subparagraph (*b*):

If the sum is—		The expected contribution is—
At least—	But less than—	
$0	$4,000	22 percent of the amount over $0.
$4,000	5,000	$880+25 percent of the amount over $4,000.
$5,000	6,000	$1,130+29 percent of the amount over $5,000.
$6,000	7,000	$1,420+34 percent of the amount over $6,000.
$7,000	8,000	$1,760+40 percent of the amount over $7,000.
$8,000		$2,160+47 percent of the amount over $8,000.

(iii) In developing the sample cases for the purposes of this paragraph, the Commissioner shall select only cases in which the age of the main wage earner is 45 years and in which the elements set forth in subparagraph (2) (ii) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, housekeeping allowances, farm or business assets, more than one family member attending postsecondary institutions, Social Security or Veteran's benefits or any unusual family circumstance.

(iv) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero shall be treated as zero.

(v) The figures for the set of sample cases used for purposes of this paragraph shall be revised annually for inflation by adjusting the deductions for family maintenance, the $10,000 standard deduction from assets and the rates of contribution from income and assets as necessary in such a manner that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars.

(c) *Independent students.* (1) The Commissioner has approved the following systems for the purpose of § 176.12 (b) with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service; and

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(b), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (*a*) increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c) (1) of this section.

(d) *Application procedures for system approval.* Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to subparagraph (b) (2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c) (2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) *Duration of approval.* Need analysis systems approved pursuant to paragraphs (b) (1) and (c) (1) of this section are approved without a specified expiration date. A need analysis system

approved pursuant to subparagraph (b)(2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (i) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (ii) in determining the eligibility of students for awards under this part, and in calculating the amount of such awards, to be used by the students during any academic year commencing not earlier than 9 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c)(2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1070b–1 and 1070b–2)

§ 176.14 Coordination of student financial aid programs, grant amount, and overaward.

(a) *Coordinating official.* The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Total award.* The institution shall not award a Supplemental Grant to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 176.13; *Provided, however,* That in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) *Resources.* For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to, the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program, regardless of whether the student has applied for such funds, any waiver of tuition and fees, any scholarship or grant including Supplemental Educational Opportunity Grants and athletic scholarships, any fellowship or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV–B of the Higher Education Act of 1965) except in cases in which paragraph (c) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program including any loan made under the National Direct Student Loan Program, and any expected net earnings from employment during periods for which the student receives a grant. For purposes of this section "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) *Treatment of Guaranteed Loans.* (1) Except as provided in paragraph (d)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 176.12. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV–B of the Higher Education Act of 1965, as amended (20 U.S.C. 1078), shall be considered a student resource and may not be used to satisfy a student's expected family contribution if (i) the borrower has an adjusted family income of more than $15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or (ii) the amount of the loan would cause the total amount of the borrower's loans insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed $2,000 for that academic year.

(e) *Administrative responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know or can reasonably anticipate at the time that Supplemental Grant funds are disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic year and/or special session covered by the grant award shall be deemed to have been known by the institution at the time of disbursement of such grant.

(f) An institution will be deemed to have violated the requirements of this section only if the sum of all the resources made available to the student, including assistance under this part, exceeded the student's need by more than $100. However, if the resources made available to the student included compensation for work-study employment and the student earned additional money from other employment, the institution will be deemed to have violated the requirements of this section only if the sum of the assistance received by the student exceeded the student's need by more than $200.

(20 U.S.C. 1070b)

§ 176.15 Coordination with Bureau of Indian Affairs grants-in-aid.

(a) In determining the amount, if any, of a Supplemental Grant to be awarded to a student who is eligible for such a grant and, in addition, is eligible for an educational grant-in-aid under a program administered by the Bureau of Indian Affairs (BIA), the institution shall observe the following practice:

(1) A "package" of student assistance will be prepared in accordance with § 176.14 for each such student from resources other than BIA grants-in-aid. In preparing such a package, the institution shall not take into consideration any BIA grant-in-aid which the student has received or is expected to receive and such package shall be consistent, as to the types and amounts of the respective awards included therein, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages.

(2) The amount of any BIA grant-in-aid, whether received by the student prior to the preparation of the package described in paragraph (a)(1) of this section or subsequent thereto, shall be supplementary to the package of aid from other resources, and no adjustment shall be made to such package so long as the total of such package and the BIA grant-in-aid does not exceed the institution's determination of the student's need (i.e., the difference between the student's cost of education at the institution and his expected family contribution).

(3) If the total amount of the BIA grant-in-aid, when combined with the package of other assistance prepared in accordance with paragraph (a)(1) of this section exceeds the institution's determination of the student's need, the amount of such excess only shall be deducted from the package of other assistance. Except as provided for in paragraph (a)(4) of this section, such deduction shall be done in sequence, so that such excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all such loan awards have been adjusted, deductions shall next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all such work-study awards have been adjusted, deductions shall be made from any award, or proposed award, in the form of a grant, other than a grant under the Basic Educational Opportunity Grants Program.

(4) If requested by an eligible recipient, the sequence of deductions provided in paragraph (a)(3) of this section may be altered if such an alteration more adequately meets the need of that student.

(b) In determining the amount of financial need of students eligible for BIA grants-in-aid, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA postsecondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(c) Educational grants-in-aid made to students at an institution under a program administered by the Bureau of Indian Affairs shall be considered to be financial aid made available through such institution, for purposes of § 176.16, if:

(1) The institution reviews the applications for such grants; and

(2) The institution selects the recipients for, and determines the amounts of, such grants.

(20 U.S.C. 1070b–1)

§ 176.16 Amount of grant.

(a) The amount of a grant awarded to a student for any academic year shall be equal to the amount determined by the institution to be needed by that student to enable him to pursue a course of study at the institution for an academic year, except that such amount shall not exceed $1,500 or one-half the sum of the total amount of student financial aid made available through the institution to such student, whichever is the lesser. However, no grant shall be awarded to any student for any academic year if the amount of such award for such period would be less than $200.

(b) The amount of a grant awarded to a student for any period which is less than an academic year in length shall be limited by a maximum and a minimum which bear the same proportion to $1,500 and $200, respectively, as the length of that period bears to the length of an academic year, but in no event may the amount of the grant exceed one-half the sum of the total amount of student financial aid made available through the institution to the student for that period.

(c) For purposes of paragraphs (a) and (b) of this section, payments to students under the Basic Educational Opportunity Grants Program, the College Work-Study Program, the National Direct Student Loan Program, and this part and any assistance provided to a student under any scholarship program established by a State or a private institution or organization shall be deemed to be student financial aid made available through the institution.

(d) No student shall be awarded more than $4,000 in the aggregate under this part, except that a student whose eligibility is extended for a fifth year pursuant to paragraph (a) of § 176.10 may receive an amount which in the aggregate is not in excess of $5,000.

(e) In order to qualify as financial aid made available to the student through the institution for purposes of paragraphs (a) and (b) of this section, such aid must be disbursed by the institution to the student prior to the end of the academic year for which the student received an award under this part. However, this requirement is not applicable to the extent that such aid is in the form of scholarships from outside sources where disbursements are not within the control of the institution. If such financial aid is in the form of compensation for work performed for the institution or for an employer other than the institution under an agreement with the institution, such compensation must be earned by the student prior to the end of such academic year and payment therefor must occur no later than the next regular payday following the end of the payroll period during which the work was performed.

(20 U.S.C. 1070b–1)

§ 176.17 Payment of grant.

(a) A student's award for an academic year shall be divided among payment periods which correspond to the number of semesters, trimesters, or quarters in the institution's academic year. The amounts which may be paid during any payment period shall be in the same ratio to the student's award for the academic year as the length of that payment period bears to the length of the academic year at that institution. An institution which does not utilize such academic terms shall reserve at least half of a student's Supplemental Grant for an academic year for payment to him after the midpoint of such academic year. Within each payment period the institution may pay the student at such times and in such installments as the institution determines will best meet his need for such funds.

(b) Before making the initial payment of a Supplemental Grant for any year to a student the institution shall obtain from that student a written acceptance of the grant and a signed statement indicating that the student received notice of the amount of his Supplemental Grant, of the fact that such amount may not exceed 50 percent of the total amount of student financial aid made available to him through the institution, of the nature and source of the other student financial aid made available to him through the institution, and of the fact that the payment of the Supplemental Grant is conditional on the recipient's maintaining satisfactory progress in the course of study he is pursuing according to the regularly prescribed standards and practices of the institution from which he received the grant and on the recipient's carrying an academic workload sufficient to qualify him as at least a half-time student during the academic year.

(c) A recipient of a Supplemental Grant under this part shall remain eligible to receive payments only if he: (1) Continues to be in exceptional financial need, (2) maintains satisfactory progress in the course of study he is pursuing according to the regularly prescribed standards and practices of the institution from which he received the grant, and (3) carries an academic workload sufficient to qualify him as at least a half-time student during the academic year.

(20 U.S.C. 1070b)

§ 176.18 Special sessions.

(a) A student enrolled in an institution of higher education in one or more classes during a period of special enrollment, such as a special summer term, will be eligible for a Supplemental Grant if he (i) meets the other eligibility requirements of this part, (ii) is registered as at least a half-time student at that institution during such session, and (iii) is either in attendance as at least a half-time student at that institution during the regular term immediately preceding such session or will be enrolled or has been accepted for enrollment as at least a half-time student during the subsequent regular term at that institution.

(b) A student receiving a grant while in attendance during such a special session will be considered to have expended at least one-half of a semester, trimester, or quarter, as the case may be, of grant eligibility.

(20 U.S.C. 1070b–1)

§ 176.19 [Reserved]

§ 176.20 Maintenance of effort.

(a) For each fiscal year for which it receives an allocation of funds under this part, the institution shall continue to expend, in its own scholarship and student aid programs, an amount which is not less than the average expenditure per year made for that purpose during the three fiscal years preceding (1) the effective date of any agreement required by section 443 of the College Work-Study Program (42 U.S.C. 2753) or section 407 of the Educational Opportunity Grants Program (20 U.S.C. 1067) which was in effect on June 30, 1973, (2) the fiscal year for which the institution receives or received its first allocation of funds under the College Work-Study Program, (3) the fiscal year for which the institution received its first allocation of funds under the Educational Opportunity Grants Program (20 U.S.C. 1061–1067, 1069), or (4) the fiscal year for which the institution receives or received its first allocation of funds under this part if the institution did not participate in the Educational Opportunity Grants Program in the fiscal year immediately preceding that fiscal year, whichever is the latest.

(b) (1) The Comissioner may waive the requirements set forth in paragraph (a) of this section for a fiscal year under special and unusual circumstances, such as, where the institution's inability to expend the amount required thereunder is attributable to (i) a withdrawal of funds from outside sources (for public institutions, public appropriations are not considered an outside source), or (ii) a decline in enrollment where the institution continued to expend in its own scholarship and student aid program on a per-enrolled-student basis an amount at least equal to the average amount expended per enrolled student during the three year base period.

(2) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section for a particular

fiscal year because it withdrew as a direct lender under the Guaranteed Student Loan Program, the Commissioner may waive that portion of the failure that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period if (i) the institution provides financial assistance to its students in an amount equivalent to the amount it is required to maintain pursuant to paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance, and (ii) the amount of alternative sources that is included does not exceed the amount that the Commissioner may waive.

(3) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section for a particular fiscal year because its authority to participate as a direct lender under the Guaranteed Student Loan Program was withdrawn by the Commissioner prior to July 1, 1976, the Commissioner may waive that portion of the failure for each such fiscal year prior to July 1, 1976 that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period.

(4) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section because its authority to participate as a direct lender under the Guaranteed Student Loan Program was withdrawn by the Commissioner after June 30, 1976, the Commissioner may waive for that fiscal year that portion of the failure that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period. The Commission may also waive that amount for future fiscal years if (i) the institution provides financial assistance to its students in an amount it is required to maintain pursuant to paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance, and (ii) the amount of alternative sources that is included does not exceed the amount that the Commissioner may waive.

(5) For purposes of this paragraph the Commissioner will consider that the institution has arranged alternate sources of assistance for its students if such assistance is provided to the institution's students pursuant to a written agreement between the institution and the funding source.

(6) For purposes of this section "fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

(c) In order to obtain a waiver of the maintenance of effort requirement set forth in paragraph (a) of this section for a particular fiscal year, an institution shall submit to the Commissioner a request for such a waiver and a description of the circumstances justifying such a waiver.

(d) An institution's "own scholarship and student financial aid program" includes any expenditure of institutional funds for scholarships, grants, loans, tuition and fee waivers or remissions, and employment given to students enrolled at the institution at both the graduate and undergraduate level, whether or not such students are eligible to participate in the Supplemental Grants or College Work-Study Programs. Funds given to the institution from an outside source to be used for scholarships or other forms of student financial aid, but with respect to which the institution has the authority to choose the recipients and the amount such recipients will receive, shall be deemed to be institutional funds; however, funds received from Federal sources to be used for student financial aid may not, in any event, be considered as part of an institution's own scholarship and student financial aid program for purposes of paragraph (a) of this section.

(e) (1) An institution may, in accordance with its stated practice, consider scholarships and other student financial assistance given to students who are dependents of faculty members or other employees of the institution as either student financial aid or employee benefits.

(2) An institution shall include fellowships and assistantships as part of its program of student financial assistance unless it is the stated practice of the institution to consider such holders of fellowships and assistantships as members of the institution's faculty. In such a case payments under such fellowships and assistantships need not be considered financial aid.

(3) An election of treatment under paragraphs (e) (1) and (2) of this section shall apply to both the base year period and current year expenditures. A change of treatment will be permitted only with the express written approval of the Commissioner.

(20 U.S.C. 1088c)

§ 176.21 Transfer of funds.

(a) An institution may transfer up to 10 percent of its allocation for a fiscal year under the Supplemental Grants Program to its allocation of funds for that fiscal year under the College Work-Study Program to be used in accordance with the provisions of that later program. Similarly, an institution may transfer up to 10 percent of its allocation for a fiscal year under the College Work-Study Program to its allocation of funds for that fiscal year under the Supplemental Grants Program to be used in accordance with the provisions of this part. The transfer of funds from the Supplemental Grants Program may be made without regard to whether such funds were allocated for initial or continuing grants and funds transferred to the Supplemental Grants Program may be allocated by the institution between its allocation for initial or continuing grants as the institution sees fit.

(b) Any amount transferred pursuant to paragraph (a) of this section shall be reported on the annual Institutional Fiscal-Operations Report required by § 176.23(b) (2).

(20 U.S.C. 1088c)

§ 176.22 Use of funds.

(a) Federal funds allocated to an institution under this part may be used by the institution (1) to make grants to eligible students, (2) as payments in lieu of reimbursement for its expenses in administering the program during the fiscal year, and (3) to transfer to the College Work-Study Program pursuant to § 176.21.

(b) An institution of higher education shall be entitled to use as payment in lieu of reimbursement for its administrative expenses for each fiscal year for which it receives an allocation under § 176.4 an amount equal to not more than three percent of the institution's payments to its students from its allocation for that fiscal year. However, the aggregate amount paid to an institution in lieu of expenses for administration under this part and the College Work-Study Program plus the amount withdrawn for such purposes from the institution's National Direct Student Loan fund may not in the aggregate exceed $125,000 for any fiscal year.

(20 U.S.C. 1070b; 1088b)

§ 176.23 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) The institution shall administer the Supplemental Grants Program in such a manner as to provide for an adequate system of internal controls. The various administrative procedures shall be divided so as to provide for a system of checks and balances under which no person will be directly responsible for all aspects of the program. The functions of authorizing payment and disbursing funds shall be divided in such a fashion that no office has responsibility for both functions, with respect to any particular student aided under the program.

(2) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions shall give notice to any bank in which they deposit Federal funds of all accounts in that bank in which such funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or,

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Records and reporting.* (1) Each institution shall establish and maintain on a current basis, adequate records which reflect all transactions with respect to the program and shall establish and maintain such general ledger control accounts and related subsidiary accounts as are necessary to identify all transactions involving Federal funds available under this part and to separate

records of such transactions from all other institutional assets and activities. Such records shall afford ready identification of each student's account and the status thereof, including separation of initial and continuing grant amounts, shall be adequate to demonstrate the eligibility of every student aided under the program, shall indicate the amount of need determined for each student and the way that need has been met, and shall identify the institutional officer who made the determination of such need.

(2) An institution shall submit an annual Institutional Fiscal-Operations Report and such other reports and information in such form and at such times as the Commissioner may require in connection with the administration of this part and shall comply with such requirements as the Commissioner may find necessary to insure the correctness of such reports.

(c) *Retention of records.*—(1) *Records.* Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds in accordance with § 434(a) of the General Education Provisions Act (20 U.S.C. 1232c), including all accounting records and related original and supporting documents that substantiate costs charged to the award.

(2) *Period of retention.* Except as provided in paragraph (c)(4) of this section, the records specified in paragraph (c)(1) of this section shall be retained for 5 years after the date of the submission of the annual Institutional Fiscal-Operations Report.

(3) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(4) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions; *Provided, however,* That records need not be retained if they relate to a grant with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(5) *Audit and examination.* The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in paragraph (c)(1) of this section and to any other pertinent books, documents, papers, and records of the recipient.

(d) *Audits—non-Federal.* All of an institution's transactions involving its Supplemental Grant funds shall be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. The frequency of such audits shall depend on the size and complexity of the activity of the program except that such audits shall be carried out at least once every two years.

(e) Such audit reports shall be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located for its review. The Audit Agency and the Commissioner shall also be given access to records or other documents as may be necessary to review the results of such audits.

(20 U.S.C. 1070b; 20 U.S.C. 1232c)

§ 176.24 Federal interest in allocated funds.

Funds received by an institution pursuant to this part, excluding funds authorized for administrative expenses, are to be held in trust for the intended student beneficiary. Such funds may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(20 U.S.C. 1070b)

§ 176.25 Termination and suspension.

(a) *General.* If the Commissioner finds that any of the assurances or representations made by an institution in connection with the administration and operation of the Supplemental Grant Program is incomplete or inaccurate in any material respect or that there has been a failure to comply with any of the provisions of this part, he may, after giving the institution notice and an opportunity for a hearing, terminate the agreement entered into pursuant to § 176.8 or take such other actions as may be necessary and appropriate to protect the interest of the United States. The termination of the institution's participation in the program shall not affect the obligations previously incurred by either party under that agreement or this part.

(b) *Notice of termination.* Proceedings with respect to the termination of the program shall be initiated by the mailing of a notice to the institution setting forth the basis of the proposed termination and the procedures available to the recipient under this section.

(c) *Suspension of assistance.* Subject to paragraph (e) of this section, assistance may be suspended during the pendency of a termination proceeding initiated pursuant to this section.

(d) *Notice of suspension.* If the Commissioner determines that suspension of assistance during the pendency of a termination proceeding is necessary, notice of the suspension shall be mailed to the recipient (which may be included in the notice of termination). The notice of suspension shall: (1) inform the recipient of that determination, (2) advise the recipient of the effective date of the suspension, and (3) offer the recipient an opportunity to show cause why such action should not be taken.

(e) *Opportunity to show cause.* If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for that purpose.

(20 U.S.C. 1070b and 1232c)

APPENDIX A

ALLOTMENT OF FUNDS TO STATES FOR FISCAL YEAR 1972

Alabama	$1,136,295
Alaska	37,532
Arizona	794,102
Arkansas	645,033
California	8,125,711
Colorado	1,092,555
Connecticut	994,752
Delaware	174,114
District of Columbia	568,864
Florida	2,066,032
Georgia	1,291,155
Hawaii	298,396
Idaho	320,388
Illinois	3,743,393
Indiana	1,907,198
Iowa	1,331,999
Kansas	1,082,749
Kentucky	1,080,641
Louisiana	1,276,332
Maine	308,431
Maryland	1,168,652
Massachusetts	2,758,217
Michigan	3,339,267
Minnesota	1,663,842
Mississippi	863,948
Missouri	1,764,719
Montana	323,599
Nebraska	713,689
Nevada	116,425
New Hampshire	322,323
New Jersey	1,321,749
New Mexico	413,226
New York	6,234,166
North Carolina	1,783,607
North Dakota	351,555
Ohio	3,568,791
Oklahoma	1,178,300
Oregon	1,035,037
Pennsylvania	3,751,149
Rhode Island	393,990
South Carolina	690,479
South Dakota	347,053
Tennessee	1,398,807
Texas	4,038,448
Utah	781,127
Vermont	236,506
Virginia	1,293,349
Washington	1,525,138
West Virginia	707,338
Wisconsin	1,916,003
Wyoming	151,836
Guam	13,318
Puerto Rico	555,030
Virgin Islands	4,745
Total	75,050,000

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federal register

WEDNESDAY, NOVEMBER 24, 1976

PART III:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

■

EMPLOYEE SELECTION PROCEDURES

Republication of Guidelines

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1607—GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Republication of Guidelines

The Equal Employment Opportunity Commission hereby republishes its Guidelines on Employee Selection Procedures (originally published at 35 FR 12333, August 1, 1970). Notwithstanding the publication of "Federal Executive Agency Guidelines on Employee Selection Procedures," the Equal Employment Opportunity Commission Guidelines on Employee Selection Procedures remain applicable to all employers and other entities subject to the jurisdiction of this Commission under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq.

Signed at Washington, D.C. this 19th day of November 1976.

ETHEL BENT WALSH,
Vice Chairman.

29 CFR Part 1607 is revised as set forth below:

Sec.

1607.1 Statement of purpose.
1607.2 "Test" defined.
1607.3 Discrimination defined.
1607.4 Evidence of validity.
1607.5 Minimum standards for validation.
1607.6 Presentation of validity evidence.
1607.7 Use of other validity studies.
1607.8 Assumption of validity.
1607.9 Continued use of tests.
1607.10 Employment agencies and employment services.
1607.11 Disparate treatment.
1607.12 Retesting.
1607.13 Other selection techniques.
1607.14 Affirmative action.

AUTHORITY: The provisions of this Part 1607 issued under Sec. 713, 78 Stat. 265, 42 U.S.C. sec. 2000e–12.

§ 1607.1 Statement of purpose.

(a) The guidelines in this part are based on the belief that properly validated and standardized employee selection procedures can significantly contribute to the implementation of nondiscriminatory personnel policies, as required by title VII. It is also recognized that professionally developed tests, when used in conjunction with other tools of personnel assessment and complemented by sound programs of job design, may significantly aid in the development and maintenance of an efficient work force and, indeed, aid in the utilization and conservation of human resources generally.

(b) An examination of charges of discrimination filed with the Commission and an evaluation of the results of the Commission's compliance activities has revealed a decided increase in total test usage and a marked increase in doubtful testing practices which, based on our experience, tend to have discriminatory effects. In many cases, persons have come to rely almost exclusively on tests as the basis for making the decision to hire, transfer, promote, grant membership, train, refer or retain, with the result that candidates are selected or rejected on the basis of a single test score. Where tests are so used, minority candidates frequently experience disproportionately high rates of rejection by failing to attain score levels that have been established as minimum standards for qualification. It has also become clear that in many instances persons are using tests as the basis for employment decisions without evidence that they are valid predictors of employee job performance. Where evidence in support of presumed relationships between test performance and job behavior is lacking, the possibility of discrimination in the application of test results must be recognized. A test lacking demonstrated validity (i.e., having no known significant relationship to job behavior) and yielding lower scores for classes protected by title VII may result in the rejection of many who have necessary qualifications for successful work performance.

(c) The guidelines in this part are designed to serve as a workable set of standards for employers, unions and employment agencies in determining whether their selection procedures conform with the obligations contained in title VII of the Civil Rights Act of 1964. Section 703 of title VII places an affirmative obligation upon employers, labor unions, and employment agencies, as defined in section 701 of the Act, not to discriminate because of race, color, religion, sex, or national origin. Subsection (h) of section 703 allows such persons "* * * to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin."

§ 1607.2 "Test" defined.

For the purpose of the guidelines in this part, the term "test" is defined as any paper-and-pencil or performance measure used as a basis for any employment decision. The guidelines in this part apply, for example, to ability tests which are designed to measure eligibility for hire, transfer, promotion, membership, training, referral or retention. This definition includes, but is not restricted to, measures of general intelligence, mental ability and learning ability; specific intellectual abilities; mechanical, clerical and other aptitudes; dexterity and coordination; knowledge and proficiency; occupational and other interests; and attitudes, personality or temperament. The term "test" includes all formal scored quantified or standardized techniques of assessing job suitability including, in addition to the above, specific qualifying or disqualifying personal history or background requirements, specific educational or work history requirements, scored interviews, biographical information blanks, interviewers' rating scales, scored application forms, etc.

§ 1607.3 Discrimination defined.

The use of any test which adversely affects hiring, promotion, transfer or any other employment or membership opportunity of classes protected by title VII constitutes discrimination unless: (a) The test has been validated and evidences a high degree of utility as hereinafter described, and (b) The person giving or acting upon the results of the particular test can demonstrate that alternative suitable hiring, transfer or promotion procedures are unavailable for his use.

§ 1607.4 Evidence of validity.

(a) Each person using tests to select from among candidates for a position or for membership shall have available for inspection evidence that the tests are being used in a manner which does not violate § 1607.3. Such evidence shall be examined for indications of possible discrimination, such as instances of higher rejection rates for minority candidates than nonminority candidates. Furthermore, where technically feasible, a test should be validated for each minority group with which it is used; that is, any differential rejection rates that may exist, based on a test, must be relevant to performance on the jobs in question.

(b) The term "technically feasible" as used in these guidelines means having or obtaining a sufficient number of minority individuals to achieve findings of statistical and practical significance, the opportunity to obtain unbiased job performance criteria, etc. It is the responsibility of the person claiming absence of technical feasibility to positively demonstrate evidence of this absence.

(c) Evidence of a test's validity should consist of empirical data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated.

(1) If job progression structures and seniority provisions are so established that new employees will probably, within a reasonable period of time and in a great majority of cases, progress to a higher level, it may be considered that candidates are being evaluated for jobs at that higher level. However, where job progression is not so nearly automatic, or the time span is such that higher level jobs or employees' potential may be expected to change in significant ways, it shall be considered that candidates are being evaluated for a job at or near the entry level. This point is made to underscore the principle that attainment of or performance at a higher level job is a relevant criterion in validating employment tests only when there is a high probability that persons employed will in fact attain that higher level job within a reasonable period of time.

(2) Where a test is to be used in different units of a multiunit organization and no significant differences exist between units, jobs, and applicant populations, evidence obtained in one unit may suffice for the others. Similarly, where the validation process requires the collection of data throughout a multiunit organization, evidence of validity specific to each unit may not be required. There may also be instances where evidence of

validity is appropriately obtained from more than one company in the same industry. Both in this instance and in the use of data collected throughout a multi-unit organization, evidence of validity specific to each unit may not be required: *Provided,* That no significant differences exist between units, jobs, and applicant populations.

§ 1607.5 Minimum standards for validation.

(a) For the purpose of satisfying the requirements of this part, empirical evidence in support of a test's validity must be based on studies employing generally accepted procedures for determining criterion-related validity, such as those described in "Standards for Educational and Psychological Tests and Manuals" published by American Psychological Association, 1200 17th Street, NW., Washington, D.C. 20036. Evidence of content or construct validity, as defined in that publication, may also be appropriate where criterion-related validity is not feasible. However, evidence for content or construct validity should be accompanied by sufficient information from job analyses to demonstrate the relevance of the content (in the case of job knowledge or proficiency tests) or the construct (in the case of trait measures). Evidence of content validity alone may be acceptable for well-developed tests that consist of suitable samples of the essential knowledge, skills or behaviors composing the job in question. The types of knowledge, skills or behaviors contemplated here do not include those which can be acquired in a brief orientation to the job.

(b) Although any appropriate validation strategy may be used to develop such empirical evidence, the following minimum standards, as applicable, must be met in the research approach and in the presentation of results which constitute evidence of validity:

(1) Where a validity study is conducted in which tests are administered to applicants, with criterion data collected later, the sample of subjects must be representative of the normal or typical candidate group for the job or jobs in question. This further assumes that the applicant sample is representative of the minority population available for the job or jobs in question in the local labor market. Where a validity study is conducted in which tests are administered to present employees, the sample must be representative of the minority groups currently included in the applicant population. If it is not technically feasible to include minority employees in validation studies conducted on the present work force, the conduct of a validation study without minority candidates does not relieve any person of his subsequent obligation for validation when inclusion of minority candidates becomes technically feasible.

(2) Tests must be administered and scored under controlled and standardized conditions, with proper safeguards to protect the security of tests scores and to insure that scores do not enter into any judgments of employee adequacy that are to be used as criterion measures. Copies of tests and test manuals, including instructions for administration, scoring, and interpretation of test results, that are privately developed and/or are not available through normal commercial channels must be included as a part of the validation evidence.

(3) The work behaviors or other criteria of employee adequacy which the test is intended to predict or identify must be fully described; and, additionally, in the case of rating techniques, the appraisal form(s) and instructions to the rater(s) must be included as a part of the validation evidence. Such criteria may include measures other than actual work proficiency, such as training time, supervisory ratings, regularity of attendance and tenure. Whatever criteria are used they must represent major or critical work behaviors as revealed by careful job analyses.

(4) In view of the possibility of bias inherent in subjective evaluations, supervisory rating techniques should be carefully developed, and the ratings should be closely examined for evidence of bias. In addition, minorities might obtain unfairly low performance criterion scores for reasons other than supervisors' prejudice, as, when, as new employees, they have had less opportunity to learn job skills. The general point is that all critera need to be examined to insure freedom from factors which would unfairly depress the scores of minority groups.

(5) Differential validity. Data must be generated and results separately reported for minority and nonminority groups wherever technically feasible. Where a minority group is sufficiently large to constitute an identifiable factor in the local labor market, but validation data have not been developed and presented separately for that group, evidence of satisfactory validity based on other groups will be regarded as only provisional compliance with these guidelines pending separate validation of the test for the minority group in question. (See § 1607.9). A test which is differentially valid may be used in groups for which it is valid but not for those in which it is not valid. In this regard, where a test is valid for two groups but one group characteristically obtains higher test scores than the other without a corresponding difference in job performance, cutoff scores must be set so as to predict the same probability of job success in both groups.

(c) In assessing the utility of a test the following considerations will be applicable:

(1) The relationship between the test and at least one relevant criterion must be statistically significant. This ordinarily means that the relationship should be sufficiently high as to have a probability of no more than 1 to 20 to have occurred by chance. However, the use of a single test as the sole selection device will be scrutinized closely when that test is valid against only one component of job performance.

(2) In addition to statistical significance, the relationship between the test and criterion should have practical significance. The magnitude of the relationship needed for practical significance or usefulness is affected by several factors, including:

(i) The larger the proportion of applicants who are hired for or placed on the job, the higher the relationship needs to be in order to be practically useful. Conversely, a relatively low relationship may prove useful when proportionately few job vacancies are available;

(ii) The larger the proportion of applicants who become satisfactory employees when not selected on the basis of the test, the higher the relationship needs to be between the test and a criterion of job success for the test to be practically useful. Conversely, a relatively low relationship may prove useful when proportionately few applicants turn out to be satisfactory;

(iii) The smaller the economic and human risks involved in hiring an unqualified applicant relative to the risks entailed in rejecting a qualified applicant, the greater the relationship needs to be in order to be practically useful. Conversely, a relatively low relationship may prove useful when the former risks are relatively high.

§ 1607.6 Presentation of validity evidence.

The presentation of the results of a validation study must include graphical and statistical representations of the relationships between the test and the criteria, permitting judgments of the test's utility in making predictions of future work behavior. (See § 1607.5(c) concerning assessing utility of a test.) Average scores for all tests and criteria must be reported for all relevant subgroups, including minority and nonminority groups where differential validation is required. Whenever statistical adjustments are made in validity results for less than perfect reliability or for restriction of score range in the test or the criterion, or both, the supporting evidence from the validation study must be presented in detail. Furthermore, for each test that is to be established or continued as an operational employee selection instrument, as a result of the validation study, the minimum acceptable cutoff (passing) score on the test must be reported. It is expected that each operational cutoff score will be reasonable and consistent with normal expectations of proficiency within the work force or group on which the study was conducted.

§ 1607.7 Use of other validity studies.

In cases where the validity of a test cannot be determined pursuant to § 1607.4 and § 1607.5 (e.g., the number of subjects is less than that required for a technically adequate validation study, or an appropriate criterion measure cannot be developed), evidence from validity studies conducted in other organizations, such as that reported in test man-

uals and professional literature, may be considered acceptable when: (a) The studies pertain to jobs which are comparable (i.e., have basically the same task elements), and (b) There are no major differences in contextual variables or sample composition which are likely to significantly affect validity. Any person citing evidence from other validity studies as evidence of test validity for his own jobs must substantiate in detail job comparability and must demonstrate the absence of contextual or sample differences cited in paragraphs (a) and (b) of this section.

§ 1607.8 Assumption of validity.

(a) Under no circumstances will the general reputation of a test, its author or its publisher, or casual reports of test utility be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on test names or descriptive labels; all forms of promotional literature; data bearing on the frequency of a test's usage; testimonial statements of sellers, users, or consultants; and other nonempirical or anecdotal accounts of testing practices or testing outcomes.

(b) Although professional supervision of testing activities may help greatly to insure technically sound and nondiscriminatory test usage, such involvement alone shall not be regarded as constituting satisfactory evidence of test validity.

§ 1607.9 Continued use of tests.

Under certain conditions, a person may be permitted to continue the use of a test which is not at the moment fully supported by the required evidence of validity. If, for example, determination of criterion-related validity in a specific setting is practicable and required but not yet obtained, the use of the test may continue: *Provided:* (a) The person can cite substantial evidence of validity as described in § 1607.7 (a) and (b); and (b) He has in progress validation procedures which are designed to produce, within a reasonable time, the additional data required. It is expected also that the person may have to alter or suspend test cutoff scores so that score ranges broad enough to permit the identification of criterion-related validity will be obtained.

§ 1607.10 Employment agencies and employment services.

(a) An employment service, including private employment agencies, State employment agencies, and the U.S. Training and Employment Service, as defined in section 701(c), shall not make applicant or employee appraisals or referrals based on the results obtained from any psychological test or other selection standard not validated in accordance with these guidelines.

(b) An employment agency or service which is requested by an employer or union to devise a testing program is required to follow the standards for test validation as set forth in these guidelines. An employment service is not relieved of its obligation herein because the test user did not request such validation or has requested the use of some lesser standard than is provided in these guidelines.

(c) Where an employment agency or service is requested only to administer a testing program which has been elsewhere devised, the employment agency or service shall request evidence of validation, as described in the guidelines in this part, before it administers the testing program and/or makes referral pursuant to the test results. The employment agency must furnish on request such evidence of validation. An employment agency or service will be expected to refuse to administer a test where the employer or union does not supply satisfactory evidence of validation. Reliance by the test user on the reputation of the test, its author, or the name of the test shall not be deemed sufficient evidence of validity (see § 1607.8(a)). An employment agency or service may administer a testing program where the evidence of validity comports with the standards provided in § 1607.7.

§ 1607.11 Disparate treatment.

The principle of disparate or unequal treatment must be distinguished from the concepts of test validation. A test or other employee selection standard—even though validated against job performance in accordance with the guidelines in this part—cannot be imposed upon any individual or class protected by title VII where other employees, applicants or members have not been subjected to that standard. Disparate treatment, for example, occurs where members of a minority or sex group have been denied the same employment, promotion, transfer or membership opportunities as have been made available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, no new test or other employee selection standard can be imposed upon a class of individuals protected by title VII who, but for prior discrimination, would have been granted the opportunity to qualify under less stringent selection standards previously in force.

§ 1607.12 Retesting.

Employers, unions, and employment agencies should provide an opportunity for retesting and reconsideration to earlier "failure" candidates who have availed themselves of more training or experience. In particular, if any applicant or employee during the course of an interview or other employment procedure claims more education or experience, that individual should be retested.

§ 1607.13 Other selection techniques.

Selected techniques other than tests, as defined in § 1607.2, may be improperly used so as to have the effect of discriminating against minority groups. Such techniques include, but are not restricted to, unscored or casual interviews and unscored application forms. Where there are data suggesting employment discrimination, the person may be called upon to present evidence concerning the validity of his unscored procedures as well as of any tests which may be used, the evidence of validity being of the same types referred to in §§ 1607.4 and 1607.5. Data suggesting the possibility of discrimination exist, for example, when there are differential rates of applicant rejection from various minority and nonminority or sex groups for the same job or group of jobs or when there are disproportionate representations of minority and nonminority or sex groups among present employees in different types of jobs. If the person is unable or unwilling to perform such validation studies, he has the option of adjusting employment procedures so as to eliminate the conditions suggestive of employment discrimination.

§ 1607.14 Affirmative action.

Nothing in these guidelines shall be interpreted as diminishing a person's obligation under both title VII and Executive Order 11246 as amended by Executive Order 11375 to undertake affirmative action to ensure that applicants or employees are treated without regard to race, color, religion, sex, or national origin. Specifically, the use of tests which have been validated pursuant to these guidelines does not relieve employers, unions or employment agencies of their obligations to take positive action in affording employment and training to members of classes protected by title VII.

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PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

COLLEGE HOUSING

Financial Relief and Loan Modification

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 279]

[Docket No. R-76-423]

COLLEGE HOUSING

Proposed Financial Relief and Loan Modification

The Department of Housing and Urban Development (HUD) has heretofore published regulations (24 CFR Part 279) with respect to the making of College Housing Loans and Debt Service Grants pursuant to Title IV of the Housing Act of 1950 (12 U.S.C. 1749 et seq.). Those existing §§ 279.1 through 279.8 will be designated through Subpart A, "College Housing Loans and Debt Service Grants".

This new Subpart F, §§ 279.60 through 279.66, would establish the basis on which HUD will consider granting financial relief or making other changes in a Borrower's obligations under its Loan Agreement, Trust Indenture, Bond Resolution, or Note/Mortgage under the College Housing Program. The provisions of the Loan Agreement and Trust Indenture are generally standardized; the provisions of the Bond Resolutions utilized for public institutions follow state law. Since 1952, approximately 3,329 College Housing loans totalling $3.8 billion have been made to 1,250 institutions.

During this period only two projects have been foreclosed, and three Borrowers have become bankrupt; approximately 20 colleges have suspended operations without loss to the College Housing Revolving Fund. Approximately 100 Borrowers are either delinquent in meeting deposit or payment requirements or have requested and/or received some form of financial relief. Most of these Borrowers are small (under 1,000 enrollment) private colleges. In addition, many colleges find it necessary to change the College Housing use of facilities for which the loans were made, because of reduced total enrollments or numbers of students living on campus, obsolescence, or other factors. Thus far, requests for financial relief or changed use have been handled on an ad hoc basis.

In view of the substantial number of requests for financial relief and/or loan modification, the decentralization of loan servicing functions to HUD Field Offices, and the need to achieve uniformity of treatment for similarly situated Borrowers consistent with protecting the Government's interest, proposed regulations are being issued which will establish criteria for taking action upon such requests.

Interested persons are invited to participate in the making of this rule by formulating such written comments, data, suggestions, and objections as they may desire. All such materials should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. All comments received on or before December 24, 1976 will be considered before adoption of a final rule in this matter. Copies of all written comments received will be available for public inspection at the above address during regular business hours before and after the close of the comment period.

The Secretary has determined that Part 279, Subpart F, §§ 279.60 through 279.66, does not have a substantial environmental impact and a finding of inapplicability is available for public inspection at the Office of the Rules Docket Clerk at the above address.

It is hereby certified that the economic and inflationary impact of Part 279, Subpart F, §§ 279.60 through 279.66 have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, it is proposed that Chapter II of Title 24 of the Code of Federal Regulations be amended as follows:

Subpart A—College Housing Loans and Debt Service Grants

* * * * *

Subpart F—Financial Relief and Loan Modification

Sec.

279.60 Definitions.
279.61 Borrower's obligations.
279.62 Requests for loan modification or deferment.
279.63 Financial relief.
279.64 Refinancing.
279.65 Alternative use of facilities.
279.66 Closing of educational institution.

AUTHORITY: Title IV of the Housing Act of 1950 (12 U.S.C. 1749 et. seq.); sec. 7(d), Department of HUD Act (42 U.S.C 3535(d)).

Subpart F—Financial Relief and Loan Modification

§ 279.60 Definitions.

As used in this subpart, the terms defined in § 279.1 shall have the same meaning as in Subpart A of this part.

Bond resolution means the formal undertaking of a public body with respect to bond indebtedness.

Borrower means an educational institution as defined in Section 404(b) of the Housing Act of 1950 which has obtained a College Housing loan.

Default remedies means the remedial actions which the Government (or the Trustee on its behalf) is authorized to take under the Bond Resolution, Trust Indenture, or Note/Mortgage in the event the Borrower defaults in its obligations thereunder.

Deferment means a written undertaking by the Government with respect to any loan or loans made to a Borrower (or by the Trustee on its behalf) that it will not exercise its Default Remedies for a specified period of time notwithstanding the existence of specified financial defaults (e.g., non-payment of principal or interest, or failure to make reserve fund deposits), subject to specified conditions (e.g., payment of interest only, partial payment of principal, change in use). The granting of the Deferment will permit only those financial defaults specified therein to continue for the specified period limited to one year and the Borrower must comply in all other respects with the HUD requirements under its loan or loans.

Field office means any HUD Regional, Area or Insuring Office which is delegated loan servicing responsibilities under the College Housing Program.

HUD-assisted facility means any facility which is a part of a project assisted with a College Housing loan and any other facilities the revenues of which are pledged to or otherwise secure repayment of the HUD loan.

Loan agreement means the contract between HUD and a Borrower setting forth the terms and conditions of the HUD loan.

Loan requirement means any obligation of a Borrower under its Loan Agreement, Bond Resolution, Trust Indenture, and/or Note/Mortgage.

Note/mortgage means the formal undertakings of certain private college and nonprofit corporation Borrowers with respect to a College Housing loan.

Trustee means a banking or other corporation legally authorized to exercise corporate trust powers which is designated as a Trustee under a Trust Indenture.

Trust indenture means the formal undertakings of most private colleges, some public colleges, and some nonprofit corporation Borrowers with respect to their College Housing loans.

§ 279.61 Borrower's obligations.

(a) *Loan policy.* College Housing loans are repayable over a 40-year period (in some cases 50 years). In making such loans, HUD requires that each loan shall be of sound value and so secured as to reasonably assure repayment. The basic security for each loan is a pledge of project revenues augmented to the extent necessary by the pledge of revenues or income from other facilities or sources or other assets. In the case of private colleges, a first mortgage is obtained on the HUD-assisted facilities and any other facilities the revenues of which are pledged to secure repayment of a HUD loan.

(b) *Flow of funds.* The Loan Agreement (and subsequently the Trust Indenture, Bond Resolution or Note/ Mortgage) provides for a flow of funds. All pledged revenues are required to be deposited into the Revenue Fund Account, and may be disbursed only in accordance with the Loan Requirements. In the case of a net income pledge, current expenses of the pledged facilities are payable as a first charge; in the case of a gross income pledge, the required deposit into the Bond and Interest Sinking Fund (BISF) is a first charge. Semiannual payments in specified amounts are required to be made into the BISF (usually annual payments equivalent to 125 percent of average annual debt service) until the reserve is fully established, and thereafter sums sufficient for debt service requirements. Available revenues remaining after payment of current expenses and BISF deposits are deposited into a Repair and Replacement Reserve Account in a specified amount based on estimated repair and replacement requirements for the project. Provision is made for use of residual funds in the Revenue Fund Account which may be limited to acceler-

ated retirement of the HUD loan, may also include expenditures relating to the Borrower's housing system and may additionally include use for any lawful purpose. Provision may also be made for pledge of endowment funds or securities or for a Collateral Account.

(c) *Nonfinancial obligations.* In addition to the obligation to make the required payments and deposits a Borrower's obligations include undertakings deemed necessary to effectuate the statutory purposes, to safeguard the security for the loan, and to assure repayment. These obligations include:

(1) Maintenance of the Borrower's corporate existence and status as an eligible educational institution;

(2) Use of the HUD-assisted facilities for the purposes for which the loan was made, unless another use is approved by HUD;

(3) Adoption and enforcement of parietal rules, rental rates and charges for use of the HUD-assisted facilities;

(4) Physical protection of the HUD-assisted facilities including insurance coverage, repair and maintenance;

(5) Covenant not to encumber, lease or sell the HUD-assisted facilities;

(6) Maintenance of proper books and records and submission of reports to HUD.

§ 279.62 Requests for loan modification or deferment.

(a) *Financial relief.* A Borrower seeking a Deferment shall make a request therefor in writing to the appropriate HUD Field Office not less than 90 days prior to the date on which it anticipates that it will be unable to meet any payment or deposit requirement. A Borrower which has heretofore obtained a Deferment shall file such request at least 90 days prior to the expiration of its current Deferment. Each request for Deferment shall establish to the satisfaction of HUD that the Borrower has satisfied the criteria for granting financial relief set forth in § 279.63(a) below.

(b) *Changed use.* A Borrower which proposes to make a change in the use of a HUD-assisted facility either affecting the pledged revenues or involving an ineligible use under the College Housing Program shall make a request in writing to the appropriate Field Office at least 90 days prior to the date on which the changed use is proposed.

(c) *Other loan modifications.* A Borrower desiring a modification or waiver of the HUD Loan Requirements other than those described in paragraphs (a) and (b) of this section shall make a request in writing to the appropriate HUD Field Office at least 60 days prior to the date on which the need for such modification or waiver will arise except that, where the non-compliance is the result of conditions beyond the control of the Borrower, such written request shall be made promptly upon such occurrence.

§ 279.63 Financial relief.

(a) *Criteria for granting financial relief.* Deferments with respect to Defaults in a Borrower's financial obligations under its Loan Requirements may be granted: *Provided,* That the following conditions are satisfied.

(1) The Borrower is operating as an eligible educational institution as defined in section 404(b) of the Housing Act of 1950; and in § 279.1(e);

(2) The Borrower is utilizing the HUD-assisted facilities for an eligible purpose as defined in section 404 of the Housing Act of 1950 and in § 279.1, or other purpose approved by HUD;

(3) The pledged revenues of the HUD-assisted facilities, any pledged revenues from other facilities, and any pledged funds or securities are being properly accounted for and applied in accordance with the Loan Requirements;

(4) The Borrower is in full compliance with its Non-financial Obligations under its Loan Requirements including specifically those set forth in § 279.61(c) hereof, except as otherwise approved by HUD;

(5) The Borrower submits a plan of operation and financial data pursuant to which HUD determines that it is making satisfactory progress towards remedying the conditions giving rise to the defaults and that financial stability will be obtained.

(b) *Relief granted.* A Deferment may be granted to a Borrower who has satisfied the criteria set forth in paragraph (a) of this section as follows:

(1) Deferment of interest, and/or principal payments and/or reserve fund deposit requirements may be granted for a period not to exceed one year;

(2) Deferment of such payments and/or deposit requirements may be granted only to the extent that the pledged revenues or other sources are insufficient to provide sufficient funds to meet these requirements. The order in which such available funds shall be applied is set forth in paragraph (c) of this section;

(3) Interest and/or principal payments may be deferred only to the extent that there are not sufficient funds or other assets in any reserve fund or collateral account established pursuant to the Loan Requirements for such payments;

(4) The Borrower must comply with all the conditions set forth in § 279.63(a)(1) through (4) (and all conditions or requirements set forth in the Deferment) during any period for which a Deferment is provided.

(c) *Prohibited relief.* Financial Relief shall not include:

(1) Use of pledged revenues for any purpose other than as provided under the Loan Requirements;

(2) Creation of a lien on the HUD-assisted facilities prior to, on a parity with, or subordinate to the HUD lien;

(3) Release of any security deemed reasonably necessary to assure repayment of the HUD loan;

(4) Release of obligors, co-obligors, or guarantors on the HUD loan; or

(5) Write-down or forgiveness of principal or interest;

(6) The term of a loan may not be extended, except as provided under § 279.64.

(d) *Source of funds.* Where insufficient funds are available in the BISF to make interest and principal payments on a loan, the following sources shall be utilized, generally in the order specified:

(1) Cash and/or investments in the Repair and Replacement Reserve Account;

(2) Investments in the BISF;

(3) Cash and/or investments in any Collateral Account established to provide a Debt Service Reserve;

(4) Pledged endowment funds or securities.

(e) *Application of funds.* Available funds shall be applied toward the indebtedness and other Loan Requirements in the following order:

(1) Available funds shall be applied first to interest payments on the unpaid balance of the debt;

(2) Any funds remaining after payment of interest shall be applied in the following order;

(i) To principal payments in direct order of maturity;

(ii) To reestablishment of the Debt Service Reserve and Collateral Account;

(iii) To reestablishment of the Repair and Replacement Reserve Account.

§ 279.64 Refinancing.

Normally, delinquent loans will not be refinanced but delinquencies will be paid from available funds as provided in § 279.63(c) above. In circumstances where a Borrower demonstrates that sufficient pledged funds or other sources will be available to meet the required payments and deposits under the refinanced loan, but it cannot pay off all accumulated delinquencies within a reasonable period, consideration will be given to refinancing the loan, if requested by a Borrower. The end maturity may be extended up to the 50-year statutory maximum loan term, if permissible under state law, but may not be extended beyond such 50-year term. Any such refinancing shall be based on substantially level annual debt service payments except in exceptional circumstances approved by the Government. A refinancing debt service schedule may not provide for ballooning a final payment which exceeds substantially the level of periodic payments required by the debt service schedule.

§ 279.65 Alternative use of facilities.

(a) *Alternative use.* Any use of a HUD-assisted facility for other than an eligible use under the College Housing Program requires HUD approval. HUD will approve and may require an alternative use of a HUD-assisted facility where this is deemed necessary to prevent a default in the HUD loan. Such alternative uses may include use by the Borrower for an ineligible purpose, such as for classrooms, or leasing or sale to another entity, and should normally be of a temporary nature so that the facility may be returned to an eligible use when feasible.

(b) *Selection of alternative uses.* Upon making a determination that an alternative use is approvable HUD will con-

sider other feasible alternative uses as well as the one proposed by the Borrower. The alternative use which is in the best financial interest of HUD will be approved subject to the following:

(1) Preference will be given to an alternative use by the Borrower: *Provided,* That such use will generate sufficient pledged revenues for the requirements of the HUD loan;

(2) Preference will be given to alternative uses not involving major alterations, long-term leases, or sales which would prevent the facility from being returned to an eligible use;

(3) If an alternative use by the Borrower is not feasible, preference will be given to use by another eligible educational institution.

(c) *Terms of alternative use*—(1) *Leasing.* If the HUD-assisted facility is leased to another entity, all of the net proceeds of the lease shall be applied to repayment of the HUD loan. If the HUD-assisted facility is leased to a lessee, other than a lessee which is an eligible educational institution under the Act, the lessee shall provide for payment of a rental at rates not substantially below those which would be charged in the market area for comparable facilities financed at market rates of interest.

(2) *Sale.* If a HUD-assisted facility is sold to another eligible educational institution, the purchaser will be permitted to assume the HUD loan provided that the HUD loan is reasonably assured of repayment. In the event of sale of a facility to a purchaser other than an eligible educational institution, the related HUD loan shall be repaid in full except that, where full repayment is not financially feasible, the repayment requirements shall be in the Government's best financial interest.

§ 279.66 Closing of educational institution.

When an educational institution ceases to maintain its existence or accreditation and/or to conduct its normal and customary educational activities, either entirely or at one or more locations where HUD facilities are situated, repayment in full of the HUD loan shall be required, except as otherwise provided hereinafter. Assumption of the indebtedness by an eligible educational institution will be permissible where HUD determines that the loan will be reasonably assured of repayment. Release of guarantors or co-obligors in connection with such transfer will not be permissible except in exceptional circumstances approved by HUD where such action is determined to be necessary to accomplish a transfer and is in HUD's best financial interest. Assumption of the indebtedness by an entity other than an eligible education institution affiliated with the Borrower may be approved only as a means of avoiding financial loss to HUD. The terms of any such assumption shall require elimination of the loan to the greatest extent possible, taking into consideration proposed use of the HUD-assisted facilities and the financial resources and capability of the affiliated entity.

Issued on November 18, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc.76-34752 Filed 11-23-76;8:45 am]

federal register

WEDNESDAY, NOVEMBER 24, 1976

PART V:

DEPARTMENT OF JUSTICE

Antitrust Division

■

UNITED STATES v. NATIONAL BROADCASTING COMPANY, INC.

Proposed Consent Judgment and Competitive Impact Statement

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. NATIONAL BROADCASTING COMPANY, INC.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h) that a Proposed Consent Judgment and Competitive Impact Statement as set out below have been filed with the United States District Court for the Central District of California in Civil No. 74-3601-RJK, *United States* v. *National Broadcasting Company, Inc.* NBC has consented to the Proposed Judgment. The complaint in this action alleged that in violation of the Sherman Act, defendant had entered into restrictive contracts and had combined with its affiliated television stations to use its control over access to the NBC Television Network to restrain and monopolize prime time entertainment programing exhibited on that network. The Judgment would: Limit for a period of 10 years, the amount of television entertainment programming that NBC may produce for use on its Network; prohibit NBC from conditioning access to its television network upon an independent program supplier's grant of any other right or interest to NBC; limit for periods of 10 or 15 years the contractual rights which NBC may obtain in connection with network exhibition of a program including limitations on NBC's right to exclusive use of a program; enjoin NBC from obtaining any right or interest in television entertainment programs produced by others, except for the right to network exhibition; enjoin NBC from engaging in domestic syndication of any television entertainment programs, and from engaging in foreign distribution of programs other than those produced abroad or by NBC; and prohibit for a period of 10 years reciprocal program arrangements between NBC and either CBS Inc., or American Broadcasting Companies, Inc. Certain of these provisions will not go into effect until similar relief is obtained in companion actions against CBS and ABC. The Competitive Impact Statement describes the anticipated effects of the proposed Judgment on competition, and evaluates the alternative relief proposals actually considered by the United States. Public comment is invited on or before January 24, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Bernard M. Hollander, Chief, Judgments and Judgment Enforcement Section, Antitrust Division, Department of Justice, Room 3706, Washington, D.C. 20530.

Dated: November 17, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL BROADCASTING COMPANY, INC., Defendant.	Civil No. 74-3601-RJK STIPULATION Filed: November 17, 1976

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. §16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation and the proposed Final Judgment shall be of no effect whatever, and the making of this

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stipulation and the proposed Final Judgment shall be without prejudice to the plaintiff or defendant in this or any other proceeding.

Dated: Nov. 17, 1976

FOR THE PLAINTIFF:

DONALD I. BAKER
Assistant Attorney General

WILLIAM E. SWOPE

CHARLES F. B. McALEER

BERNARD M. HOLLANDER

BARRY J. KAPLAN

BERNARD J. O'REILLY

GEORGE W. SELBY

KEVIN R. SULLIVAN

/s/ POLLY L. FRENKEL
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Attorneys, Department of Justice

FOR THE DEFENDANT:

SCHNADER, HARRISON, SEGAL & LEWIS

By BERNARD G. SEGAL

JEROME J. SHESTACK

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CORYDON B. DUNHAM
Vice President, General Counsel,
National Broadcasting Company, Inc.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL BROADCASTING COMPANY, INC., Defendant.	Civil Action No. 74-3601-RJK Filed: November 17, 1976

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 10, 1974, and defendant, National Broadcasting Company, Inc., having filed its answer herein on December 30, 1974, by their respective attorneys, each having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law in any action or proceeding;

NOW, THEREFORE, before any testimony has been taken, the Court being advised and having considered the matter, it is hereby:

ORDERED, ADJUDGED AND DECREED as follows:

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I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant under the provisions of Sections 1 and 2 of the Act of Congress of July 2, 1890, 15 U.S.C. §§1, 2, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II.

As used in this Final Judgment:

(A) "Person" means an individual, partnership, corporation or any other form of legal or business entity.

(B) "NBC" means the National Broadcasting Company, Inc. and its subsidiaries.

(C) A "person controlling NBC" means any person owning at least ten percent (10%) of, or a controlling share of, the outstanding voting stock of NBC.

(D) "NBC Television Network" means an NBC owned or operated business which provides television programs and related advertising messages to affiliated television broadcast stations.

(E) "Entertainment Program" means any program, including a feature film, exhibited or intended to be exhibited on television other than the following programs: news, public affairs, agricultural, religious, instructional, and sports (as those terms are defined in Appendix A to this Final Judgment). The inclusion of incidental or occasional entertainment or non-entertainment elements in a program or program series shall not be deemed to change the classification of the program or program series.

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(F) "Independent Program Supplier" means a person who produces or offers one or more entertainment programs for network exhibition, other than NBC, a person controlling NBC, or a person in which NBC or a person controlling NBC has an ownership interest.

(G) "Network Exhibition" means the initial and repeat exhibitions of a television program on the NBC television network during the term of any agreement between NBC and an independent program supplier for such exhibition of such program.

(H) "Prime Time Hours" means the hours from 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 5:00 p.m. to 10:00 p.m. in the Central and Mountain Time Zones of the United States.

(I) "Daytime Hours" means the hours from 9:00 a.m. to 6:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 9:00 a.m. to 5:00 p.m. in the Central and Mountain Time Zones of the United States.

(J) "Fringe Hours" means the hours from 11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 10:00 p.m. to 1:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Central and Mountain Time Zones of the United States.

(K) "Television Broadcast Station" means a station licensed as a television broadcast station by the Federal Communications Commission.

(L) "NBC Production Facilities" means studio facilities, including but not limited to, scenery, props and other production equipment, which are used for the production of entertainment programs exhibited or intended to be exhibited on television, and which are owned or leased by NBC, by any

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person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

(M) "Stripping" means the broadcasting of more than one (1) episode per week of a television program series.

(N) "Broadcast Year" means the television broadcast year customarily commencing in September of one year and continuing until September of the following year.

III.

The provisions of this Final Judgment are applicable to NBC, to any person controlling NBC and to each of NBC's directors, officers, agents, employees, subsidiaries, successors, and assigns, and to all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

NBC is enjoined and restrained from:

(A) Acquiring any financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by an independent program supplier, other than the right to the Network Exhibition of the program, except as provided in Sections VIII(A)-(D) of this Final Judgment, provided that an agreement granting NBC the right to Network Exhibition may include provisions concerning subject matters incident to the licensing and use of network programs, of which the following are examples: geographic scope and manner of transmission and delivery of network broadcasts; approval of creative elements and program content; technical quality and delivery requirements; union and Equal Employment Opportunity Act compliance; act of God; force majeure; preemptions; obligation to pay for, rather than play, programs; number of episodes or programs ordered; assignability; warranties;

indemnification; completion bonds; security agreements and financing statements; insurance; public morals; advertising conflicts; advertising, promotion and publicity of programs; audience testing and screening; cancellation; exclusivity for talent and creative personnel; exclusive exhibition rights (except as limited by Sections VI(E)(ii)-(iii) herein); pilots (except as limited by Section VI(F) herein); options (except as limited by Sections VI(E)(i), VI(F) and VI(G) herein); first negotiation and first refusal rights (except as limited by Sections VI(E)(i) and VI(G) herein); spinoffs (except as limited by Section VI(G) herein); repeats (except as limited by Section VI(H) herein); same day protection against once weekly syndication programs and theatrical feature films; title protection for the length of the applicable contract or contracts; format and continuing character protection; breach; and remedies, so long as any such provision does not violate the antitrust laws.

(B) Selling, licensing, or distributing entertainment programs to television broadcast stations for non-network television exhibition (or otherwise engaging in the business commonly known as "syndication"), or to foreign television stations or networks, except as provided in Section VIII(D) of this Final Judgment.

V.

(A) NBC is enjoined and restrained for a period of ten (10) years from the effective date of this Section from offering for NBC network broadcast during Prime Time Hours, Daytime Hours or Fringe Hours, more than two and one-half (2-1/2) hours per week in Prime Time Hours, more than eight (8) hours per week in Daytime Hours, and more than eleven (11) hours per week in Fringe Hours, determined on the average per compliance period, of entertainment programs

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obtained from sources other than independent program suppliers, provided that during each compliance period NBC may add to the total number of allowable hours of entertainment programming from sources other than independent program suppliers, two (2) non-regularly scheduled special programs, and provided further that in any compliance period, NBC may, during Fringe Hours, increase the number of allowable hours of entertainment programming from sources other than independent program suppliers by reducing to the same extent the number of allowable hours of such programming in Prime Time Hours and/or Daytime Hours.

(B) For purposes of this Section V, compliance periods shall be consecutive semi-annual periods commencing at the start of each broadcast year. Compliance reports in the form set forth in Appendix B to this Final Judgment shall be submitted by NBC to plaintiff within thirty (30) days following the conclusion of each compliance period.

VI.

NBC is enjoined and restrained:

(A) From purchasing or offering to purchase from an independent program supplier the right to Network Exhibition of one or more entertainment programs upon the condition, express or implied, that NBC, or any person controlling NBC, will obtain any other right or interest from said supplier, except as to contractual provisions concerning subject matters incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(B) For a period of fifteen (15) years from the effective date of this Section, from purchasing or offering to purchase from an independent program supplier any right to the exhibition of a program, other than a live program, as an NBC television network entertainment program upon the condition, express or

implied, that said supplier produce the program, in whole or in part, utilizing NBC production facilities.

(C) For a period of fifteen (15) years from the effective date of this Section, from agreeing with an independent program supplier that said supplier use NBC production facilities to produce a program, other than a live program, as an NBC television network entertainment program for a period in excess of the time required to produce episodes for one (1) broadcast year, provided that NBC and said supplier are not precluded each year from negotiating and contracting for additional periods not to exceed one (1) year each.

(D) For a period of ten (10) years from the effective date of this Section, from purchasing or offering to purchase from CBS Inc. ("CBS") or American Broadcasting Companies, Inc. ("ABC") any right to Network Exhibition of any entertainment program upon the condition, express or implied, that CBS or ABC agrees to purchase or offers to purchase a right to network exhibition of any entertainment program produced or controlled by NBC.

(E) For a period of fifteen (15) years from the effective date of this Section, from:

(i) Acquiring from an independent program supplier options for Network Exhibition of a prime time network entertainment program series exercisable for a period in excess of four (4) years from the date of first broadcast of an episode of such program as part of an NBC prime time television network entertainment program series, and the balance of any broadcast year in which such four (4) year period ends, provided that nothing herein shall prevent NBC, after the date of first broadcast, from negotiating new provisions which may include the purchase of an extension of

the option period to five (5) years from the date of first broadcast, and the balance of any broadcast year in which such five (5) year period ends, and, at the end or during the final year of any contract term, from negotiating for and entering into new agreements with said supplier so long as the options acquired under any such new agreements do not exceed a period of four (4) years from the date of first broadcast of an episode under such new agreements, and the balance of any broadcast year in which such four (4) year period ends, plus the right to negotiate for and acquire a fifth option year, and provided further that nothing herein shall prevent NBC from acquiring first negotiation and first refusal rights for new agreements with said supplier so long as any such first refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to NBC without giving NBC the first opportunity to meet such terms, and provided further that nothing herein shall prevent NBC from entering into contractual provisions incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(ii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for prime time network entertainment program series episodes for which NBC has exercised a contractual right to Network Exhibition, in excess of the following:

(a) for prime time use, the duration of any contract term or terms by which NBC acquires the right to Network Exhibition;

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(b) for non-prime time stripping on television broadcast stations, four (4) years from the first prime time episode broadcast; and

(c) for all other broadcast uses, three

(3) years from the first prime time episode broadcast,

provided that nothing herein shall prevent NBC from negotiating for and acquiring rights, including exclusive rights, for stripping and once weekly exhibition to be utilized after the periods of exclusivity set forth above, so long as negotiation for and acquisition of such rights takes place after NBC has agreed to order episodes of such program for the first year of broadcast as an NBC prime time television network entertainment program series, and provided further that nothing herein shall prevent NBC from acquiring exclusive exhibition rights to series episodes for the broadcast year for which such episodes are ordered.

(iii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for theatrical feature films for which NBC has a contractual right to Network Exhibition, against:

(a) theatrical and non-theatrical direct projection;

(b) closed circuit TV in non-residential hotels, motels, bars, restaurants, hospitals and similar non-residential institutions;

(c) passenger-carrying vehicles;

(d) video discs, cartridges or cassettes or other such equipment;

(e) pay or subscription television, via cable or any other means, where a per-program

or per-channel charge is made to the viewer, except that NBC may acquire exclusive rights to any such feature film commencing thirty (30) days prior to the first date and extending until the last date on which NBC may broadcast such feature film under the contract between NBC and such supplier, so long as this period of exclusivity between the first and last dates on which NBC may broadcast such feature film under such contract does not exceed twenty-four (24) months, and does not exceed twelve (12) additional months for each exhibition greater than two (2) to which NBC acquires the exhibition rights.

(F) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier a first year pick-up option for exhibition of a prime time network entertainment program series based on a program designated by NBC and said supplier as a "pilot program" ("pilot") which is exercisable after the following times:

(i) where NBC has not advanced said supplier any part of the costs of pilot development, subsequent to the earliest date that the agreement contemplates that broadcast of the series may commence; and

(ii) where NBC has advanced said supplier any part of the costs of pilot development, more than one (1) year after delivery to NBC of the completed pilot, provided that as to those series which NBC does not include in the network schedule at the earliest date that the agreement contemplates

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that broadcast of the series may commence:

(a) for those pilots which have been delivered to NBC between October 2 of one year and April 1 of the following year, NBC must designate by July 1 of the latter year sixty-five percent (65%) of such pilots as to which NBC will release its option for series exhibition upon payment to NBC of all of NBC's unrecouped costs for the development of such pilots; and

(b) for those pilots which have been delivered to NBC between April 2 and October 1 of the same year, NBC must designate by January 1 of the following year sixty-five percent (65%) of such pilots as to which NBC will release its option for series exhibition upon payment to NBC of all of NBC's unrecouped costs for the development of such pilots;

and provided further that NBC may purchase additional first year pick-up options for series which NBC has not designated for release and for series which NBC has designated for option release but which NBC wishes to retain, so long as such additional options are acquired, for pilots described in Section VI(F)(ii)(a), after June 1, or after the announcement of the NBC television network schedule for the next broadcast year, whichever is later, and, for pilots described in Section VI(F)(ii)(b), after December 1, and so long as such additional options do not exceed increments of six (6) months.

For purposes of this Section VI(F):

A pilot shall be deemed to have been delivered to NBC when NBC has received, in the

case of a film pilot, an answer print, and, in the case of a tape pilot, a program complying with customary tape requirements.

In computing the number of pilots to be released under Sections VI(F)(ii)(a) and (b), any fraction of a pilot shall be rounded off to the next lower whole number.

Unrecouped costs shall be deemed to be the amount of money advanced by NBC to an independent program supplier for the development of a pilot, except that if the NBC television network broadcasts a pilot once, two-thirds (2/3) of NBC's costs shall be deemed to have been recouped, and if NBC broadcasts a pilot more than once, all of NBC's costs shall be deemed to have been recouped.

(G) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier rights in excess of first negotiation and first refusal rights for a spinoff involving a non-continuing character.

For purposes of this Section VI(G):

First refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to NBC without giving NBC the first opportunity to meet such terms.

A non-continuing character shall be deemed to mean one who appeared in no more

than twenty-five percent (25%) of the original episodes of the program upon which such spinoff is based during the twelve (12) months prior to the time exhibition rights to such spinoff are offered for licensing by said supplier.

(H) For a period of ten (10) years from the effective date of this Section, from purchasing from an independent program supplier a right to first run Network Exhibition of any television entertainment program series which includes the right to exhibit repeats of episodes in years subsequent to the broadcast year of initial exhibition of such episodes, provided that repeat rights to three (3) initial episodes per broadcast year of each such program series may be purchased for exhibition in subsequent broadcast years as part of the right to Network Exhibition, and provided further that additional rights to repeats may be purchased for exhibition in subsequent broadcast years, so long as negotiation for and acquisition of such additional repeat rights takes place after NBC has agreed to order episodes of such program series for the first year of broadcast as an NBC television network entertainment program series, and provided further that the limitation as to the use of repeats contained in this Section VI(H) shall not apply to (i) made-for-television and theatrical feature films, (ii) specials, and (iii) cartoons or other children's programs.

VII.

The following Sections of this Final Judgment shall not take effect until similar injunctive relief is obtained in Final Orders, Judgments or Decrees entered against CBS in United States v. CBS Inc., Civil Action No. 74-3599-RJK (C.D. Cal.), and against ABC in United States v. American Broadcasting Companies, Inc., Civil Action No. 74-3600-RJK (C.D. Cal.) which are not appealable or from which no

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timely appeal is taken: V, VI(C), VI(E)(i), and VI(F) through (H).

VIII.

Nothing contained in this Final Judgment shall be construed:

(A) To prohibit NBC from acquiring rights for non-network broadcast of programs by NBC owned and operated television broadcast stations where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(B) To prohibit NBC from seeking repayment, in whole or in part, of money or other consideration loaned, advanced or furnished by NBC in connection with the development or production of a television network program or of a project or activity that may result in a television network program, to the extent of the amount loaned, advanced or furnished, including interest.

(C) To prohibit NBC from acquiring rights with respect to non-broadcast uses, including but not limited to publication of books or music, where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(D) To prohibit NBC from selling, licensing, or distributing outside the United States programs (i) produced in foreign countries and not included in NBC's television network schedule, where the acquisition of such distribution rights is not conditioned, directly or indirectly, upon the negotiation for or acquisition of rights, including renewal

rights, for the exhibition, distribution or use of any program as an NBC television network program, or (ii) produced by NBC, by any person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

IX.

If a Final Order, Judgment or Decree is entered with respect to CBS in United States v. CBS Inc., Civil Action No. 74-3599-RJK (C.D. Cal.), or with respect to ABC in United States v. American Broadcasting Companies, Inc., Civil Action No. 74-3600-RJK (C.D. Cal.), which is not appealable or from which no timely appeal is taken, which shall order or decree for either CBS or ABC injunctions different in terms or provisions than those required by this Final Judgment, or which shall result in the dismissal of either or both of such actions, NBC may apply to the Court and shall be granted a modification of or relief from any terms set forth herein as may be necessary to prevent NBC from being placed at a competitive disadvantage with respect to CBS or ABC.

X.

(A) Within thirty (30) days after the entry of this Final Judgment, NBC shall furnish to its officers, directors, and appropriate employees and agents a copy of this Final Judgment, and each year for a period of ten (10) years thereafter NBC shall furnish a copy to all new officers, directors and appropriate employees and agents. NBC shall maintain a file listing all persons to whom it has furnished such copies.

(B) Within thirty (30) days after entry of this Final Judgment and once each year during the succeeding ten (10) calendar years following entry of this Final Judgment, NBC

shall send a copy of this Final Judgment to the last known address of each independent program supplier known to have offered any entertainment program to NBC for inclusion in its schedule of NBC television network programs within the preceding five (5) years and to each person listed in the then current issue of Television Factbook as a provider of television production facilities.

XI.

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, and on reasonable notice to NBC made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) access during the office hours of NBC to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of NBC relating to any matter contained in this Final Judgment; and

(2) subject to the reasonable convenience of NBC and without restraint or interference by it, the right to interview officers or employees of NBC, who may have counsel present, regarding any such matter.

(B) NBC, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative

of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law

XII.

Jurisdiction is retained by this Court for the purpose of enabling either party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIII.

Entry of this Final Judgment is in the public interest.

Dated.

UNITED STATES DISTRICT JUDGE

APPENDIX A*

(a) "Agricultural programs" include market reports, farming, or other information specifically addressed, or primarily of interest, to the agricultural population.

(b) "News programs" include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis, and sports news.

(c) "Public affairs programs" include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.

(d) "Religious programs" include sermons or devotionals; religious news; and music, drama, and other types of programs designed primarily for religious purposes.

(e) "Instructional programs" include programs (other than those classified under Agricultural, News, Public Affairs, Religious or Sports) involving the discussion of, or primarily designed to further an appreciation or understanding of, literature, music, fine arts, history, geography, and the natural and social sciences; and programs devoted to occupational and vocational instruction, instruction with respect to hobbies, and similar programs intended primarily to instruct.

(f) "Sports programs" include play-by-play and pre- or post-game related activities and separate programs of sports instruction, news or information (e.g., fishing opportunities, golfing instructions, etc.).

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* Taken from 47 C.F.R. §73.670, n.1 (1975).

APPENDIX B

COMPLIANCE REPORT

NBC PRODUCED PROGRAMS

Compliance Period _____
No. weeks _____

Prime Time Hours

Entertainment:

Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Non-Entertainment:

Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Daytime Hours

Entertainment:

Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Non-Entertainment:

Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Fringe Hours

Entertainment

Program Name	No Minutes Per Week	No Weeks Offered For Network Broadcast

Non-Entertainment.

Program Name	No Minutes Per Week	No Weeks Offered For Network Broadcast

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL BROADCASTING COMPANY, INC., Defendant.	Civil No. 74-3601-RJK Filed: November 17, 1976

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. §16(b)-(h) P.L. 93-528 (December 21, 1974)], the United States of America hereby files this competitive impact statement relating to a proposed consent judgment in the above-entitled action to be entered against the defendant, National Broadcasting Company, Inc. ("NBC"). Entry of the proposed judgment should not, of course, bar the Government from bringing another action involving any aspect of NBC's operations should the facts warrant such an action in the future.

(1) Nature and purpose of the proceeding.

This action is one of three filed on December 10, 1974, against each of the nationwide commercial television networks 1/, charging that each had combined with its affiliated

1/ In addition to NBC, complaints were filed against CBS Inc. ("CBS") and American Broadcasting Companies, Inc. ("ABC").

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stations to use its control over access to network air time to restrain and monopolize prime time television entertainment programming in violation of Sections 1 and 2 of the Sherman Act (15 U.S.C. §§1 and 2). This suit is similar to an earlier suit against NBC, filed on April 14, 1972, which, with suits against the other two networks (CBS and ABC), was dismissed without prejudice to new filings by the Court on November 13, 1974. NBC's news, public affairs and sports programming are not involved in either this or the previous suit.

The complaint alleges that NBC used its control over access to the broadcasting time of the NBC Television Network during prime evening hours for the following purposes: to exclude from network broadcast those entertainment programs in which NBC had no financial interest; to compel independent program suppliers to grant to NBC financial interests in television programs which it accepted for broadcast; to refuse to sell air time to advertisers and other independent program suppliers seeking to have their own programs shown on the NBC network; to control the prices paid by NBC for television exhibition rights to motion picture feature films; and to obtain competitive advantages over other producers and distributors of television entertainment programs and of motion picture feature films. In the complaint, the Government sought to have NBC enjoined from the following practices: obtaining any interest, except for the right of network exhibition, in independently produced programs; engaging in syndication of any television entertainment programs; producing entertainment programs itself; and using its control over access to the NBC Television Network to foreclose competition or obtain an unfair competitive advantage in any other field. The proposed judgment provides relief

similar and substantially equivalent to that requested in the complaint.

(2) Practices and events giving rise to the alleged violation of the antitrust laws.

NBC is a substantial purchaser, exhibitor and producer of commercial television programs. There are approximately 700 television stations in the United States which are licensed by the Government to broadcast commercial television programs. NBC operates a national television network which provides television programs and related advertising messages to approximately 200 affiliated television stations located throughout the United States and to the five television stations which are owned and operated by NBC (in New York City, Los Angeles, Chicago, Washington and Cleveland).

Commercial television programs are created and produced by television networks, television stations, and independent program suppliers, including motion picture studios. In 1973, the three nationwide commercial television networks (NBC, CBS and ABC) spent more than $1,000,000,000 for television programs, of which NBC spent more than $340,000,000. In 1973, total television broadcasting revenues for the aforementioned three networks were in excess of $1,400,000,000, of which NBC received more than $470,000,000.

The value of any television program to its producer, and to an advertiser whose message is broadcast in conjunction with it, depends in large part on the number of television viewers who see the program and observe the commercial messages. NBC, through its affiliated television stations, has control over access to approximately 98% of all United States television households for programs which it offers for broadcast. This is because during prime evening hours 2/,

2/ 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific time zones. 5:00 p.m. to 10:00 p.m. in the Central and Mountain time zones.

when television viewing is at its peak, most of the 200 NBC affiliated stations and all the NBC owned and operated stations depend upon NBC for virtually all of their television entertainment programming. In early 1976, for example, NBC's primary affiliates 3/ and its owned and operated stations broadcast over 90% of the programs regularly offered by the NBC Television Network during prime evening hours.

The commercial value of a television entertainment program is not exhausted by its first network showing. It may also be stripped (broadcast a number of times per week) by the network. Frequently, usually after its network run is completed, a program is distributed to individual television stations in the United States for non-network broadcast (this is generally referred to as syndication). In addition, a program may be distributed to foreign television stations while it is appearing over a domestic television network. Merchandising, literary and music rights in a television program could also provide substantial revenue to the producer.

There is a substantial economic incentive for NBC to gain control of programming on its network, and NBC has exercised its control over access to the viewing public so as to exclude from the NBC Television Network programs controlled by others. One effect of this is to reduce the number of program purchasers with a resultant lessening of competition for television programs. For example, in the 1950's and early 1960's, advertisers were able to purchase television entertainment programs acceptable to NBC from independent program suppliers for broadcast on air time purchased from the NBC Television Network. In November of

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3/ An NBC primary affiliate is a television station to which NBC generally offers first call on television programs which it offers for broadcast.

1957, approximately 45 percent of all entertainment program series offered by the NBC Television Network during prime evening hours were advertiser-supplied; thus, advertisers constituted a substantial market for independent program suppliers. However, by November, 1967, only 13 percent of all entertainment program series offered by the NBC Television Network during prime evening hours were advertiser-supplied. At the present time, no such series is advertiser-supplied.

NBC embarked upon a policy of replacing advertiser-supplied programming with programs which it produced or in which it obtained rights or interests in excess of network exhibition. While, in November, 1957, only approximately 35 percent of all prime time entertainment program series offered by the NBC Television Network were programs which NBC produced or in which it had subsidiary rights or interests, such programs constituted 68 percent of all prime time entertainment program series offered by the NBC Television Network in November 1967.

As a result of this situation, which obtained on all three networks, the Federal Communications Commission ("FCC") promulgated rules which forbade NBC, CBS and ABC from exacting certain financial interests or syndication rights in television programs from independent producers. 47 C.F.R. §73.658(j). 4/ However, despite the FCC financial interest and syndication rules, NBC and the other networks continued to exact from producers such rights as: (1) long-term yearly renewal options for exclusive NBC network exhibition of the program with pre-set license fee escalation rates, (2) exclusive use of the program by NBC as against other communications markets,

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4/ Such rights and interests included distribution rights and profit shares for domestic and foreign syndication of the program, and for merchandising, music and literary rights.

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(3) exclusive rights in NBC with respect to program spinoffs, (4) creative program controls in NBC, (5) NBC's right to all profits from network exhibition of the producer's program, and (6) an NBC right of first refusal at the end of the option period. 5/

Were this case to go to trial, the Government would contend that NBC had used and continues to use its dominance and control over access to the broadcasting time of the NBC Television Network, to condition independent program suppliers' access to said network upon the suppliers' relinquishing valuable rights and interests in their programs, and that this course of conduct violates Sections 1 and 2 of the Sherman Act. The Government would also contend that NBC has favored programs in which it obtained such rights and interests over other programs, with the result that trade and commerce in NBC's prime time television entertainment programming has been illegally restrained and monopolized. Finally, the Government would contend that NBC's unrestricted ability to produce prime time television entertainment programming, together with its control over access to its television network and its past and present restrictive course of conduct, constitutes an unreasonable and unlawful restraint of independent program suppliers' ability to produce and negotiate for distribution and exhibition of their programming.

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5/ At the same time, similar practices are being followed by ABC and CBS with respect to programming on their networks. The existence of uniform terms and conditions of purchase among the three major networks acts to deprive independent program suppliers of the benefits of network competition for their programs. Moreover, the network practice of obtaining exclusive exhibition rights often occurs at a time when the program is in the idea or script stage and the program supplier has little or no bargaining power.

(3) The proposed consent judgment and its anticipated effect on competition.

The proposed judgment is directed at minimizing the substantial advantage NBC has acquired in television programming because of its market power as one of the three nationwide commercial networks, which not only purchase and exhibit but also produce television programs. The structure of the market is such that each of three networks controls program producers' and advertisers' access to the nation's commercial television audiences and each network has abused its power by refusing access to programs which it did not produce or in which it had no financial interest. Consequently, the only meaningful relief that can be obtained short of restructuring the networks is to limit network program production and restrict the program rights that each network may obtain from outside suppliers to the rights essential to networking, which are those incident to the right to exhibit the program. This the proposed NBC judgment seeks to do. It would establish specific outer limits on NBC's own program production and on the type of rights and interests which NBC may acquire from independent program suppliers in addition to the right of network exhibition. This should minimize NBC's incentive to select a program on the basis of financial interests in it. The judgment does not, of course, require independent program producers to grant to NBC particular rights and interests, even to the extent permitted. However, it is anticipated that because of the proposed judgment, the forces of competition would be able to operate more freely on NBC's program procurement practices.

The following is a discussion of the key provisions of the judgment:

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Section IV

The proposed judgment would enjoin NBC from acquiring syndication and other distribution rights or profit shares in the non-network exploitation of television entertainment programs produced by others, and would thereby permanently preserve the prohibitions in the FCC's financial interest and syndication rules. To prevent NBC from utilizing its inherent competitive advantage over other domestic syndicators, the proposed judgment would prohibit domestic syndication of programs by NBC but, consistent with the FCC's rules, would allow NBC produced programs and certain foreign programs to be distributed by NBC in foreign markets.

Section V

The judgment would enhance competition in television entertainment program production and exhibition by eliminating the possibility that NBC could substantially increase its internal production of its network programs and thereby exclude independent program suppliers. For a period of 10 years, it would limit the amount of television entertainment programming which may be produced by NBC to no more than: two and one-half hours per week in prime time hours 6/, eight hours per week in daytime hours (9:00 a.m. to 6:00 p.m. in the Eastern and Pacific time zones and 9:00 a.m. to 5:00 p.m. in the Central and Mountain time zones), and eleven hours per week in fringe hours (11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific time zones and 10:00 p.m. to 1:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Central and Mountain time zones). 7/ *

6/ For definition, see n. 2, supra at p. 3.

7/ NBC would also be allowed to produce two additional special programs every six months. NBC will report to the Department of Justice, semi-annually, its own program production during the preceding period.

* This provision would not take effect until similar relief is obtained against CBS and ABC. See discussion of Section VII, infra at p. 13.

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Section VI

The complaint alleges that NBC uses its control over access to its national television network to gain unfair competitive advantage in other fields. Section VI contains prohibitions designed to prevent this from occurring and to give those competing in such other fields an opportunity to compete free of the artificial leverage which NBC, and other networks, have exercised in the past. Because of the regulatory nature of many of the injunctions in Section VI, and the possibility of changes in the industry, the Department has determined that the prohibitions should contain the time limitations spelled out in this section (15 years for subsections (B), (C) and (E) and 10 years in subsections (D), (F), (G) and (H)).

VI(A)

The judgment would prohibit NBC from purchasing or offering to purchase exhibition rights to an independent program supplier's television entertainment program on condition that the supplier would grant NBC any right or interest other than those incident to network licensing and use of the program. This continuing injunction is based on the assumption that NBC, and the other two existing commercial television networks, will continue to have substantial market power for the foreseeable future.

VI(B)

To specifically clarify the scope of Section VI(A), this provision would assure that NBC would not, in connection with its acquisition of network exhibition rights, require that the supplier use NBC production facilities. It would expire in fifteen years.

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VI(C)

For a period of fifteen years, any facilities contract between NBC and such a program supplier would be limited to the period required to produce one year's episodes, with a right to renew the contract at the end of each year.*

VI(D)

To guard against NBC's possible avoidance of its program production limitation through reciprocal dealing with other networks, for a period of ten years, NBC would be prohibited from purchasing network exhibition rights to any CBS or ABC entertainment program on condition that CBS or ABC purchase similar rights from NBC.

VI(E)

For a period of fifteen years, the proposed judgment would place the following outer limits on the exclusive rights that NBC may acquire from an independent program supplier in obtaining network exhibition rights for a prime time entertainment program (the supplier can, of course, grant NBC fewer and lesser rights than these):

For program series:

(i) NBC's contracts with producers for the production and network exhibition of an entertainment program series could not include exclusive yearly options for more than four years, plus a single year's extension if the contract were renegotiated. To extend its exclusive network exhibition right beyond the initial five year term, NBC would have to negotiate a new contract at or near the end of the first contract, when the producer is able to offer the

* This provision would not take effect until similar relief is obtained against CBS and ABC.

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program to other networks or television stations. 8/ This provision is designed to restrict NBC's present ability to obtain exclusive rights to a program series for as long as seven years on terms and conditions set before the program has ever been developed.*

(ii) NBC could not prohibit the use of any prime time television program in other domestic communications markets for more than three years 9/, except that NBC may obtain four years of exclusivity as against non-prime time stripping (the broadcast of program series episodes more than once a week after their network exhibition) 10/, and may have exclusivity for prime time use of the program during the life of NBC's right to network exhibition. This provision should free a substantial number of entertainment program series for syndication and other uses much earlier than is currently possible.**

For theatrical feature films [VI(E)(iii)]:

(1) NBC cannot acquire exclusivity as against exhibition of feature films by theatrical and non-

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8/ NBC's permissible first refusal rights for new contracts, exercisable at the end of any contract term, could not prohibit the program supplier from entering into a new contract at the end of any contract term with someone else if the terms were equal to or better than the supplier's last offer to NBC.

9/ NBC presently has exclusive rights for the duration of its network exhibition contract.

10/ The judgment would not permit NBC to obtain further stripping rights from the supplier until after it has ordered its first year's episodes for network exhibition.

* This provision would not take effect until similar relief is obtained against CBS and ABC.

** To permit contract adjustments, this provision would take effect thirty days after entry of the final judgment.

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theatrical direct projection, on closed circuit TV in non-residential hotels, motels, bars, restaurants, and hospitals, or on passenger-carrying vehicles.

(2) NBC cannot acquire exclusivity against use of feature films in discs, cartridges or cassettes.

(3) NBC's exclusivity as against pay or subscription television cannot run more than thirty days prior to the first date, or extend beyond the last date, for which a feature film is available to NBC for broadcast. In no event can NBC's exclusivity exceed twenty-four months for two runs, and an additional twelve months for each subsequent run. This provision should not affect those situations where NBC does not now obtain such exclusivity for feature films, but would establish an upper limit to the exclusivity which NBC could obtain from other film suppliers while pay and subscription television are developing markets.**

VI(F)

Program selections for each network's new fall season are generally made in the preceding spring, and for "second season" replacement, in the preceding fall. For a period of ten years, this provision would prevent NBC from retaining its exclusive options to more than 35% of the program pilots not selected by it, after its NBC's program selection for the next broadcast season has been made. This provision would permit increased competition between the networks by freeing the producers of as many as 65% of the program pilots not selected by NBC to offer their pilots to other networks or television stations.*

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* This provision would not take effect until similar relief is obtained against CBS and ABC.

** To permit contract adjustments, this provision would take effect thirty days after entry of the final judgment.

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VI(G)

To protect independent program suppliers' rights to additional program ideas developed from program series on NBC, for a period of ten years, this provision would limit NBC's ability to obtain exclusive rights to spinoffs 11/ from such series to situations involving continuing characters. Where the spinoff involves a non-continuing character. 12/, NBC may obtain no contractual option beyond first negotiation and a limited first refusal right. 13/ *

VI(H)

This provision would limit NBC's use of repeats acquired as part of Network Exhibition, to the same year as that in which the initial episodes of the program series are broadcast. However, as to three episodes of each series per year, there would be no limitation on rerunning them in subsequent years. Also, once it had ordered program series episodes for the first year of broadcast, NBC could purchase additional repeats for subsequent years. Finally, NBC would not be limited in purchasing repeat rights of made-for-television and theatrical feature films, specials, or cartoons or other children's programs.*

Section VII

In order to avoid placing NBC at a competitive disadvantage with respect to CBS or ABC, this provision would delay

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11/ A spinoff is a new series evolving from an episode or character of a series currently being offered for broadcast.

12/ A non-continuing character is one who appears in no more than 25% of the original episodes during the twelve months prior to the time exhibition rights for the licensing of such spinoff are offered by the independent supplier.

13/ The first refusal right would be limited as discussed in n. 8, supra at p. 11.

* This provision would not take effect until similar relief is obtained against CBS and ABC.

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the effectuation of certain Sections of the judgment [V, VI(C), VI(E)(i) and VI(F)-(H)] until similar injunctive relief is obtained against CBS and ABC.

Section VIII

This provision describes certain areas of NBC activity with which the judgment would not interfere. They are: (1) NBC's ability to acquire rights for non-network broadcast by its owned and operated television stations and rights for non-broadcasting uses, and NBC's ability to sell, license or distribute foreign or NBC produced programs abroad, provided that none of the above rights are acquired in connection with NBC's acquisition of rights for the exhibition, distribution or use of an NBC television network program; and (2) NBC's ability to recover money advanced in connection with the development or production of a television network program.

Section IX

If a non-appealable judgment were entered dismissing either of the companion actions against CBS or ABC or decreeing injunctions different from those in this judgment, this provision would permit NBC to seek and obtain whatever relief, if any, was necessary to prevent it from being placed at a competitive disadvantage with respect to CBS or ABC. While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of the companion actions.

Section X

This provision would require NBC to furnish copies of this judgment to all its officers, directors, and appropriate employees and agents within thirty days after its entry, and for ten years thereafter to furnish copies to all new NBC officers, directors or appropriate employees, to each independent program supplier known to have offered any

entertainment program to NBC within the preceding five years, and to all known providers of television production facilities.

The consent judgment would afford ways of determining compliance by permitting the Government, upon proper notice, to interview NBC employees, secure reports from NBC and inspect NBC documents and records.

The District Court would retain jurisdiction of the case to permit any necessary construction or modification of the judgment, to enforce compliance and to punish any judgment violation.

(4) Remedies available to potential private plaintiffs.

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages, and any other legal or equitable relief to which they would have been entitled were the proposed judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. §16(a).

(5) Procedures available for modification of the proposed consent judgment.

The proposed consent judgment is subject to a stipulation between the United States and the defendant which provides that the United States may withdraw its consent to the proposed consent judgment at any time before the Court has found that entry of the judgment is in the public interest. By its terms, jurisdiction of this action is retained by the Court in order, among other things, to permit either of the parties to apply for such orders as may be necessary or appropriate for its modification.

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As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, during the sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Bernard M. Hollander, Chief, Judgments and Judgment Enforcement Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the Federal Register such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

(6) Alternatives to the Proposed Judgment considered by the United States.

A full trial on the merits was considered as an alternative to settlement. However, because the agreed to relief would be substantially equivalent to that sought in the complaint, because significant relief would become effective upon entry of the judgment, and finally because appeals following a trial could delay the obtaining of effective relief for a period of years, the alternative of a trial on the merits was rejected.

In addition to considering provisions substantially similar to those contained in the proposed judgment, proposals considered by the Government and then rejected included the following:

(a) A provision permanently prohibiting NBC from producing any television entertainment program for network exhibition was sought in the complaint. The compromise reached in Section V of the judgment would limit for ten years NBC's production of television entertainment

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programs for its network use, not only during prime time, but also during daytime or fringe hours. A ten year prohibition was considered appropriate because of uncertainty as to the structure, practices and technology of the industry ten years hence. Also considered was a mandatory Court hearing after eight or ten years to determine whether the production limitation should be continued. However, because of the difficulty in establishing which party would have what burden and what standard the Court should apply in such a hearing, the proposal was withdrawn, although either party can, of course, still apply for a modification of this provision under Section XII of the final judgment, if necessary. While the Government at trial would have sought a complete prohibition of television entertainment program production by NBC, this judgment provides substantial relief which will prevent NBC from foreclosing significant amounts of independently produced programming from its television network.

(b) Section VI(E)(i) was the subject of intense negotiation between the parties. Although not specifically requested in the complaint, an important element of the proposed judgment is the initial limitation to four, of the yearly options obtainable by NBC when it contracts for production and possible exhibition of a new program series. The Government initially proposed a two year limit on the option period, and various compromises were considered, including

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a proposal for basing program license fees upon program popularity, which was discarded as unworkable and inappropriate. The Government believes that the relief provided would be substantial.

In addition, the parties considered the type of first refusal right, if any, that NBC should be able to acquire for use at the end of an option term. NBC has sometimes acquired a contractual right to meet any offer for a program by another network, even after its own negotiations with the producer had ended. To prevent NBC from acquiring a right which could dissuade other networks from bidding for programs, its first refusal right would be limited as set forth in Section VI(E)(i).

(c) As to Section VI(F), the Government initially proposed a six month limit on all first year pick-up options for program series based on program pilots. Presently, these program pilots may be held by NBC for a year or longer after the series has been rejected. The compromise reached is acceptable because it would allow producers of almost two-thirds of the programs submitted but not selected to be able to offer them to other networks or television stations.

(d) A provision banning the production of NBC entertainment programs at NBC facilities was considered by the Government because of allegations that NBC had conditioned access to its network upon independent program

suppliers' agreement to use its production facilities. However, the Government is convinced that the relief prescribed in Sections VI(A)-(C), which would prohibit such conditioning and impose one year limitations on all NBC facilities contracts with program suppliers, is sufficient to prevent any such anticompetitive conduct by NBC.

(e) During the negotiations, the Government proposed a provision banning the sale of advertising on one NBC network program which was conditioned on the advertiser's also purchasing advertising on another NBC network program. The provision would not have prohibited the sale of advertising participations in packages, which is the method by which most advertisers presently purchase commercial time from the networks. After further negotiations, the Government concluded that the proposed provision was unnecessary because any illegal conditioning could be attacked in another action.

(f) Plaintiff determined during pretrial discovery that NBC's exclusive rights with respect to theatrical feature films as against pay and subscription television should be curtailed. It was first proposed that NBC be permitted such exclusivity for only 45 days before and after each network exhibition date of a feature film, or that NBC's exclusivity begin 60 days prior to the initial network exhibition and continue

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for 15-18 months. The compromise reached - an upper limit on NBC's exclusivity extending from 30 days prior to first availability date and lasting no longer than 24 months - was accepted by the Government since it would eliminate the practice whereby NBC has, in some instances, obtained exclusivity for several years from the date of the contract until the conclusion of the network run. Section VI(E)(iii) will not, of course, prevent certain theatrical feature film distributors from continuing to deny NBC any exclusive rights as they have done in the past; it merely establishes outer limits on the exclusive rights NBC may acquire. The provision should, however, eliminate any possibility that NBC can "warehouse" feature films for a number of years before exhibiting them on network television, thereby preventing their exhibition in the developing pay television market.

(g) Initially, plaintiff sought a provision which would have prohibited NBC from purchasing a network exhibition right to any entertainment program which was conditioned by the supplier upon NBC's agreement to purchase another entertainment program. After consideration of the provision, however, it was determined that this relief was not appropriate in this action.

(h) As to Section VI(H), the Government sought a specific limit on the number of repeats

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of program series episodes which could be purchased by NBC in connection with its acquisition of first run Network Exhibition rights. However, it was determined more desirable to limit the years in which such repeats could be used, and to allow market forces to establish the number of repeats which could be purchased.

Finally, had the Government prevailed at a trial on the merits, it would have considered seeking a Court order voiding NBC's existing contracts with independent program suppliers and providing an opportunity for all such suppliers to negotiate new contracts in light of the then-existing circumstances.

(7) Determinative Documents.

There are no materials or documents which the Government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement.

Dated: November 17, 1976

BERNARD M. HOLLANDER

BARRY J. KAPLAN

BERNARD J. O'REILLY

GEORGE W. SELBY

KEVIN R. SULLIVAN

/s/ POLLY L. FRENKEL
POLLY L. FRENKEL

Attorneys, Department of Justice

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[FR Doc.76-34676 Filed 11-23-76;8:45 am]

federal register

WEDNESDAY, NOVEMBER 24, 1976

PART VI:

NATIONAL TRANSPORTATION SAFETY BOARD

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PRIVACY ACT OF 1974

Systems of Records

NATIONAL TRANSPORTATION SAFETY BOARD

PRIVACY ACT OF 1974

Annual Notice of Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4), the National Transportation Safety Board republishes notice of the maintenance of the following systems of records:

NTSB—1 Claimants under Federal Tort Claims Act
NTSB—2 Personnel Nonpermanent Records
NTSB—3 Security Records
NTSB—4 Travel Records of Employees
NTSB—5 Reports of Employees' Financial Interests and Outside Employment
NTSB—6 Employee Payroll, Leave, and Attendance Records
NTSB—7 Equal Employment Opportunity Complaint Records
NTSB—8 Privacy Act Request Records
NTSB—9 Employee Locator Cards
NTSB—10 Disciplinary Action, Adverse Action, Grievance and Appeal Files
NTSB—11 Parking Permit Records

The systems of records and proposed routine uses thereof, identified above as NTSB—1, NTSB—2, NTSB—3, NTSB—4, NTSB—5, and NTSB—6, were adopted and published by the Board in the Federal Register at 40 FR 44529.

The systems of records and proposed routine uses, identified above as "NTSB—7 and NTSB—8"; "NTSB—9 and NTSB—10"; and "NTSB—11" were published in the Federal Register at 40 FR 44301, 41 FR 12626, and 41 FR 16929, respectively. Public comment was invited but none was received. The Board now adopts these systems of records.

Some minor changes, such as revision of organizational titles and grammatical and typographical corrections, which do not require public comment, are reflected in this notice.

One change which requires public comment under 5 U.S.C. 552a(e)(11) is made herein. The change reflected in this notice for systmes of records NTSB—3, NTSB—7, and NTSB—8 proposes inclusion of routine uses for law enforcement referral and discovery ordered by a court. Accordingly, public comment is invited on these additional routine uses which concern Security Records, Equal Employment Opportunity Complaint Records, and Privacy Act Request Records systems of records. Comments should be submitted on or before December 27, 1976 to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington D.C. 20594. These routine uses will become effective December 27, 1976 unless the Board publishes notice to the contrary.

Approved by the National Transportation Safety Board at Washington, D.C. this 12th day of November, 1976.

Webster B. Todd, Jr.,
Chairman.

PREFATORY STATEMENT OF GENERAL ROUTINE USES

Except as noted above, the following previously published routine uses apply to and are incorporated by reference into each system of records set forth below:

1. Referral to law enforcement agencies of violations of the law.
2. Disclosure for discovery purposes ordered by a court.
3. Disclosure to a congressional office of the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

NTSB—1

System name: Claimants under Federal Tort Claims Act—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Persons with claims against the Government for damage to or loss of property, or personal injury or death, caused by the negligent or wrongful act or omission of any NTSB employee acting within the scope of his employment (provided that any award, compromise, or settlement in excess of twenty-five thousand dollars may be effected ony with the prior written approval of the Attorney General of his designee).

Categories of records in the system: Contains claim, subrogations, legal opinion as to liability of the Government with respect to the claim, final determination, and supporting receipts.

Authority for maintenance of the system: Tort Claims Procedure, 28 U.S.C. 2671.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to establish liability and the amount of such liability. Routine use includes, but is not limited to, referral to potential employers and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is maintained on an 8 1/2- by 10 1/2-inch form.

Retrievability: Indexed by name.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are manually kept and are retained for one year after disposition of the claim and then sent to the Federal Records Center, NARS, where they are retained for at least six years.

System manager(s) and address:

Comptroller
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Claimant and employee or employees of the Government involved in the claim and witnesses to the incident or accident.

NTSB—2

System name: Personnel Nonpermanent Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees of NTSB.

Categories of records in the system: Personnel nonpermanent records not required to be kept by CSC, usually of a personal nature.

Authority for maintenance of the system: 5 U.S.C. 301 et seq., implemented by 5 CFR Part 293.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to carry out authorized personnel programs, such as promotions. Routine use includes, but is not limited to, referral to potential employers and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in SF 66, on left-hand side of folder.

Retrievability: Indexed by name.

Safeguards: Records are kept in locked cabinets.

Retention and disposal: Records are manually kept and are retained until individual's employment at NTSB terminates, at which time the records are destroyed.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Working papers developed during course of employment; e.g., from supervisors, including performance evaluation, letters of commendation, and ducuments which are not permanently retained.

NTSB—3

System name: Security Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees, prospective employees, and potential contractors.

Categories of records in the system: Matters pertaining to loyalty qualifications of the individuals—loyalty checks, character evaluations, crimes, past employment records, military service—investigated by NTSB and other agencies such as FBI, DOD, or CSC.

Authority for maintenance of the system: Executive Order 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to determine qualification of an individual for employment by NTSB, or as a contractor with NTSB; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is stored in 9- by 12-inch file folders.

Retrievability: Information is indexed by name.

Safeguards: Records are maintained in locked cabinets or safes.

Retention and disposal: Records are kept manually and are retained by NTSB while the individual is employed by NTSB or is under contract with NTSB. Thereafter, that portion of the records representing information originating from NTSB investigation is destroyed. Investigation reports of other agencies are returned to the originating agency.

System manager(s) and address:

Personnel Officer
Director, Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Loyalty checks, inquiries, NTSB field investigation reports, and other reports of NTSB and other Government agencies.

Systems exempted from certain provisions of the act: Security Record. System is partially exempt from the privacy Act of 1974 (5 U.S.C. 552a(k)) and NTSB regulation 49 CFR Part 802 (40 FR 40134).

NTSB—4

System name: Travel Records of Employees—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees who have traveled pursuant to authorized official business of NTSB.

Categories of records in the system: Travel vouchers, which include, e.g., hotel bills, commercial car rentals, meals, telephones, mileage allowances, and training.

Authority for maintenance of the system: Travel Expense Amendments Act of 1975 (Pub. L. 94-22).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Vouchers are used to determine amounts to be paid to an employee for authorized and official travel for NTSB. Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is maintained on an 8 1/2- by 10 1/2-inch form.

Retrievability: Indexed by name.

Safeguards: Records are naintained in files with locks.

Retention and disposal: Records are manually kept and are maintained by NTSB for one year after payment of allowable travel espenses to employee. Thereafter, they are sent to the Federal Records Center, NARS, where they are retained for at least six years.

System manager(s) and address:

Comptroller
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Employee submitting vouchers.

NTSB—5

System name: Reports of Employees' Financial Interests and Outside Employment.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594.

Categories of individuals covered by the system: NTSB employees.

Categories of records in the system: Confidential statements of financial interests and outside employment required of certain employees. The statements set forth the financial interests of the employees and members of their immediate families and specify the employment of the members of the immediate family or any other employment of the NTSB employees involved.

Authority for maintenance of the system: 5 CFR Part 735 (Federal Personnel Manual), implemented by 49 CFR Part 805.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by authorized personnel for ascertaining conflicts or apparent conflicts of interest and for recommending appropriate action to NTSB employees. In the event of a violation or potential violation of law, whether civil, criminal, or regulatory, the records may be referred to the appropriate agency. Routine use includes, but is not limited to, referral to potential employers and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on 8 1/2- by 10 1/2-inch forms kept in a manila folder.

Retrievability: Indexed alphabetically by name.

Safeguards: Records are stored in a locked safe.

Retention and disposal: Records are manually kept during employment of the individual and then destroyed.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: NTSB employees.

NTSB—6

System name: Employee Payroll, Leave, and Attendance Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: NTSB employees.

Categories of records in the system: Manual files and computer-retrievable data containing payroll-related information covering NTSB employees. Payroll, leave, and attendance records include records or information also maintained in the employees' Personnel Nonpermanent Records and related files kept in accordance with Civil Service Commission regulations and noticed by the Commission in its governmentwide systems of personnel records. Payroll and related information consists of various forms and computer-retrievable data which discloses on a biweekly, year-to-date, and/or annual basis, payroll and leave data for each NTSB employee. This data relates to the rate and amount of pay, leave, hours worked, and leave balances. It also includes tax and retirement deductions, life insurance and health deductions, savings allotments, savings bond and charity deductions, mailing addresses, and home addresses.

Authority for maintenance of the system: Federal Personnel Manual and Treasury Fiscal Requirements Manual; and Pub. L. 93-633, 88 Stat. 2168 (sec. 303(c)(3) of the Independent Safety Board Act of 1974, 49 U.S.C. 1902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For preparation of payroll, to fulfill Government payroll recordkeeping and reporting requirements, and to retrieve and supply payroll and leave information as required for NTSB needs. Other routine uses for certain records are specified in the Civil Service Commission notice: "C.S.C.—General Personnel Records (Official Personnel Folder and records related thereto)." Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Storage for NTSB is maintained by the Federal Highway Administration (FHWA), 400 7th Street, SW., Washington, D.C. 20590.

Retrievability: Time cards are machine-printed, 7 1/2- by 3 1/2-inch cards (FHWA Form 320A); tapes are standard 2,400-foot IBM tapes.

Safeguards: There are no safeguards for the time cards. The tapes, however, are maintained in the computer center and access is permitted only to certain specified FHWA employees or appropriate employees of contractor agencies.

Retention and disposal: The time cards are maintained in the office for the current and prior year and are thereafter sent to the Federal Records Center in St. Louis. The tapes are retained, based on the cycle of the particular system. The disposal occurs when the cycle ends. The tapes are kept by employee number, which is a number assigned to the employee on hiring.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: NTSB employees.

NTSB—7

System name: Equal Employment Opportunity Complaint Records—NTSB.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees of NTSB or job applicants who file complaints of discrimination with NTSB.

Categories of records in the system: Investigative files pertaining to equal employment opportunity complaints and problems.

Authority for maintenance of the system: Executive Order 11478; Pub. L. 92-261; Civil Service Regulations (5 CFR Part 713); Federal Personnel Manual, Chapter 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Equal Employment Opportunity Officer, EEO counselors, investigators, and other agency employees and their representatives where appropriate to resolve discrimination complaints. When appeals are taken, may be reviewed by officials of the Civil Service Commission's Board of Appeals and Review; officers of the courts, and attorneys for the parties; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual file folders.

Retrievability: Indexed by name of complainants.

Safeguards: Folders are located in lockable, metal file cabinets to which access is controlled by an NTSB employee.

Retention and disposal: Files are retained and disposed of in accordance with general records disposal schedules prescribed by the General Services Administration.

System manager(s) and address:

Bureau of Administration
Equal Employment Opportunity Officer
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Persons filing complaints, their representatives, EEO officials, and persons affected by or having an involvement in the area covered by the complaint.

NTSB—8

System name: Privacy Act Request Records—NTSB.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Individuals who have requested personal information from the records systems of the Safety Board.

Categories of records in the system: Requests from the individual, and related correspondence and memoranda.

Authority for maintenance of the system: 5 U.S.C. 552a, sec. 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by NTSB employees to record and efficiently process requests made under the Privacy Act of 1974. Users are each system manager for a record system covered by the Privacy Act, and those employees under his supervision who maintain and control the files for which a request is made under the provisions of the Act; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual file folders.

Retrievability: Indexed by name of requester.

Safeguards: Folders are located in lockable, metal file cabinets to which access is controlled by an NTSB employee assigned such responsibility.

Retention and disposal: Files are retained and disposed of in accordance with general records disposal schedules prescribed by the General Services Administration.

System manager(s) and address:

Director, Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Proeedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Individuals requesting access to records and employees processing such requests.

NTSB—9

System name: Employee Locator Cards—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: All employees of NTSB.

Categories of records in the system: Employee names, office locations and telephone extensions, home addresses and telephone numbers, and names of persons and telephone numbers used for notification in the event of emergency.

Authority for maintenance of the system: Pub. L. 93-633 and Title 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Operations and Facilities Division to provide information to the public by telephone concerning office location and office telephone extension of NTSB employees and to provide information to supervisors and other management officials of employees' home telephones or addresses in the event of official or personal emergencies. Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on cards.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Records are maintained in lockable, metal file cabinets to which access is controlled by an NTSB employee.

Retention and disposal: Files are destroyed when an individual's employment terminates.

System manager(s) and address:

Office Services Manager
Operations Facilities Division
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: NTSB employees whose names appear in the records system.

NTSB—10

System name: Disciplinary Action, Adverse Action, Grievance and Appeal Files—NTSB

System location:

Office of Personnel
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees against whom disciplinary or adverse actions are taken by NTSB or who appeal such actions or file grievances.

Categories of records in the system: Case files showing all pertinent records relating to employee disciplinary actions, adverse actions, grievances, and appeals.

Authority for maintenance of the system: 5 U.S.C. 7501, 7511, 7512, 7521, 7531, 7532, 7533, and 7701, as implemented by 5 CFR Parts 752, 771, and 772.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide an official file on actions cited above for use of agency, concerned employees and their representatives, and appellate bodies in connection with determination of disciplinary actions, adverse actions, grievances, and appeals before the NTSB and the Civil Service Commission. Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual file folders indexed by name of employee against whom action is proposed or taken, or by whom appeal is filed.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Folders are located in lockable, metal file cabinets to which access is controlled by an NTSB employee.

Retention and disposal: Files are retained and disposed of in accordance with general records disposal schedules prescribed by the General Services Administration.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Supervisors or management officials initiating or acting on adverse personnel actions against employees and their representatives, personnel investigators, hearing officers or administrative law judges, affected employees and their representatives, and other persons affected by or having an involvement in the action proposed or taken.

NTSB—11

System name: Parking Permit Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: NTSB employees who have applied for or who have been issued parking permits.

Categories of records in the system: Application cards containing information on permit applicant and members of his car pool, if any.

Authority for maintenance of the system: Pub. L. 93-633.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to determine whether or not an employee is entitled to, or possesses, a parking permit. Routine use includes, but is not limited to, referral to potential employers, also, and for security clearance; also, see routine uses in Prefatory Statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on 5 by 10 inch cards.

Retrievability: Indexed by name of permit holder.

Safeguards: Maintained in a locked cabinet.

Retention and disposal: Records are maintained while employee holds a parking permit. Record is destroyed when employee no longer has parking permit.

System manager(s) and address:

Office Services Manager
Operations and Facilities Division
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Information provided by employees desiring parking permits.

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