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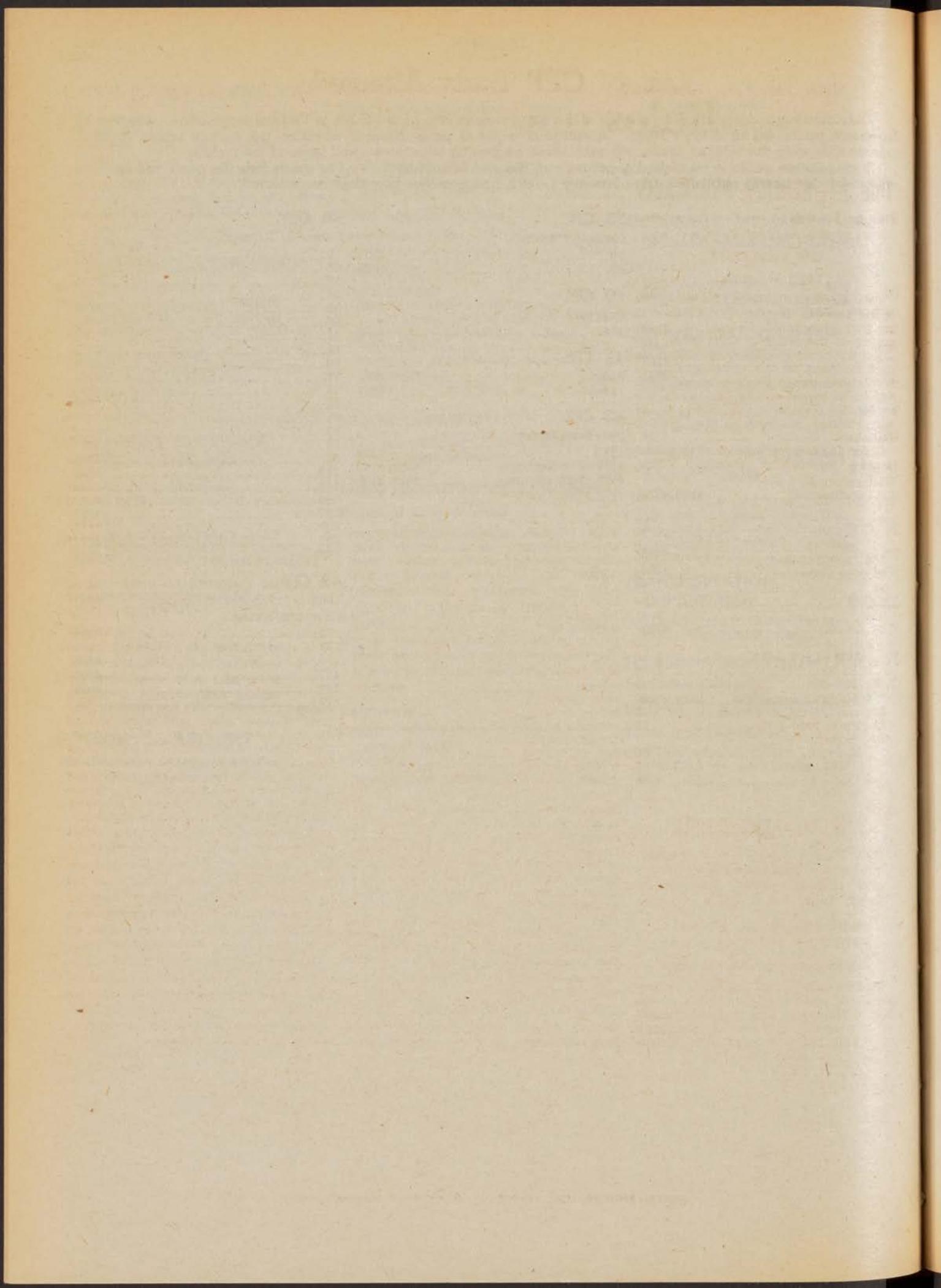
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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

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# Rules and Regulations

## Title 1—GENERAL PROVISIONS

### Chapter I—Administrative Committee of the Federal Register

#### CFR CHECKLIST

#### 1972 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes of the Code of Federal Regulations issued to date during 1972. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

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

CFR unit (Rev. as of Jan. 1, 1972):

Title	Price
6	\$0.35
7	3.25
16 Part 52	2.00
21 Part 300-end	.60
22	1.75
23	.55
25	1.75
26 Parts:	
1 (§§ 1.301-1.400)	1.00
1 (§§ 1.401-1.500)	1.50
30-39	1.50
500-599	1.75
600-end	.60
27	.45
32 Parts 1000-1399	.75
49 Parts:	
1-99	.60
1200-1299	3.00
1300-end	1.25

## Title 7—AGRICULTURE

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

#### PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

#### Nominations for Membership

On February 2, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 2515) regarding a proposed revision of paragraph (a) of § 993.128 of Subpart—Administra-

tive rules and regulations (7 CFR 993.101-993.174; 36 F.R. 15039). The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Interested persons were given 7 days in which to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

The notice pertained to revision of the boundaries of six of the seven independent producer election districts set forth in § 993.128(a). The election districts are for the purpose of obtaining nominations for producer members to represent independent producers on the Prune Administrative Committee.

Section 993.28(a) of the order provides, in part, that for the purpose of obtaining nominations for producer members to represent independent producers, the Committee shall, with the approval of the Secretary divide the area into districts giving, insofar as practicable, equal representation to numbers of independent producers and production of prune tonnage by such producers. The proposed revision of the boundaries of the independent producer election districts set forth in § 993.128(a) was recommended by the Committee in accordance with § 993.28(a). In proposing revision of the boundaries, the Committee gave equal consideration to the number of independent producers and the tonnage of prunes produced by such producers, in each of the proposed districts.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Prune Administrative Committee, and other available information, it is found that, for the purpose of obtaining nominations for producer members to represent independent producers, the division of the area into the districts as hereinafter set forth, gives, insofar as practicable, equal representation to numbers of independent producers and production of prune tonnage by such producers; and such division is hereby approved.

It is therefore ordered, That § 993.128 (a) of Subpart—Administrative Rules and Regulations (7 CFR Part 993.101-

993.174; 36 F.R. 15039) is revised to read as follows:

#### § 993.128 Nominations for membership.

(a) *Districts.* In accordance with the provisions of § 993.28, the districts referred to therein are described as follows:

*District No. 1.* That portion of Sutter County south of a line extending along Nuestro Road, easterly to the Yuba County line and westerly to the Colusa County line.

*District No. 2.* The county of Butte, and all that portion of Sutter County not included in District No. 1.

*District No. 3.* The counties of Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, Siskiyou, Sonoma, and Trinity.

*District No. 4.* The counties of Alameda, Contra Costa, San Francisco, San Mateo, Santa Cruz, Solano, and that portion of Santa Clara County north of a straight line extending along Miramonte Avenue, north-easterly to the Stanislaus County line, and south-westerly to the Santa Cruz County line.

*District No. 5.* The counties of Monterey, San Benito, and all that portion of Santa Clara County not included in District No. 4.

*District No. 6.* The counties of Amador, Fresno, Merced, Placer, Sacramento, San Joaquin, San Luis Obispo, Stanislaus, Tulare, Yuba, and all the counties in the area not included in District Nos. 1 through 5, inclusive, and in District No. 7.

*District No. 7.* The counties of Colusa, Glenn, Shasta, Tehama, and Yolo.

It is found that good cause exists for making this action effective promptly and for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) In accordance with § 993.128(b) of the administrative rules and regulations, meetings are to be held prior to March 8 in the various election districts for the purpose of obtaining names of proposed candidates for nomination to the Secretary for selection as members and alternate members for the respective districts; (2) independent producers should know in which districts their orchards are located and which nomination meetings to attend; (3) further, the names of such candidates are required to be mailed on a ballot to each independent producer of record in the appropriate district prior to March 15; (4) this action imposes no restrictions on handlers; and (5) no useful purpose would be served by postponing the effective time beyond publication in the FEDERAL REGISTER.

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

Dated February 24, 1972, to become effective upon publication in the FEDERAL REGISTER (3-1-72).

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

[FR Doc.72-3054 Filed 2-29-72;8:51 am]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

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

#### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

#### PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

##### Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1972 ed.), as amended February 1, 1972 (37 F.R. 2430) and February 16, 1972 (37 F.R. 3410), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

#### OUTSIDE METROPOLITAN AREA FOUR HOURS

Add: Sea-Tac Airport (when served from Mount Vernon, Washington).

Add: Anchorage, Alaska (when served from Palmer, Alaska).

(64 Stat. 561; 7 U.S.C. 2260)

**Effective date.** The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (3-1-72).

These commuted travel time periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Service.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found

for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of February 1972.

E. E. SAULMAN,  
Deputy Administrator, Veterinary Services, Animal and Plant Health Service.

[FR Doc.72-3081 Filed 2-29-72;8:53 am]

## Title 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket No. C-2136]

#### PART 13—PROHIBITED TRADE PRACTICES

Bill Pierre Ford, Inc., and  
William H. Pierre

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 *Truth in Lending Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-95 *Truth in Lending Act*; § 13.1905 *Terms and conditions*: 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Bill Pierre Ford, Inc., et al., Seattle, Wash., Docket No. 2136, Jan. 17, 1972]

*In the Matter of Bill Pierre Ford, Inc., a Corporation, and William H. Pierre, Individually and as an Officer of Said Corporation*

Consent order requiring a Seattle, Wash., seller of new and used automobiles to cease violating the Truth in Lending Act by failing to make all consumer credit disclosures required by Regulation Z of the Act and failing to maintain for at least 2 years documents relating to each vehicle purchased.

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

*It is ordered*, That respondents Bill Pierre Ford, Inc., a corporation, and William H. Pierre, individually and as an officer of said corporation, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporate or other device, in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to make disclosures to customers prior to consummation of the transaction, as required by § 226.8(a) of Regulation Z.

2. Engaging in any consumer credit transaction or disseminating any advertisement within the meaning of Regulation Z of the Truth in Lending Act without making all disclosures that are required by §§ 226.6, 226.7, 226.8, and 226.10 in the amount, manner, and form specified therein.

3. Failing to preserve and maintain for a period of not less than 2 years from the date of preparation, each buyer's order, purchase order, or other paper signed, initialed, or orally agreed to by a vehicle purchaser which sets out any terms, provisions or conditions of sale of a motor vehicle.

*It is further ordered*, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

*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 effect compliance obligations arising out of the order.

*It is further ordered*, That the respondents 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 the order to cease and desist contained herein.

Issued: January 17, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3030 Filed 2-29-72;8:49 am]

[Docket No. C-2126]

#### PART 13—PROHIBITED TRADE PRACTICES

English Cards, Ltd., et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception*: 13.1055-50 *Preticketing merchandise misleadingly*. Subpart—Misrepresenting oneself and goods—Prices: § 13.1811 *Fictitious preticketing*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, English Cards, Ltd., et al., New York, N.Y., Docket No. 2126, Jan. 3, 1972]

*In the Matter of English Cards, Ltd., a Corporation, and Irving Epstein, Also Known as Irving Evans, Individually and as an Officer of Said Corporation*

Consent order requiring New York City wholesalers and retailers of greeting cards to cease preticketing their merchandise or furnishing others the means to mislead purchasers as to the prices of respondents' products.

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

It is ordered, That respondents English Cards, Ltd., a corporation, and its officers, and Irving Epstein, also known as Irving Evans, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of greeting cards, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating or distributing any purported retail selling price for respondents' merchandise or preticketing respondents' merchandise with such price amount unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting, in any manner, the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled or deceived as to the retail prices of respondents' products.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.

Issued: January 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3031 Filed 2-29-72;8:50 am]

[Docket No. C-2125]

**PART 13—PROHIBITED TRADE PRACTICES**

**Garrison Printing Division, Inc., and Carrie W. Garrison**

Subpart—Furnishing means and instrumentalities of misrepresentation or

deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception*: 13.1055-50 Preticketing merchandise misleadingly. Subpart—Misrepresenting oneself and goods—Prices: § 13.1811 *Fictitious preticketing*.

(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) [Cease and desist order, Garrison Printing Division, Inc., et al., Bennington, Vt., Docket No. C-2125, Jan. 3, 1972]

*In the Matter of Garrison Printing Division, Inc., a Corporation, and Carrie W. Garrison Individually and as an Officer of Said Corporation*

Consent order requiring Bennington, Vt., wholesalers and retailers of greeting cards to cease preticketing their merchandise or furnishing others the means to mislead purchasers as to the prices of respondents' products.

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

It is ordered, That respondents Garrison Printing Division, Inc., a corporation, and its officers, and Carrie W. Garrison, individually and as an officer of said corporation, and respondents' agents representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of greeting cards or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating or distributing any purported retail selling price for respondents' merchandise or preticketing respondents' merchandise with such price amount unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting, in any manner, the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled or deceived as to the retail prices of respondents' products.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.

Issued: January 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3032 Filed 2-29-72;8:50 am]

[Docket No. 2137]

**PART 13—PROHIBITED TRADE PRACTICES**

**Gates Rubber Co.**

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Cease and desist order, The Gates Rubber Co., Denver, Colo., Docket No. C-2137, Jan. 21, 1972]

*In the Matter of The Gates Rubber Co., a Corporation*

Consent order requiring the nation's largest manufacturer of rubber belts and hoses with headquarters in Denver, Colo., to divest itself within 1 year of all assets and properties of Porter's Nephi Works located in Nephi, Utah, to an independent party as a going business and cease and desist for a period of 5 years from employing any management or sales personnel of the divested company.

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

For purposes of this order, "respondent" means The Gates Rubber Co., its subsidiaries, successors, and assigns to any substantial portion of its assets; and "Porter's Nephi Works" means all assets acquired by respondent from H. K. Porter Co., Inc., by contract of March 16, 1970, which is hereby referred to, including, but not restrictively, all fixed assets, finished goods, work in process, supplies, prepaid items, trademarks, trade names, patents, patent applications and licenses, customer lists, specifications, drawings, formulae, inventions, trade secrets, and books and records applicable to operations of the acquired business and, where appropriate, as in the case of inventory, a substantial equivalent of any such assets as may no longer be in existence or in respondent's possession.

I. It is ordered, That respondent as soon as possible, and in any event within twelve (12) months from the effective date of this order, shall divest itself of Porter's Nephi Works, together with all additions and improvements thereto, absolutely and in good faith to a purchaser approved in advance by the Federal Trade Commission so as to transfer Porter's Nephi Works as a going business and a viable competitive entity in the markets for those products it was manufacturing and distributing when acquired by respondent.

II. It is further ordered, That none of the assets described in the preamble to this order shall be sold or transferred, directly or indirectly, to any person who is at the time or has been at any time during the 1 year period preceding or the 1 year period following the effective date of this order an officer, director, employee, or agent of, or under the control or direction of, respondent or any of respondent's subsidiary or affiliated corporations, or any person who owns or

controls or has owned or controlled, directly or indirectly, more than one percent (1%) of the outstanding capital shares of respondent.

III. *It is further ordered*, That pending divestiture respondent shall not cause or permit any deterioration in any of the assets to be divested which may impair their present capacity or market value.

IV. *It is further ordered*, That respondent shall do everything within its power to assure that the business operations to be divested will be properly staffed and, in particular, that all available means will be used by respondent to assist the acquirer in retaining, rehiring, or replacing management and such other personnel, including sales representatives, as were employed to operate the business when it was acquired by respondent; and that respondent shall terminate its own employment of, and will cease and desist for a period of five (5) years from the date of this order from the hiring of, any management or other personnel, including sales representatives, in the employ of H. K. Porter Co., Inc. (Thermoid Division) in capacities related to Porter's Nephi Works at any time within the year preceding March 16, 1970.

V. *It is further ordered*, That commencing thirty (30) days after the effective date of divestiture, and continuing for a period ending three (3) years from and after the date of completing the divestiture required by this order, respondent shall cease and desist from the sale of rubber belts, rubber belting, rubber hose and rubber hosing to any firm which purchased \$1,000 or more of any such products manufactured by Porter's Nephi Works, excluding conveyor or flat transmission belting, at any time during the last full fiscal year before Nephi's acquisition by respondent; provided, nevertheless, that nothing herein contained shall prevent respondent from soliciting the purchase of any such products by any firm which bought \$1,000 or more of such products, excluding conveyor or flat transmission belting, from respondent both during the fiscal year before said acquisition and the next fiscal year after said acquisition. A list of such firms to which the foregoing provision applies, contained in a certain letter of representation, as amended, from The Gates Rubber Co. to the Federal Trade Commission and accepted by the Commission's staff, shall be presumed correct, subject to subsequent correction in the event of any mistakes therein.

VI. *It is further ordered*, That commencing on the effective date of this order and continuing for a period of ten (10) years from and after the date of completing the divestiture required by this order, respondent shall cease and desist from entering into any arrangement by which respondent acquires, directly or indirectly, through subsidiaries, joint ventures or otherwise, without prior approval of the Federal Trade Commission, the whole or any part of the stock,

share capital or assets or any warrant, option or other right to acquire any share capital or assets or other equity interest or right to participate in earnings of any concern, corporate or non-corporate, engaged in domestic commerce, whether interstate or intrastate, and in the manufacture, sale or distribution of rubber belts, rubber belting, rubber hose or rubber hosing; nor shall respondent enter into any arrangement with any such concern by which respondent obtains the market share, in whole or in part, of such concern in the above-mentioned product lines.

VII. *It is further ordered*, That respondent shall within ninety (90) days from the effective date of this order and every ninety (90) days thereafter until respondent has fully complied with the provisions of paragraph I of this order, and every one hundred and eighty (180) days until respondent has fully complied with the provisions of paragraph V of this order, submit to the Federal Trade Commission a detailed written report of its actions, plans, and progress in complying with paragraphs I through V of this order and fulfilling their objectives.

VIII. *It is further ordered*, That respondent shall notify the Federal Trade Commission at least thirty (30) days in advance of any proposed change in respondent's constitution or operations which might affect any of the obligations arising out of this order.

Issued: January 21, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 72-3033 Filed 2-29-72; 8:50 am]

[Docket No. C-2131]

#### PART 13—PROHIBITED TRADE PRACTICES

##### John H. Jeffcoat and Jeffcoat Motors

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*: 13.155-95 *Terms and conditions*: 13.155-95(a) *Truth in Lending Act*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 *Truth in Lending Act*; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13.1823-20 *Truth in Lending Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 *Truth in Lending Act*; § 13.1905 *Terms and conditions*: 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, John H. Jeffcoat et al., Docket No. C-2131, Memphis, Tenn., Jan. 12, 1972]

##### *In the Matter of John H. Jeffcoat, Individually and Doing Business as Jeffcoat Motors*

Consent order requiring a Memphis, Tenn., seller of used automobiles to cease violating the Truth in Lending Act by failing to disclose in his credit transactions the "annual percentage rate," "total of payments," "finance charge," "deferred payment price," the method of computing delinquency charges, and other disclosures required by Regulation Z of said Act.

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

*It is ordered*, That respondent John H. Jeffcoat, individually and trading and doing business as Jeffcoat Motors, and respondent's agents, representatives, and employees directly or through any corporate or other device, in connection with any extension or arrangement for the extension of consumer credit, or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to provide customers with copies of a Consumer Cost Disclosure Statement as required by § 226.8(a) of Regulation Z.

2. Failing to disclose the "Annual Percentage Rate" accurately to the nearest quarter of 1 percent, in accordance with § 226.5(b)(1) of Regulation Z.

3. Failing to print the term "Annual Percentage Rate" more conspicuously than the other terminology as required by § 226.6(a) of Regulation Z.

4. Failing to identify the payments which are more than twice the amount of an otherwise regularly scheduled equal payment by the term "balloon payment" as is required by § 226.8(b)(3) of Regulation Z.

5. Failing to use the term "Total of Payments" as required by § 226.8(b)(3) of Regulation Z.

6. Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments as required by § 226.8(b)(4) of Regulation Z.

7. Failing to use the term "Finance Charge" as required by § 226.8(c)(8)(i) of Regulation Z.

8. Failing to use the term "Deferred Payment Price" as required by § 226.8(c)(8)(ii) of Regulation Z.

9. Failing to disclose the correct "Deferred Payment Price" as required by § 226.8(c)(8)(ii) of Regulation Z.

10. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5, in the manner, form and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

*It is further ordered*, That respondent deliver a copy of this order to cease and

desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit or any aspects of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

*It is further ordered.* That 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 business which may affect compliance obligations arising out of the order.

*It is further ordered.* That respondent 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 the order to cease and desist contained herein.

Issued: January 12, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3034 Filed 2-29-72; 8:50 am]

[Docket No. C-2133]

**PART 13—PROHIBITED TRADE PRACTICES**

**Joal Furniture Corp. et al.**

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 Truth in Lending Act. Subpart—Securing signatures wrongfully: § 13.2175 *Securing signatures wrongfully*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Joal Furniture Corp. et al., Brooklyn, N.Y., Docket No. C-2133, Jan. 13, 1972]

*In the Matter of Joal Furniture Corp., a Corporation, and Alvin Gold and Joseph Kamph, Individually and as Officers of Said Corporation*

Consent order requiring a Brooklyn, N.Y., seller of furniture, electrical appliances and other merchandise to cease violating the Truth in Lending Act by causing their customers to sign blank or partially executed retail installment contracts and failing to make other disclosures required by Regulation Z of said Act.

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

*It is ordered.* That respondents, Joal Furniture Corp., a corporation, and its

officers, Alvin Gold and Joseph Kamph, individually and as officers of said corporation, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporate or other device or under any other name in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.) to forthwith cease and desist from:

1. Causing their customers to sign blank or partially executed retail installment contracts and failing to make all required disclosures to these customers before the transactions are consummated, as required by §§ 226.6 and 226.8 of Regulation Z.

2. Failing to use printed retail installment contract forms which conform to the specific disclosure requirements of §§ 226.6 and 226.8 of Regulation Z.

3. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

*It is further ordered.* That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

*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 respondents 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 the order to cease and desist contained herein.

Issued: January 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3035 Filed 2-29-72; 8:50 am]

[Docket No. C-2134]

**PART 13—PROHIBITED TRADE PRACTICES**

**Plaza Club, Inc., et al.**

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices*: 13.155-10 Bait; 13.155-100 Usual as reduced, special, etc.; § 13.170 *Qualities or properties of product or service*: 13.170-53 Me-

dicinal, therapeutic, healthful, etc.; § 13.240 Special or limited offers. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1905 *Terms and conditions*: 13.1905-50 Sales contract.

(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) [Cease and desist order, Plaza Club, Inc., et al., Kansas City, Mo., Docket No. C-2134, Jan. 14, 1972]

*In the Matter of Plaza Club, Inc., a Corporation, and Health Spa, Inc., a Corporation, and European Health Spa, Inc., a Corporation, and James R. Booker, Individually and as an Officer of Said Corporations, and George E. Shore, Individually and as a Stockholder of Said Corporations, and European Health Spa & Country Club, Inc., a Corporation, and James R. Booker and George E. Shore, Individually and as Officers of Said Corporation*

Consent order requiring Kansas City, Mo., operators of four physical fitness and/or health salons to cease misrepresenting that their membership prices are special or reduced, failing to disclose that the purpose of their promotions is to sell memberships, failing to disclose the nature of the facilities at each club, misrepresenting that members can alleviate various health problems, failing to give notice that promissory notes may be sold to third parties, failing to furnish each customer with a copy of his contract, and not to negotiate any finance paper to a third party prior to midnight of the third day.

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

*It is ordered.* That Plaza Club, Inc., Health Spa, Inc., and European Health Spa, Inc., corporations, and their officers, and James R. Booker, individually and as an officer of said corporations, and George E. Shore, individually and as a stockholder of said corporations, and European Health Spa & Country Club, Inc., a corporation, and its officers, and James R. Booker and George E. Shore, individually and as officers of said corporation, and respondents' agents, representatives, salesmen, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, and sale of health club memberships or other services or products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. A. Representing, directly or by implication, that any price charged for respondents' memberships and/or services is a special or reduced price, or misrepresenting, in any manner, the savings available to purchasers.

B. Representing, directly or by implication, that health club memberships are available for any period of time less than the shortest period for which a significant number of memberships are in fact sold to the public.

C. Using any promotion for the purpose of obtaining leads to prospective purchasers of memberships in respondents' health salons and/or physical fitness facilities, unless respondents' disclose fully and conspicuously in each and every announcement, advertisement, or other description of such promotion:

(1) That, the purpose of such promotion is to induce prospective purchasers of physical fitness and/or health salon memberships to come to respondents' place of business, and

(2) That, once at respondents' place of business, the prospective purchaser will be subjected to attempts by respondents, through their employees or representatives, to sell said prospective purchasers a membership in one of respondents' physical fitness and/or health salon facilities.

D. Using any advertising, sales plan or procedure involving the use of false, deceptive, or misleading statements, or representations, which are designed to obtain leads or prospects for the sale of memberships in respondents' physical fitness and/or health salon facilities.

E. Representing, directly or by implication, that any facilities are available at all clubs referred to in any particular advertisement and are available to persons of either sex at all said clubs during all of said clubs' business hours. If the facilities are not available to all members at all hours at each club referred to in such advertisement, such representation shall be qualified by a clear and conspicuous disclosure in immediate conjunction therewith providing that "such facilities and hours may differ at each location." Such disclosure shall appear in a type size larger than the size used to set out the facilities.

F. Representing, directly or by implication, that participation in and use of respondents' physical fitness and/or health salon facilities will eliminate or alleviate constipation, arthritis, high blood pressure and/or any other health problems.

G. Representing, directly or by implication, that purchasers of memberships in respondents' physical fitness and/or health salon facilities will lose weight as a result of using the facilities of respondents' physical fitness and/or health salons without regulating caloric intake.

H. Representing, directly or by implication, that any individual has realized a loss in weight or has reduced or increased said individual's physical measurements, unless such individual is actually a member at one of respondents' physical fitness and/or health salons and has actually experienced such loss of weight or increase or decrease in physical measurements.

I. Using any picture of any individual in connection with any testimonial, unless such individual is the person experiencing such claims and is a member of one of respondents' physical fitness and/or health salon facilities at the time of said advertisement.

J. Failing to incorporate the following statement on the face of all contracts executed by respondents' customers with

such conspicuousness and clarity as is likely to be observed, read, and understood by the purchaser:

#### IMPORTANT NOTICE

If you are obtaining credit in connection with this contract, you will be required to sign a promissory note. This note may be purchased by a bank, finance company or any other third party. If it is purchased by another party, you will be required to make your payments to the purchaser of the note. You should be aware that if this happens you may have to pay the note in full to the new owner of the note even if this contract is not fulfilled.

K. Representing, directly or by implication:

(1) That any amount is respondents' usual and customary retail price for memberships in their physical fitness and/or health salons, unless such amount is the price at which said memberships have been usually and customarily sold at retail by respondents in the recent regular course of business.

(2) That any savings is afforded in the purchase of memberships to respondents' physical fitness and/or health salons in the retail price, unless the price at which the membership is offered constitutes a reduction from the price at which said membership is usually and customarily sold at retail by respondents in the recent regular course of business.

L. Failing to deliver to each party a copy of every contract entered into by such party providing for membership and/or other services in respondents' physical fitness and/or health salons.

M. Failing to deliver a copy of this order to Cease and Desist to all present and future employees, instructors, or other persons engaged in the sale of respondents' memberships and/or services, and failing to secure from each employee or other person, a signed statement acknowledging receipt of said order.

N. Failing to post in a prominent place in each physical fitness and/or health salon, a copy of this Cease and Desist Order, with a notice that any member or prospective member may receive a copy on demand.

O. Failing, after the acceptance of the initial report of compliance, to submit a report to the Commission once every year during the next 3 years, describing all complaints respecting unauthorized representations, all complaints received from customers respecting representations by salesmen, which are claimed to have been deceptive, the facts uncovered by respondents in their investigation thereof, and the action taken by such respondents with respect to each such complaint.

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

III. *It is further ordered*, That respondents not negotiate any conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution by the buyer.

IV. *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.

Issued: January 14, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 72-3036 Filed 2-29-72; 8:50 am]

[Docket No. C-2132]

### PART 13—PROHIBITED TRADE PRACTICES

#### PPG Industries, Inc.

Subpart—Advertising falsely or misleadingly: § 13.85 *Government approval, action, connection or standards*; § 13.85-35 *Government endorsement*; § 13.175 *Quality of product or service*; § 13.210 *Scientific tests*.

(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) [Cease and desist order, PPG Industries, Inc., Pittsburgh, Pa., Docket No. C-2132, Jan. 13, 1972]

#### *In the Matter of PPG Industries, Inc., a Corporation*

Consent order requiring a Pittsburgh, Pa., seller of aviation fuel additive PRIST and other merchandise to cease misrepresenting that any of its products have been approved by the Federal Aviation Agency, that its fuel additive will eliminate carburetor icing, and that it meets the standards of the U.S. Air Force for its turbine aircraft engines.

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

*It is ordered*, That respondent, PPG Industries, Inc., a corporation organized, existing, and doing business under and by virtue of the Laws of the Commonwealth of Pennsylvania, its successors and assigns, and respondent's agents, representatives, salesmen, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of the aircraft fuel additive PRIST, or any product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that the aircraft fuel additive, PRIST, or any other product, has been approved by the Federal Aviation Administration or any other agency of the U.S. Government to be a functionally effective anti-icing agent or a functionally effective antimicrobial additive for use in reciprocating aircraft engines.

2. Representing, directly or by implication, that the aircraft fuel additive, PRIST, or any other product, will eliminate carburetor icing in reciprocating aircraft engines, thereby doing away with the need for other carburetor icing preventative measures such as carburetor heat or heaters, without affirmatively disclosing that instructions provided in aircraft and reciprocating aircraft engine operating manuals regarding the use of manufacturer-recommended carburetor icing preventative measures must be strictly followed.

3. Representing, directly or by implication, that the aircraft fuel additive, PRIST, or any product, will provide reciprocating aircraft engines with the same anti-icing and antimicrobial protection as the U.S. Air Force requires for its turbine aircraft engines.

4. Representing, directly or by implication, that the aircraft fuel additive, PRIST, or any product, has any use or performance characteristics or will accomplish any results when used in reciprocating aircraft engines, unless said uses, performance, or accomplishment claims have been fully and completely substantiated through competent scientific tests performed either by respondent or others, or by authenticated, controlled, and duly recorded user tests.

*It is further ordered.* That respondent shall notify the Commission at least thirty (30) days prior to any resumption by it, within three years from the date of this order, of any advertising of PRIST, or any other product, promoting its use in reciprocating aircraft engines, and shall submit to the Commission with such notification a copy of the proposed advertisement, together with its basis for all relevant claims therein.

*It is further ordered.* That respondent shall notify the Commission, at least thirty (30) days prior to any proposed change in its business organization such as dissolution, assignment, incorporation, or sale resulting from the emergence of a successor firm, partnership, or corporation, or any other change which may affect compliance obligations arising out of the order.

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

Issued: January 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3037 Filed 2-29-72; 8:50 am]

[Docket No. C-2127]

## PART 13—PROHIBITED TRADE PRACTICES

### R P & L, Inc., and Ray Quinlan

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*: 13.15-105 *Identity*; § 13.55 *Demand, business or*

*other opportunities*; § 13.60 *Earnings and profits*; § 13.70 *Fictitious or misleading guarantees*; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*; § 13.115 *Jobs and employment service*; § 13.155 *Prices*: 13.155-95 *Terms and conditions*: 13.155-95(a) *Truth in Lending Act*; § 13.260 *Terms and conditions*. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1440 *Identity*; Misrepresenting oneself and goods—Goods: § 13.1610 *Demand for or business opportunities*; § 13.1615 *Earnings and profits*; § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 *Truth in Lending Act*; § 13.1647 *Guarantees*; § 13.1670 *Jobs and employment*; § 13.1760 *Terms and conditions*: 13.1760-50 *Sales contract*; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13.1823-20 *Truth in Lending Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 *Truth in Lending Act*; § 13.1892 *Sales contract, right-to-cancel provision*; § 13.1905 *Terms and conditions*: 13.1905-50 *Sales contract*; 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, R P & L, Inc., et al., St. Louis, Mo., Docket No. C-2127, Jan. 4, 1972]

*In the Matter of R P & L, Inc., a Corporation, and Ray Quinlan, Individually and as an Officer of Said Corporation*

Consent order requiring a St. Louis, Mo., school for professional models to cease failing to disclose that the purpose of its advertising is to induce the enrollment of students, misrepresenting that it is an airline company or a job placement service, that its enrollees are assured employment, that the school will make job interview appointments, failing to provide a notice of the right of students to rescind contracts within 3 days, and failing to make other disclosures as to the obligations of the school. Respondents are also required to cease violating the Truth in Lending Act by failing to use in their contracts the language required by Regulation Z of said Act.

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

1. *It is ordered.* That respondents R P & L, Inc., a corporation, and Ray Quinlan, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, solicitation, offering for sale, or sale of modeling instruction, or other services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any advertisement, solicitation, or promotional or sales plan for the purpose of obtaining leads as to prospective purchasers of modeling instruction or to induce persons to come to re-

spondents' school unless respondents disclose fully and conspicuously in each and every advertisement, solicitation, or promotional or sales plan;

a. That the purpose of such advertisement, solicitation or promotional or sales plan is to induce prospective purchasers of modeling instruction courses to come to respondents' school, and

b. That, once at respondents' school, the prospective purchaser will be subjected to attempts by respondents, through their employees or representatives, to sell said prospective purchasers courses of modeling instruction.

2. Representing directly or by implication that respondents' primary business is that of an airline company or job placement service, or misrepresenting, in any manner, the nature, scope or character of respondents' business.

3. Representing directly or by implication that respondents' modeling instruction will qualify graduates of respondents' school for employment as airline stewardesses and ground hostesses, professional models, fashion coordinators, makeup and grooming counselors, or in any other job related to a career in professional modeling.

4. Representing directly or by implication that persons enrolling in respondents' school are assured of employment sufficient for the purpose of defraying their expenses while attending respondents' modeling courses of instruction.

5. Representing directly or by implication that respondents' employees or representatives will make job interview appointments for students and graduates of respondents' school with airlines, department stores, or other business organizations; or representing that any kind of assistance will be given students and graduates of respondents' school in helping them find employment, unless respondents establish that such assistance has, in fact, been afforded in a substantial number of cases in the recent course and conduct of their school's business.

6. Misrepresenting, in any manner, the nature or character of respondents' contracts or any of respondents' business papers.

7. Representing directly or by implication that prospective students and students are assured the return of their investment, in the price of the modeling courses of instruction taken, through jobs obtained for them by respondents' school representatives either during training, or immediately upon graduation; or misrepresenting, in any manner, the amount of earnings such prospective students and students may reasonably expect during training or upon graduation.

8. Representing directly or by implication that upon completion of a given course of modeling instruction, a specified standard of proficiency will be achieved when, before the given course is completed or the given standard has been achieved, the student is or will be subjected to sales efforts to induce the purchase of additional modeling instruction.

9. Failing to provide on all contracts or written agreements the following notation in at least 10-point bold type:

**NOTICE**

You may rescind (cancel) this contract, for any reason whatever, by submitting notice in writing of your intention to do so within three (3) days from the date of making this agreement.

If you rescind (cancel) this contract, the only cost to you will be a fair charge for any course lessons or services actually furnished during the period prior to rescission, and all moneys due will promptly be refunded.

10. Representing directly or by implication that prospective students, students or graduates of respondents' school are assured employment in any specific job, or that employment in any job is contingent upon their willingness to execute a contract with respondents' school agreeing to take the courses of instruction in modeling offered.

11. Entering into a contract with a student, who is already under a contract with respondents' school, that provides for modeling instruction, until fewer than twenty (20) lesson hours remain under the existing contract. Any contract entered into shall state the number of lesson hours remaining under the existing contract, and shall provide that all modeling instruction previously contracted for shall be used or completed prior to the commencement of the additional course lessons.

12. Representing directly or by implication that graduates of respondents' school are assured of, or can obtain, high paying positions in any field solely by finishing a course or courses of instruction offered by respondents' school.

13. Representing directly or by implication that graduates of respondents' modeling courses are in great demand by airline companies, department stores or other business organizations, for employment as airline stewardesses, professional models, fashion coordinators or in other related fields.

14. Representing directly or by implication that graduates of respondents' school are guaranteed specific lucrative starting salaries, or representing, in any manner, that graduates of respondents' school are guaranteed any specific salary or remuneration.

15. Failing to deliver to each party a copy of every contract entered into by such party providing for modeling instruction or other services.

16. Failing to post, in a prominent place in respondents' school, a copy of this cease and desist order, with the notice that any student or prospective student may receive a copy on demand.

17. Failing to deliver a copy of this order to cease and desist to all present and future employees, instructors, or other persons engaged in the sale of respondents' services, and failing to secure from each employee or other person a signed statement acknowledging receipt of said order.

II. *It is further ordered*, That respondents R P & L, Inc., a corporation, and Ray Quinlan, individually and as an officer of said corporation, and respondents'

agents, representatives and employees, directly or through any corporate or other device, in connection with any extension of consumer credit sale of modeling instruction or other services or any advertisement to aid, assist or promote, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "cash price" to designate the cash price of the service or services which are the subject of the transaction, as required by § 226.8(c)(1) of Regulation Z.

2. Failing to disclose the amount of any downpayment in money as the "cash downpayment", using the term, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to disclose the difference between the cash price and the cash downpayment, using the term "unpaid balance of cash price", as required by § 226.8(c)(3) of Regulation Z.

4. Failing to disclose the sum of the cash price, all charges other than the cash price which are included in the amount financed but which are not part of the finance charge, and the finance charge, using the term "deferred payment price", as required by § 226.8(c)(8)(ii) of Regulation Z.

5. Failing, in connection with any offer of a discount for prompt payment, to make the separate disclosures required by § 226.8(o), as amended, of Regulation Z, on the invoice or other evidence of sale, as required thereby.

6. Failing, in connection with any offer of a discount for prompt payment, to exclude from the amount of the cash price the greatest amount of discount for prompt payment of which the customer may avail himself under the terms of the offer, as required by § 226.8(c)(1) of Regulation Z.

7. Failing, in connection with any offer of a discount for prompt payment, to itemize the amount of the discount as part of the finance charge, as required by §§ 226.8(c)(8)(i) and 226.8(o), as amended, of Regulation Z, and to include that amount in the finance charge when disclosing the amount of the finance charge as required by § 226.8(c)(8)(i) of Regulation Z and when computing the annual percentage rate, as required by §§ 226.8(b)(2) and 226.8(o), as amended, of Regulation Z.

8. Stating in any advertisement the period of repayment, without stating all of the following items, in the manner and form prescribed by § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

a. The cash price;

b. The amount of the downpayment required;

c. The number, amount and due dates of repayments scheduled to repay the indebtedness;

d. The amount of the finance charge expressed as an annual percentage rate; and

e. The deferred payment price.

9. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

*It is further ordered*, That respondents shall forthwith distribute a copy of this order to each of their operating subsidiaries and divisions, and to each and every representative or employee engaged in the sale of courses of instruction, or other services.

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

*It is further ordered*, That 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.

Issued: January 4, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3040 Filed 2-29-72; 8:50 am]

[Docket No. C-2138]

**PART 13—PROHIBITED TRADE PRACTICES**

**Revere Chemical Corp. et al.**

Subpart—Advertising falsely or misleadingly: § 13.105 *Individual's special selection or situation*; § 13.155 *Prices*; § 13.155-60 *List or catalog as regular selling*; § 13.157 *Prize contests*; § 13.175 *Quality of product or service*; § 13.195 *Safety*; 13.195-60 *Product*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1883 *Prize contest*.

(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) [Cease and desist order, Revere Chemical Corp. et al., Cleveland, Ohio, Docket No. C-2138, Jan. 24, 1972]

*In the Matter of Revere Chemical Corp., a Corporation, and Sidney G. Stromberg and Robert Ziska, Individually and as Officers of Said Corporation; and Stone & Adler, Inc., a Corporation*

Consent order requiring a Cleveland, Ohio, marketer of snow and ice remover and its advertising agency located in Chicago, Ill., to cease misrepresenting their product as exclusive or unique, that it is more powerful or effective than sodium chloride, that it is least expensive

for the removal of snow and ice, and that it can be used on concrete surfaces. The respondent advertising agency is also ordered to cease preparing "sweepstake" contests unless it discloses the total number, exact nature, and odds of winning each of the prizes, and failing to distribute all of the prizes announced.

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

I. *It is ordered*, That respondents Revere Chemical Corp., a corporation and its officers, and Sidney G. Stromberg, and Robert Ziska, individually and as officers of said corporation, and Stone & Adler, Inc., a corporation, and its officers, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of Revere Ice Melter or any other product for the removal of ice or snow, in commerce, as "commerce" is defined in the Federal Trade Commission Act, or in connection with the preparation, promotion, sale, distribution or use of any "sweepstakes," contest, game, or any other promotional device, in which the winners of prizes have been preselected, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that such product is an exclusive, unique or novel method or development for the removal of ice or snow unless the chemical content of the product is disclosed and any such representation discloses in detail the specific manner in which and the degree to which it is so exclusive, unique or novel as compared to any product containing the same basic chemical content.

2. Representing, directly or by implication, that any such product is more powerful or more effective for melting ice or snow than sodium chloride unless the temperature at which such product is represented to be more powerful or effective is clearly and conspicuously disclosed.

3. Representing, directly or by implication, that any such product is the least expensive product available for the removal of ice and snow; *Provided, however*, That any such product may be accurately represented as less expensive than sodium chloride for removal of ice and snow at specified temperatures.

4. Representing in advertising literature, directly or by implication, that any such product can be used upon any concrete surfaces unless it is clearly and conspicuously disclosed that the product is not recommended for use over uncured concrete or concrete in poor repair.

*It is further ordered*, That respondents Revere Chemical Corp., Sidney G. Stromberg and Robert Ziska do forthwith cease and desist from authorizing or participating in the design, creation, distribution or use of any "sweepstakes" (or similar contest or game) in which the winners of prizes have been preselected.

II. *It is ordered*, That respondent Stone & Adler, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any cor-

porate or other device in connection with the preparation, promotion, sale, distribution or use of any "sweepstakes," contest, game, or any other promotional device, in which the winners of prizes have been preselected, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or other promotional device unless the following are disclosed clearly and conspicuously in all advertising and promotional material concerning such devices:

(a) The total number of prizes to be awarded;

(b) The exact nature of the prizes and the number of each;

(c) The odds of winning each prize.

2. Failing to award and distribute all prizes of the value and type represented.

3. Failing to disclose, clearly and conspicuously, in all advertising and promotional material the exact number of prizes which will be available, the exact nature of the prizes, and the odds of winning each such prize.

*It is further ordered*, That respondents notify the Commission at least 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 respondents shall, within sixty (60) days after service of the order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

Issued: January 24, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 72-3038 Filed 2-29-72; 8:50 am]

[Docket No. C-2128]

**PART 13—PROHIBITED TRADE PRACTICES**

**Riverside Motors, Inc., et al.**

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*: 13.15-30 *Connections or arrangements with others*; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*: 13.155-95 *Terms and conditions*: 13.155-95(a) *Truth in Lending Act*; § 13.260 *Terms and conditions*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 *Truth in Lending Act*; § 13.1905 *Terms and conditions*: 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82

Stat. 146, 147; 15 U.S.C. 45, 1601, 1605) [Cease and desist order, Riverside Motors, Inc., et al. Harahan, La., Docket No. C-2128, Jan. 4, 1972]

*In the Matter of Riverside Motors, Inc., a Corporation, and Roy E. Tannahill, and John Stephens, Individually, and as Officers of Said Corporation*

Consent order requiring a Harahan, La., seller of used automobiles to cease misrepresenting that it extends credit in selling its automobiles and to cease violating the Truth in Lending Act by failing to make the required disclosures as to downpayments and finance charges as required by Regulation Z of said Act.

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

*It is ordered*, That respondents Riverside Motors, Inc., a corporation, and Roy E. Tannahill and John Stephens, individually and as officers of said corporation, and respondents' agents, representatives, and employees, successors and assigns, directly or through any corporate or other device, in connection with the advertising, offering for sale or sale of used automobiles, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that they arrange or extend credit in relation to the sale of their used automobiles.

*It is further ordered*, That the respondents Riverside Motors, Inc., a corporation, and Roy E. Tannahill and John Stephens, individually and as officers of said corporation, and respondents' agents, representatives, and employees, successors and assigns, directly or through any corporate or other device, in connection with the advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321. 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

A. Stating in any advertisement the amount of the downpayment or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment or that there is no charge for credit, without stating all the following items, the manner and form prescribed by § 226.8 of Regulation Z, as required by § 226.10(d) (2) of Regulation Z:

1. The cash price or the amount of the loan, as applicable;
2. The amount of the downpayment required or that no downpayment is required, as applicable;
3. The number, amount and due dates or periods of payments scheduled to repay the indebtedness;
4. The amount of the finance charge expressed as an annual percentage rate;
5. The deferred payment price or the total of payments, as applicable.

*It is further ordered*, That respondents deliver a copy of this order to cease and

desist to all present and future personnel of respondents engaged in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

*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 respondents 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 the order to cease and desist contained herein.

Issued: January 4, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 72-3039 Filed 2-29-72; 8:50 am]

[Docket No. C-2135]

### PART 13—PROHIBITED TRADE PRACTICES

#### Safety Finance Service, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions*: 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Safety Finance Service, Inc., et al., New Orleans, La., Docket No. C-2135, Jan. 14, 1972]

*In the Matter of Safety Finance Service, Inc., a Corporation; and Safety Finance Service of Carrollton, Inc., a Corporation; and Jack A. Porobil, Sr. and Joseph Francevich, Copartners Trading as Safety Finance Co.; and Jack A. Porobil, Sr., Individually, and as an Officer of Said Corporation; and Jack A. Porobil, Jr., Individually, and as an Officer of Safety Finance Service, Inc.*

Consent order requiring three New Orleans, La., finance companies to cease violating the Truth in Lending Act by failing to disclose in its credit transactions the "annual percentage rate," the number, amounts and due dates of periodic repayments, the "amount financed," the "finance charge," and other dis-

closures required by Regulation Z of said Act.

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

*It is ordered.* That respondents Safety Finance Service, Inc., a corporation; Safety Finance Service of Carrollton, Inc., a corporation, and its officers and respondent Jack A. Porobil, Sr., individually, and as an officer of said corporations, and respondent Jack A. Porobil, Jr., individually, and as an officer of Safety Finance Service, Inc., and Jack A. Porobil, Sr. and Joseph Francevich, copartners trading as Safety Finance Co. or under any other name or names, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension or arrangement for the extension of consumer credit to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any charge for credit life or disability insurance, if a specific dated and separately signed affirmative written indication of the customer's desire for such insurance is not obtained, as provided in § 226.4(a)(5) of Regulation Z.

2. Failing to disclose the "annual percentage rate" accurately to the nearest quarter of 1 percent, in accordance with § 226.5(b)(1) of Regulation Z.

3. Failing to identify the creditor as required by § 226.8(a) of Regulation Z.

4. Failing to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness, prior to the consummation of the transaction as required by § 226.8(b)(2) of Regulation Z.

5. Failing to disclose the security interest held, retained or acquired in connection with the extension of credit, and clear identification of the property to which the security interest relates as required by § 226.8(b)(5) of Regulation Z.

6. Failing to disclose the "amount financed" as required by § 226.8(d)(1) of Regulation Z.

7. Failing to disclose the "finance charge" as required by § 226.8(d)(3) of Regulation Z.

8. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

*It is further ordered.* That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertis-

ing, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

*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 respondents 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 the order to cease and desist contained herein.

Issued: January 14, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 72-3041 Filed 2-29-72; 8:50 am]

[Docket No. C-2129]

### PART 13—PROHIBITED TRADE PRACTICES

#### Town & Country Auto Sales, Inc., et al.

Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 Truth in Lending Act; § 13.1892 *Sales contract, right-to-cancel provision*; § 13.1905 *Terms and conditions*: 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Town & Country Auto Sales, Inc., et al., Cleveland, Ohio, Docket No. C-2129, Jan. 5, 1972]

*In the Matter of Town & Country Auto Sales, Inc. a Corporation, and Harry Eisner and Susan Eisner, Individually and as Officers of Said Corporation*

Consent order requiring a Cleveland, Ohio, seller of used automobiles to cease violating the Truth in Lending Act by failing to make certain consumer credit cost disclosures required by Regulation Z of said Act, failing to give notice that if the customer's note is sold payments must be made to the new owner.

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

*It is ordered.* That respondents Town & Country Auto Sales, Inc., a corporation, and Harry Eisner and Susan Eisner,

individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device in connection with any extension or offer to extend or arrange for the extension of consumer credit as "consumer credit" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

(1) Failing to make the consumer credit cost disclosures required by Regulation Z before the transaction is consummated, as required by § 226.8(a) of the regulation.

(2) Failing to furnish each customer, prior to the consummation of the transaction, with a duplicate of the Retail Installment Contract and Cognovit Note or with a statement by which the required consumer credit cost disclosures are made, as required by § 226.8(a) of Regulation Z.

(3) Failing, in any transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with the notice of the right to rescind, in the form and manner specified in § 226.9(b) of Regulation Z, unless provision is made for waiver of the security interest or lien upon such real property which is used or is expected to be used as the principal residence of the customer.

(4) Failing, in any consumer credit transaction, to make all disclosures required by §§ 226.4, 226.5, 226.6, 226.7, and 226.8, and in any advertising in which consumer credit terms are mentioned, to make full disclosures as required by § 226.10, all such disclosures to be made in the manner, form, and amount prescribed by Regulation Z.

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

Failing, in any consumer credit transaction, to provide each customer with the following statement, which shall be made in writing and in duplicate prior to the consummation of the transaction, with such conspicuousness and clarity as is likely to be read and understood by the purchaser and with provision for the purchaser to retain a copy of such notice and to acknowledge receipt of such notice.

**NOTICE**

If you are obtaining credit in connection with this purchase, you will be required to sign a promissory note, a sales contract or other instrument of indebtedness which may be purchased from the seller by a bank, finance company, or any other third party. If such is the case, you will be required to make your payments to someone other than the seller. You should be aware that if this happens you may have to pay the note, contract, or other instrument of indebtedness in full to its new owner even if your purchase contract is not fulfilled.

*It is further ordered*, That respondents prominently display no less than two signs on the premises which will clearly and conspicuously state that a customer must receive a completed copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, in

any transaction which is financed, before the transaction is consummated.

*It is further ordered*, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of arrangement for the extension of consumer credit or in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

*It is further ordered*, That respondents 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.

Issued: January 5, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3042 Filed 2-29-72; 8:51 am]

[Docket No. C-2130]

**PART 13—PROHIBITED TRADE PRACTICES**

**U.S. Remodeling Co. et al.**

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing*: 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 Truth in Lending Act; § 13.155 *Prices*: 13.155-95 *Terms and conditions*: 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: § 13.1852-75 Truth in Lending Act; § 13.1892 *Sales contract, right-to-cancel provision*: § 13.1905 *Terms and conditions*: § 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, U.S. Remodeling Co. et al., Milford, Conn., Docket No. 2130, Jan. 6, 1972]

*In the Matter of U.S. Remodeling Co., a Corporation, and Robert Murray and William A. Van Arsdale, Jr., Individually and as Officers of said Corporation*

Consent order requiring a Milford, Conn., firm selling home remodeling

services and goods to cease violating the Truth in Lending Act by failing to disclose the "cash price," "cash downpayment," "deferred payment price," and failing to furnish customers with notices of their right to rescind contracts, and make other disclosures required by Regulation Z of the Act.

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

*It is ordered*, That respondents U.S. Remodeling Corp., a corporation, and its officers, and Robert Murray and William A. Van Arsdale, Jr., individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit to finance the purchase of respondents' goods or services, or in connection with any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose the cash price of the goods and services which are the subject of any credit sale and to describe that price as the "cash price", as required by § 226.8(c)(1) of Regulation Z.

2. Failing to disclose the amount of any downpayment in money made in connection with any credit sale, using the term "cash downpayment", as required by § 226.8(c)(2) of Regulation Z.

3. Failing to disclose the difference between the "cash price" and the "cash downpayment" in any credit sale, using the term "unpaid balance of cash price", as required by § 226.8(c)(3) of Regulation Z.

4. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not a part of the finance charge, and the finance charge, using the term "deferred payment price", as required by § 226.8(c)(iii) of Regulation Z.

5. Failing, in any transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with notice of the right to rescind in the manner and form specified in §§ 226.9(b) and 226.9(f) of Regulation Z, prior to consummation of the transaction.

6. Making any physical changes in a customer's property or performing any work or services on such property before expiration of the three day rescission period, in connection with any credit transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the customer's principal residence, as provided in § 226.9(c) of Regulation Z.

7. Representing, directly or by implication, in any advertisement, the amount of the downpayment required, or that no downpayment is required, the amount of any installment payment, the dollar

amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated, in terminology prescribed by § 226.8 of Regulation Z, as required by § 226.10 of Regulation Z.

- (i) The cash price;
- (ii) The amount of the downpayment required, or that no downpayment required, as applicable;
- (iii) The number, amount and due dates or period of payments scheduled to repay the indebtedness if credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage rate; and,
- (v) The deferred payment price.

8. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

*It is further ordered.* That respondents deliver a copy of this order to cease and desist to all present and future personnel of the respondent engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each person.

*It is further ordered.* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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 respective corporations which may affect compliance obligations arising out of this order.

*It is further ordered.* That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Dated: January 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.72-3043 Filed 2-29-72;8:51 am]

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 316—TEMPORARY AND INDEFINITE EMPLOYMENT

##### Vietnam War Veterans

Part 316 is amended to authorize the noncompetitive temporary appointment at GS-5 or below, of a veteran or disabled veteran who served on active duty in the armed forces during the Vietnam War, has no more than 14 years of education, and is appointed within 1 year from

his release from the armed forces or hospitalization.

Effective on publication in the FEDERAL REGISTER (3-1-72) a new subparagraph (7) is added to paragraph (b) of § 316.402 as set out below.

#### § 316.402 Authorities for temporary appointments.

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment, without regard to the existence of an appropriate register, to:

(7) A veteran or disabled veteran as defined in section 2108 (1) and (2) of title 5, United States Code, who:

- (i) Served on active duty in the armed forces of the United States during the Vietnam era;
- (ii) Completed not more than 14 years of education; and
- (iii) Is appointed within the period ending 1 year after either his separation from the armed forces or his release from hospitalization or treatment immediately following separation from the armed forces.

An appointment under this subparagraph may be made only to a position at GS-5 or below, or the equivalent in another pay system. On the basis of his total experience, including military experience, a veteran or disabled veteran eligible for appointment under this subparagraph meets the qualification standards for a position at GS-3 and below, or an equivalent level, when the agency considers him capable of performing the duties of the specific position.

(76A Stat. 18; 2 C.Z.C. 149(c)(2); E.O. 9830; 3 CFR 1943-48 Comp., p. 606; E.O. 11103; 3 CFR, 1959-1963 Comp., p. 762)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant to the Commissioners.

[FR Doc.72-2989 Filed 2-29-72;8:45 am]

## Title 24—HOUSING AND URBAN DEVELOPMENT

### Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

#### SUBCHAPTER B—HOUSING RENOVATION AND MOBILE HOME FINANCING

[Docket No. R-72-168]

#### PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

##### Subpart B—Mobile Home Loans

###### FINANCING

The following amendment, issued in accordance with section 2(a) of the Na-

tional Housing Act, 12 U.S.C. 1701, would reduce the insurance premium on mobile home loans from 0.50 of 1 percent per annum of the net proceeds of a loan to 0.33 of 1 percent per annum. Inasmuch as the revision is a reduction in charges, it should be made effective promptly to accomplish its purpose.

Accordingly, it is found upon good cause that notice and public procedure with respect to said amendment are unnecessary under the provisions of 5 U.S.C. 553(b); and since publication of said amendment for the period specified in 5 U.S.C. 553(d) prior to the effective date of said amendment would likewise be unnecessary and disruptive of orderly lending procedures on the part of insured lending institutions, good cause is found for making the said amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Accordingly Part 201 is amended to read as follows:

1. Section 201.625 is amended to read as follows:

#### § 201.625 Rate of insurance charge.

The insured shall pay to the Commissioner an insurance charge equal to thirty three one-hundredths (0.33) of 1 percent per annum of the net proceeds of any eligible loan reported and acknowledged for insurance. In computing the insurance charge, no charge shall be made for a period of 14 days or less, and a charge for a month shall be made for a period of more than 14 days.

*Effective date.* The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (3-1-72). (Sec. 7(d), 79 Stat. 870, 42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246, 12 U.S.C. 1703)

EUGENE A. GULLEDGE,  
Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner.

[FR Doc.72-3046 Filed 2-29-72;8:51 am]

[Docket No. R-72-169]

#### PART 215—RENT SUPPLEMENT PAYMENTS

##### Maximum Annual Project Payments Under Contract

Pursuant to section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and the Secretary's delegation of authority (36 F.R. 5006), § 215.40(b) of Part 215 is revoked. The present regulation limits rent supplement payments to not more than 20 percent of the units in a section 231 housing for the elderly project. The amended regulation eliminates the 20-percent limitation.

This revocation shall become effective upon publication in the interest of making benefits available to tenants of the affected projects as soon as possible. It has been determined that in this particular case advance publication and notice and public procedure are unnecessary.

Section 215.40 is amended by revoking paragraph (b) as follows:

§ 215.40 Maximum annual project payments under contract.

(b) [Revoked]

Effective date. This regulation shall become effective upon publication in the FEDERAL REGISTER (3-1-72).

EUGENE A. GULLEDGE,  
Assistant Secretary for Housing  
Production and Mortgage  
Credit—FHA Commissioner.

[FR Doc.72-3047 Filed 2-29-72;8:51 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 70—MEDICAL CARE FOR DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES

Discontinuance of Part

Codification of Part 70 is discontinued; its provisions are now contained in 36 F.R. 6711, April 8, 1971.

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

[FR Doc.72-3056 Filed 2-29-72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 8—Veterans Administration

PART 8-52—CONTRACT ADMINISTRATION

Representatives of Contracting Offices

1. Section 8-52.101 is revised to read as follows:

§ 8-52.101 Scope.

This subpart applies to all contracts, whether advertised or negotiated.

2. In § 8-52.106, paragraph (b) is amended to read as follows:

§ 8-52.106 Representatives of contracting officers; receipt of equipment, supplies, and nonpersonal services.

(b) The Chief, Central Office Library is hereby designated the representative of the contracting officer to receive, inspect and accept library books, newspapers, and periodicals. Purchase documents will specify that delivery will be made direct to the library.

(Sec. 205(c), 63 Stat. 389, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective March 24, 1972.

Approved: February 24, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,  
Deputy Administrator.

[FR Doc.72-3066 Filed 2-29-72;8:52 am]

Chapter 114—Department of the Interior

PART 114-35—TELECOMMUNICATIONS

Subpart 114-35.2—Major Changes and New Installations

SUBMISSION OF CHANGES

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Subpart 114-35.2 of Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (3-1-72).

WARREN F. BRECHT,  
Deputy Assistant Secretary  
of the Interior.

FEBRUARY 24, 1972.

The first sentence of § 114-35.204(a) is amended to delete a repetition and to read as follows:

§ 114-35.204 Submission of changes.

(a) All requests for major changes or new installations of telecommunications services, except radio service, shall be submitted through the Bureau Telecommunications Coordinator to the Departmental Communications Specialist, Telecommunications Staff Office, Office of Management Operations, Department of the Interior, Washington, D.C. 20240, for transmittal to the General Services Administration as appropriate. \* \* \*

[FR Doc.72-3051 Filed 2-29-72;8:49 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 263]

PART 1005—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

Processing of Loss and Damage Claims

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 3d day of February 1972.

It appearing, that by order entered January 29, 1970, this Commission instituted an investigation for the purposes, among others, (1) of inquiring into the nature of existing rules, regulations, and practices of railroads, motor carriers, water carriers, and freight forwarders subject to parts I, II, III, and IV of the Interstate Commerce Act, governing the handling and processing by such carriers of loss and damage claims filed by shippers and receivers of freight; (2) of investigating the effect these carrier rules, regulations, and practices have upon the adequacy of interstate or foreign transportation services and the obligation of the regulated common carriers to perform reasonably adequate and continuous service; (3) of determining the extent of this Commission's jurisdiction over such rules, regulations, and practices; (4) of considering whether there should be adopted by this Commission just, reasonable, and lawful rules and regulations governing these and other matters relating to the general handling and processing of loss and damage claims by the regulated carriers; and (5) of taking such other and further action, including the possible recommendation of any legislation, as the facts and circumstances may be found to justify or require;

It further appearing, that all railroads, motor carriers, water carriers, and freight forwarders subject to the Interstate Commerce Act were made respondents in the proceeding, the Bureau of Enforcement of this Commission was authorized and directed to participate, and opportunity to participate in the proceeding by filing initial, reply, and rebuttal statements was given to all persons that indicated to this Commission their intention to do so;

It further appearing that statutory notice of the institution of this proceeding was given to the general public by mailing a copy of the order of January 29, 1970, to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of said order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested parties and that such notice appeared in the issue of the FEDERAL REGISTER on February 12, 1970 (35 F.R. 2890);

It further appearing, that initial representations, and statements in reply were filed by parties to the proceeding; and investigation of the matters and things involved in this proceeding having been made, and the Commission, on the date hereof, having made and filed a report containing its findings of facts and conclusions thereon, in which said report it is found, as more particularly set forth therein, that certain carrier respondents, including parties to this proceeding, have been and are at the present time maintaining and enforcing rules and regulations contained or previously contained in freight claim rule

books, publications, or policy statements issued by their trade associations, and that such carrier respondents have been engaged in and are engaging in practices thereunder with respect to the handling and processing of loss and damage claims which are unjust, unreasonable, or otherwise in violation of certain provisions of section 20(11) of the Interstate Commerce Act and certain other sections thereof, as more particularly set forth in the said report, and that the said report, for the reasons above, should be made a part hereof;

And it further appearing, that the said report embraces an appendix referred to and designated therein as Appendix E, and that the Commission has found, as set forth in the report, that the regulations contained in the said appendix are just, reasonable, and otherwise lawful and that compliance therewith should be required of the carrier respondents hereto;

*It is ordered.* That Subchapter A, Chapter X, of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by inserting therein a new part, which part is hereby designated Part 1005, Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage and contains all of the regulations set forth below.

*It is further ordered.* That all carrier respondents herein be, and they are hereby, notified and required to cease and desist, on or before March 20, 1972, from using or applying their present freight claim rules, regulations and policies to the extent that the provisions thereof are inconsistent with or substantively different from the provisions and regulations contained below.

*It is further ordered.* That all carrier respondents to this proceeding be, and they are hereby, notified and required to modify their freight claim rules and other of their policies, rules and regulations governing the handling and processing of loss and damage claims and salvage and salvage proceeds so as to conform them with the regulations set forth in Appendix E, and to implement and put into use such revised policies, rules, and regulations on or before April 20, 1972.

*It is further ordered.* That all carrier respondents to this proceeding be, and they are hereby, ordered to file and post with this Commission, in accordance with the requirements of Subchapter D, Tariffs and Schedules, of Chapter X of Title 49 of the Code of Federal Regulations, particularly §§ 1300.4, 1300.10, 1300.13, and 1300.14 thereof, any rules and practices pertaining to the processing and disposition of loss and damage claims, and also to file with this Commission any contracts, agreements, or arrangements between or among carriers pertaining thereto, and otherwise fully to comply with the requirements of the Interstate Commerce Act, particularly section 6 (1) and (5) with respect to carriers subject to part I thereof, sec-

tions 217(a), 218(a), and 220(a) with respect to carriers subject to part II thereof, sections 306 (a) and (e) and 313(b) with respect to carriers subject to part III thereof, and sections 405, 409(b), and 412(a) with respect to freight forwarders subject to part IV thereof.

*It is further ordered.* That the petition of Hastings Potato Growers Association, filed January 6, 1971, for leave to submit a late-filed initial representation be, and it is hereby, granted and the representation tendered therewith is accepted for filing.

*It is further ordered.* That the petition of the Bureau of Enforcement, Interstate Commerce Commission, filed April 30, 1971, for leave to file current tables supplementary to those previously filed herein by it, be, and it is hereby, granted and the tables tendered therewith are hereby accepted for filing.

*It is further ordered.* That the petition of National Lumber and Building Material and Dealers Association, filed August 8, 1971, for leave to file three exhibits as supplementary evidence in support of its initial representation filed herein September 10, 1970, be, and it is hereby, denied for the reasons that (a) the record herein was closed prior to receipt of the tendered exhibits, and (b) the tendered evidence is cumulative rather than substantive and should therefore be rejected.

*It is further ordered.* That the rules herein prescribed be, and they are hereby, prescribed to become effective on April 20, 1972, and will apply on all claims for loss, damage, or delay in transit to property moving in interstate or foreign commerce received by carrier and freight forwarder respondents hereto on and after the said effective date.

*It is further ordered.* That for the reasons set forth in the said report the proposed legislation set forth in appendix E to the said report be, and it is hereby, recommended by this Commission for enactment by the Congress and a copy of the proposed legislation should be transmitted to each member of the Congress immediately upon service of this order.

*It is further ordered.* That a copy of this order shall be filed in the docket in No. 35198, Jurisdiction Over Concealed Loss and Damage Claims, Rules, Regulations and Practices of Regulated Carriers—Petition for Declaratory Order.

*It is further ordered.* That this proceeding be, and it is hereby, discontinued.

*And it is further ordered.* That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL]

ROBERT L. OSWALD,  
Secretary.

Sec.	
1005.1	Applicability of regulations.
1005.2	Filing of claims.
1005.3	Acknowledgement of claims.
1005.4	Investigation of claims.
1005.5	Disposition of claims.
1005.6	Processing of salvage.

**AUTHORITY:** The provisions of this Part 1005 issued under 24 Stat. 380, 383 as amended, 386; 34 Stat. 595 as amended; 44 Stat. 1450 as amended; 49 Stat. 546 as amended; 550 as amended, 558 as amended, 560 as amended, 561 as amended, 563 as amended; 52 Stat. 1237; 54 Stat. 900, 922, 933, 934 as amended, 935, 944 as amended, 946; 56 Stat. 285, 286, 287, 294 as amended, 295, 297, 746 as amended; 62 Stat. 472; 63 Stat. 486; and 64 Stat. 1114 as amended, 49 U.S.C. 1, 5, 5b, 6, 12, 20, 304, 305, 316, 317, 318, 319, 320, 904, 905, 906, 913, 916, 1003, 1004, 1005, 1009, 1012, 1013, and 1017.

#### § 1005.1 Applicability of regulations.

The regulations set forth in this part shall govern the processing of claims for loss, damage, injury, or delay to property transported or accepted for transportation, in interstate or foreign commerce, by each railroad, express company, motor carrier, water carrier, and freight forwarder (hereinafter called carrier), subject to the Interstate Commerce Act; *Provided, however,* That with respect to the acknowledgement and disposition of cargo claims filed against motor common carriers of household goods, carrier action shall be in accordance with the provisions of § 1056.17 (a) and (b) of Part 1056.

#### § 1005.2 Filing of claims.

(a) *Claims in writing required.* A claim for loss or damage to baggage or for loss, damage, injury, or delay to cargo, shall not be voluntarily paid by a carrier unless filed in writing, as provided in paragraph (b) of this section, with the receiving or delivering carrier, or carrier issuing the bill of lading, receipt, ticket, or baggage check, or carrier on whose line the alleged loss, damage, injury, or delay occurred, within the specified time limits applicable thereto and as otherwise may be required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto.

(b) *Minimum filing requirements.* A communication in writing from a claimant, filed with a proper carrier within the time limits specified in the bill of lading or contract of carriage or transportation, and (1) containing facts sufficient to identify the baggage or shipment (or shipments) of property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, shall be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage.

(c) *Documents not constituting claims.* Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents, or inspection reports issued by carriers or their inspection agencies, whether the extent of loss or damage is indicated in dollars and cents or otherwise, shall, standing alone, not be considered by carriers as sufficient to comply with the minimum claim filing requirements specified in paragraph (b) of this section.

(d) *Claims filed for uncertain amounts.* Whenever a claim is presented against

a proper carrier for an uncertain amount, such as "\$100 more or less," the carrier against whom such claim is filed shall determine the condition of the baggage or shipment involved at the time of delivery by it, if it was delivered, and shall ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. It shall not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money shall have been filed in accordance with the provisions of paragraph (b) of this section.

(e) *Other claims.* If investigation of a claim develops that one or more other carriers has been presented with a similar claim on the same shipment, the carrier investigating such claim shall communicate with each such other carrier and, prior to any agreement entered into between or among them as to the proper disposition of such claim or claims, shall notify all claimants of the receipt of conflicting or overlapping claims and shall require further substantiation, on the part of each claimant of his title to the property involved or his right with respect to such claim.

#### § 1005.3 Acknowledgment of claims.

(a) Each carrier shall, upon receipt in writing of a proper claim in the manner and form described in these regulations, acknowledge the receipt of such claim in writing to the claimant within 30 days after the date of its receipt by the carrier unless the carrier shall have paid or declined such claim in writing within 30 days of the receipt thereof. The carrier shall indicate in its acknowledgment to the claimant what, if any, additional documentary evidence or other pertinent information may be required by it further to process the claim as its preliminary examination of the claim, as filed, may have revealed.

(b) The carrier shall at the time each claim is received create a separate file and assign thereto a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the written acknowledgment of receipt and, if in its possession, the shipping order and delivery receipt, if any, covering the shipment involved. At the time such claim is received the carrier shall cause the date of receipt to be recorded on the face of the claim document, and the date of receipt shall also appear in the carrier's written acknowledgment of receipt to the claimant.

#### § 1005.4 Investigation of claims.

(a) *Prompt investigation required.* Each claim filed against a carrier in the manner prescribed herein shall be promptly and thoroughly investigated if investigation has not already been made prior to receipt of the claim.

(b) *Supporting documents.* When a necessary part of an investigation, each claim shall be supported by the original bill of lading, evidence of the freight charges, if any, and either the

original invoice, a photographic copy of the original invoice or an exact copy thereof, or an extract made therefrom, certified by the claimant to be true and correct with respect to the property and value involved in the claim; or certification of prices or values, with trade or other discounts, allowance, or deductions of any nature whatsoever and the terms thereof, or depreciation reflected thereon; *Provided, however,* That where the property involved in a claim has not been invoiced to the consignee shown on the bill of lading or where an invoice does not show price or value, or where the property involved has not been sold, or where the property has been transferred at bookkeeping values only, the carrier shall, before voluntarily paying a claim thereon, require the claimant to establish the destination value in the quantity, shipped, transported, or involved and to certify the correctness thereof in writing.

(c) *Verification of loss.* A prerequisite to the voluntary payment by a carrier of a claim for loss of an entire package or an entire shipment shall be the securing by it of a certified statement in writing from the consignee of the shipment involved that the property for which the claim is filed has not been received from any other source.

#### § 1005.5 Disposition of claims.

Each carrier subject to the Interstate Commerce Act which receives a written claim for loss or damage to baggage or for loss, damage, injury, or delay to property transported shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within 120 days after receipt of the claim by the carrier; *Provided, however,* That, if the claim cannot be processed and disposed of within 120 days after the receipt thereof, the carrier shall at that time and at the expiration of each succeeding 60-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reason for the delay in making final disposition thereof and it shall retain a copy of such advice to the claimant in its claim file thereon.

#### § 1005.6 Processing of salvage.

(a) Whenever baggage or material, goods, or other property transported by a carrier subject to the provisions herein contained is damaged or alleged to be damaged and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, consignee, or person entitled to receive such property, the carrier, after giving due notice, whenever practicable to do so, to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, shall undertake to sell or dispose of such property directly or by the employment of a competent salvage agent. The carrier shall only dispose of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. The carrier shall make an itemized record sufficient to identify the property

involved so as to be able to correlate it to the shipment or transportation involved, and claim, if any, filed thereon. The carrier also shall assign to each lot of such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

(b) Whenever disposition of salvage material or goods shall be made directly to an agent or employee of a carrier or through a salvage agent or company in which the carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, that carrier's salvage records shall fully reflect the particulars of each such transaction or relationship, or both, as the case may be.

(c) Upon receipt of a claim on a shipment on which salvage has been processed in the manner hereinbefore prescribed, the carrier shall record in its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.

[FR Doc. 72-3024 Filed 2-29-72; 8:53 am]

## Title 32A—NATIONAL DEFENSE, APPENDIX

### Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5) Amdt. 41]

#### OIL REG. 1—OIL IMPORT REGULATIONS

##### Allocations Based on Exports of Petrochemicals

There appeared in the FEDERAL REGISTER for December 4, 1971 (36 F.R. 23158), a proposal to provide for allocations of imports of crude oil and unfinished oils into Districts I-IV and District V to persons operating petrochemical plants based on the quantities of "eligible petrochemicals" (as defined) which these persons manufacture and export.

Such allocations are provided by the new section 9A which this Amendment 41 adds to Oil Import Regulation 1 (Revision 5). The allocations of "off shore imports" provided for by the new section 9A will, pursuant to the authority of paragraph (b) of section 3 of Proclamation 3279, as amended, be outside the levels prescribed for such imports by section 2 of the Proclamation. It has been determined, however, that an appropriate exercise of this authority requires that the quantity of oil imported pursuant to this section 9A should not exceed the quantity of oil contained in the exported chemical; therefore a factor approximating the average density of crude oil is used in paragraph (e) (3) in calculating the allocation to be granted.

Careful consideration was given to all of the comments on the proposal which were received. The period for filing applications specified in paragraph (c) has been extended (to 45 days), as suggested by several of those commenting. The absence of a provision for exchanges was pointed out. This inadvertent omission has been remedied by inclusion of paragraph (i). As exports form the base upon which allocations will be made under the new section 9A, paragraph (f) has been revised so as clearly to exclude from the base "eligible petrochemicals" which are exported but subsequently returned in whatever form. Three trade classifications have been added to those which were contained in the proposed definition of "eligible petrochemicals." This was necessary to include as "eligible petrochemicals" materials which have characteristics similar to materials within other eligible classes but are not transported as produced. Two of the trade classifications contained in the proposed definition of "eligible petrochemicals" have been deleted. Materials falling under these two classifications are the result of significant mechanical processing and, therefore, are not regarded as being of the category of petrochemicals to receive credit under the program embodied in the new section 9A. For the same reason, a number of suggested additions of the list of "eligible petrochemicals" were not accepted. Certain suggested changes, such as taking account of petrochemicals exported by a third person, basing allocations only on additional exports in excess of exports during a base period, and deducting imports and shipments from Puerto Rico, have not been made. As experience is gained under this program, further consideration may be given to one or more of these suggestions.

This Amendment 41 will become effective thirty (30) days after publication in the FEDERAL REGISTER.

HOLLIS M. DOLE,  
Assistant Secretary.

FEBRUARY 25, 1972.

I concur: February 25, 1972.

DARRELL M. TRENT,  
Acting Director, Office of  
Emergency Preparedness.

A new section 9A, reading as follows, is added to Oil Import Regulation 1 (Revision 5):

**Sec. 9A Allocations based on exports.**

(a) For the purposes of this section: (1) "Eligible petrochemicals" means materials falling into the following trade classifications, as specified, of Schedule B of the Department of Commerce Statistical Classifications of Domestic and Foreign Commodities Exported from the United States.

Trade Classification Schedule B Number	Description
281.2	Synthetic Rubber and Rubber Substitutes except compounded, semiprocessed, and manufactures; e.g., SBR Type Rubber, Butyl Rubber.
512	Chemical Elements and Compounds—Organic Chemicals; e.g., Ethylene Glycol, Acetic Acid.
513.27	Carbon Black.
521.4024	Ortho-Xylene.
521.4025	Para-Xylene.
521.4027	Mixed Xylenes.
581.1005-581.1055.	Plastic Materials and Artificial Resins; e.g., Polyamide, Phenolic, Polyethylene.
581.2002-581.2058.	Antiknock Mixtures.
599.7505-07	Reagents for Ore Recovery.
599.9960	Carbon Black Masterbatch.

(2) Each quarter of a particular allocation period (e.g., January, February, March) shall constitute a "base period."

(b) A person who holds an allocation of imports into Districts I-IV or into District V for a particular allocation period under section 9 of this regulation shall also be entitled to receive under this section 9A an allocation of imports of crude oil into Districts I-IV or into District V (as the case may be) based on his exports of eligible petrochemicals during a base period within that allocation period.

(c) An application for an allocation under this section must be filed with the Director no later than 45 days after the last day of the base period to which the application relates. An application must be in such form as the Director may prescribe.

(d) No license issued under an allocation made pursuant to this section shall be valid for a period longer than 6 months following the day on which the license is issued.

(e) An allocation of imports of crude oil under this section shall be computed as follows:

(1) The Director shall determine the total weight (in pounds) of eligible petrochemicals (i) which were produced in the person's facilities in Districts I-IV or in District V, and (ii) which were exported by the person from the customs territory of the United States during a base period.

(2) The Director shall ascertain the total hydrogen and carbon content (in pounds) of that part of the total weight of the eligible petrochemicals determined pursuant to subparagraph (1) of this paragraph (e), which was (i) produced by chemical reaction in the person's facilities and (ii) derived from crude oil or unfinished oils produced or manufactured in Districts I-IV or in District V or imported into Districts I-IV or District V pursuant to an allocation.

(3) That part of the total hydrogen and carbon content of eligible petrochemicals ascertained pursuant to subparagraph (2) of this paragraph shall be divided by 300. The applicant shall receive an allocation of barrels of imports

of crude oil equal to the resulting quotient.

(f) A shipment of eligible petrochemicals from Districts I-IV or from District V to a foreign country or to the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands constitutes an export for the purposes of this section. A shipment of eligible petrochemicals from Districts I-IV or from District V to Puerto Rico or to a foreign trade zone shall not constitute an export for the purposes of this section. If eligible petrochemicals are returned after having been exported, the total weight of such eligible petrochemicals so returned, whatever the form of the import, shall either be excluded or deducted as appropriate, from the applicant's base in computing an allocation under paragraph (e) of this section.

(g) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100 percent of such person's allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the person's petrochemical plants, and that more than 50 percent by weight of the yields from such unfinished oils will be converted into petrochemicals or that more than 75 percent by weight of recovered product output will consist of petrochemicals.

(h) No license issued under an allocation made pursuant to this section shall permit the importation of Canadian imports as defined in section 1A of Proclamation 3279.

(i) A person who imports crude oil or unfinished oils under an allocation made under this section may, except as provided in paragraph (g) of this section, exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of subparagraphs (2), (3), (4), (5), and (6) of paragraph (b) of section 17 of this regulation.

(j) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(k) This section 9A shall be effective for the allocation period January 1, 1972, through December 31, 1972, and succeeding allocation periods.

[FR Doc. 72-3220 Filed 2-29-72; 11:10 am]

[Oil Import Reg. 1 (Rev. 5) Amdt. 42]

**OIL REG. 1—OIL IMPORT  
REGULATION**

**Imports of Residual Fuel Oil To Be  
Used as Fuel—District I**

There appeared in the FEDERAL REGISTER for August 5, 1971 (36 F.R. 14388),

a proposal to amend section 12 of Oil Import Regulation 1 (Revision 5), as amended, to simplify the making of allocations of imports into District I of residual fuel oil to be used as fuel and the issuance of licenses therefor by providing for annual allocations based on business estimates within a maximum level prescribed by the Secretary for a particular allocation period. At the same time it was proposed to amend section 5 of the regulations to make the section applicable to applications for imports into District I of residual fuel oil to be used as fuel.

A total of thirty-seven (37) comments were received and were carefully reviewed. Twenty-two (22) of the respondents opposed the proposal on the grounds that it represented a change in policy. As indicated below, several changes have been made to modify the regulation as suggested by the respondents and to make it clear that there has been no change in policy. The purpose of this amendment of section 12, which calls for annual allocations, based on estimated requirements of eligible importers, is to improve the efficiency of administration.

After a careful study of all the comments received, paragraph (c) of the proposed section 12 has been amended to provide that the maximum level of imports shall be established after all applications for a particular allocation period have been submitted; paragraph (d) has been amended to eliminate authority granted to the Director to require further justification of an estimate or justification of an adjustment in an estimate. Further, since section 12 provides for making allocations for periods of 12 months beginning April 1, of imports into District I of residual fuel oil to be used as fuel in District I, and applications for allocations must be filed 60 calendar days prior to the beginning of an allocation period (section 5), provision is made in section 12 with respect to the allocation period starting April 1, 1972, for filing applications no later than March 15, 1972.

This amendment shall become effective upon the date of its publication in the FEDERAL REGISTER (3-1-72).

HOLLIS M. DOLE,  
*Assistant Secretary of the Interior.*

FEBRUARY 29, 1972.

I CONCUR: February 29, 1972.

DARRELL M. TRENT,  
*Acting Director, Office of  
Emergency Preparedness.*

1. Section 12 of Oil Import Regulation 1 (Revision 5), 32 F.R. 1175, is amended to read as follows:

**Sec. 12 Allocations of residual fuel oil—  
District I.**

(a) This section provides for the making of allocations, for periods of 12 months beginning April 1, of imports into District I of residual fuel oil to be used as fuel in District I. For the allocation period starting April 1, 1972, applications can be filed no later than March 15, 1972. For subsequent allocation periods section 5 will prevail.

(b) To be eligible for an allocation of imports into District I of residual fuel oil to be used as fuel, a person must:

(1) Be in the business in District I of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District I into which there has been delivered residual fuel oil to be used as fuel which he owned at the time of delivery, or

(2) Be in the business in District I of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal residual fuel oil to be used as fuel which he owned when it was so delivered. For the purpose of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal.

(c) The maximum level of imports into District I of residual fuel oil to be used as fuel for a particular allocation period will be established by the Secretary immediately after expiration of the date upon which applications are required to be filed. This level will be equal to or greater than the sum of the quantities requested by Federal agencies, an estimate of any quantity which may be awarded by the Oil Import Appeals

Board and a quantity equal to the aggregate of the quantities estimated to be required by eligible applicants pursuant to paragraph (d) of this section. Within the level so established for a particular allocation period, the Director shall make allocations according to paragraph (d) of this section, as requested by Federal agencies, and as required by the Oil Import Appeals Board.

(d) In an application for an allocation under this section, an applicant shall estimate the quantity of imports of residual fuel oil to be used as fuel that he will require to serve present and prospective customers in District I during the allocation period. The Director shall make an allocation to each eligible applicant of imports into District I of residual fuel oil to be used as fuel in the amount of the estimate shown in his application or, if an adjustment is made, in the amount of the estimate as adjusted.

(e) The Director, upon the request of an eligible applicant, may adjust such applicant's allocation during an allocation period within the maximum level of imports prescribed by the Secretary. The Director may also recommend to the Secretary that upward adjustments be made in the maximum level of imports prescribed for an allocation period.

(f) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

2. Section 5 of Oil Import Regulation 1 (Revision 5) is amended to read as follows:

**Sec. 5 Applications for allocations and licenses.**

Unless otherwise provided in this regulation, applications for allocations of imports of crude oil, unfinished oils, or finished products and for a license or licenses must be filed with the Director, in such form as he may prescribe, not later than 60 calendar days prior to the beginning of the allocation period for which the allocations are required. However, if the 60th day is a Saturday, Sunday, or holiday, the application may be filed on the next succeeding business day. This section does not apply to an application for an allocation pursuant to paragraph (c) of section 15.

[FR Doc.72-3221 Filed 2-29-72; 11:10 am]

# Proposed Rule Making

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ 43 CFR Part 1720 ]

### PROGRAM POLICY

#### Placement of Chemical Toxicants on Public Lands

Notice is hereby given that pursuant to the authority contained in R.S. 453, as amended (43 U.S.C. sec. 2); R.S. 2478, as amended (43 U.S.C. sec. 1201), the National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331-4335); and pursuant to Executive Order 11643 (37 F.R. 2875), it is proposed that Subpart 1725 of Title 43, Code of Federal Regulations, be amended by adding § 1725.3-4.

The purpose of this amendment is to restrict the use on public lands of chemical toxicants for the purpose of killing predatory mammals or birds and to restrict the use on such lands of chemical toxicants which cause any secondary poisoning effects for the purpose of killing other mammals, birds or reptiles.

In accordance with the Department's policy on public participation in rule making (36 F.R. 8336), interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240, until May 1, 1972.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Information, Bureau of Land Management, Room 5643, Interior Bldg., Washington, D.C., during regular business hours (7:45 a.m.-4:15 p.m.).

Part 1720 of Chapter II, Title 43, Code of Federal Regulations, is amended by adding § 1725.3-4 to read as follows:

#### § 1725.3-4 Use of chemical toxicants on public lands.

(a) Except as hereafter provided, the field use of any chemical toxicant which may cause the death of any predatory mammal or bird, or the field use of any chemical toxicant which may cause any secondary poisoning effect to any mammal, bird, or reptile is prohibited on public lands administered by the Bureau of Land Management.

(b) Exceptions: The Secretary may authorize the emergency use of a chemical toxicant for the purpose of killing predatory mammals or birds, or of a chemical toxicant which may cause a secondary poisoning effect to any mammal, bird, or reptile, if in each specific case the Secretary makes a written finding, following consultation with the Secretaries of Agriculture and Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, that an emergency exists that

cannot be dealt with by means which do not involve use of chemical toxicants, and that such use is essential (1) to the protection of the health or safety of human life; (2) to the preservation of one or more wildlife species threatened with extinction, or likely within the foreseeable future to become so threatened; or (3) to the prevention of substantial irretrievable damage to nationally significant natural resources.

(c) Definitions: As used herein the term "field use" means use on any public land except use immediately adjacent to, or inside, occupied buildings; the term "chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to or injected into the body, in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death, to animals or man; the term "predatory mammal or bird" means any mammal or bird which habitually preys upon other animals or birds; and the term "secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed, or when applied to or injected into, a mammal, bird, or reptile, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter ingested by man, mammal, bird, or reptile, may cause significant bodily malfunction, injury, illness, or death.

MITCHELL MELICH,

Acting Secretary of the Interior.

FEBRUARY 25, 1972.

[FR Doc.72-3061 Filed 2-29-72;8:52 am]

#### [ 43 CFR Parts 4110, 4120, 4130 ]

### CONSERVATION OR PROTECTION OF NATURAL RESOURCES OR THE ENVIRONMENT

#### Proposed License, Permit, and Leasing Procedures; Requirements and Conditions

Notice is hereby given that pursuant to the authority contained in the Act of June 28, 1934 (43 U.S.C. 315a, 315m); the Act of March 4, 1927 (43 U.S.C. 316n); the Act of August 28, 1937 (43 U.S.C. 1181d); the Act of September 1, 1936 (50 Stat. 902); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331-4335) it is proposed to amend Parts 4110, 4120, and 4130 of Chapter II, Title 43 of the Code of Federal Regulations.

The purpose of this amendment is to make grazing privileges subject to cancellation where a grazer has violated or failed to comply with any Federal or State law or regulation concerning the conservation or protection of natural resources or the environment and (1) graz-

ing land administered by the Bureau of Land Management is involved or affected; and (2) such violation or failure to comply is related to a grazing use authorized by said lease, license, or permit.

In accordance with the Department's policy on public participation in rule making (36 F.R. 8336), interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until May 1, 1972.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Information, Bureau of Land Management, Room 5643, Interior Building, Washington, D.C. during regular business hours (7:45 a.m.-4:15 p.m.). Parts 4110, 4120, 4130, of Subchapter D of Chapter II, Title 43 of the Code of Federal Regulations are amended as follows:

1. A new subparagraph (15) is added to § 4115.2-1(e) of Part 4110 to read as follows:

#### § 4115.2-1 License and permit procedures; requirements and conditions.

\* \* \* \* \*

(15) The violation of, or failure to comply with, any Federal or State law or regulation concerning the conservation or protection of natural resources or the environment may result in the cancellation or reduction of a license or permit where (i) grazing land administered by the Bureau of Land Management is involved or affected, and (ii) such violation or failure to comply is related to a grazing use authorized by said license or permit. Laws or regulations relating to the conservation or protection of natural resources or the environment include, but are not limited to, those relating to air and water pollution, protection of wildlife and fish, and the use of pesticides.

\* \* \* \* \*

2. A new subparagraph (12) is added to § 4125.1-1(i) of Part 4120 to read as follows:

#### § 4125.1-1 Leasing procedures; requirements and conditions.

\* \* \* \* \*

(i) \* \* \* \* \*  
(12) The violation of, or failure to comply with, any Federal or State law or regulation concerning the conservation or protection of natural resources or the environment may result in the cancellation or reduction of a lease where (i) grazing land administered by the Bureau of Land Management is involved or affected, and (ii) such violation or failure to comply is related to a grazing use authorized by said lease. Laws or regulations relating to the conservation or

protection of natural resources or the environment include, but are not limited to, those relating to air and water pollution, protection of wildlife and fish, and the use of pesticides.

3. Paragraph (f) of § 4131.2-7 of Part 4130 is amended by adding a new subparagraph to read as follows:

§ 4131.2-7 Lease.

(f) *Restrictions.* \* \* \*

The violation of, or failure to comply with, any Federal or State law or regulation concerning the conservation or protection of natural resources or the environment may result in the cancellation or reduction of a lease where (i) grazing land administered by the Bureau of Land Management is involved or affected, and (ii) such violation or failure to comply is related to a grazing use authorized by said lease. Laws or regulations relating to the conservation or protection of natural resources or the environment include, but are not limited to, those relating to air and water pollution, protection of wildlife and fish, and the use of pesticides.

MITCHELL MELICH,

*Acting Secretary of the Interior.*

FEBRUARY 25, 1972.

[FR Doc.72-3060 Filed 2-29-72; 8:52 am]

[ 43 CFR Parts 4110, 4120, 4130 ]

**USE OF CHEMICALS TOXIC TO PREDATORY ANIMALS ON GRAZING LANDS**

**Proposed License, Permit, and Leasing Procedures; Requirements and Conditions**

Notice is hereby given that pursuant to the authority contained in the Act of June 28, 1934 (43 U.S.C. 315a, 315m); the Act of March 4, 1927 (as amended) (43 U.S.C. Sec. 316n); the Act of August 28, 1937 (43 U.S.C. 1181d); the Act of September 1, 1937 (50 Stat. 902); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 4331-4335); and pursuant to Executive Order 11643 (37 F.R. 2875), it is proposed to amend Parts 4110, 4120, and 4130 of Chapter II, Title 43 of the Code of Federal Regulations as follows:

The purpose of this amendment is to restrict on public lands administered by the Bureau of Land Management and subject to domestic livestock grazing the use of chemicals toxic to predatory mammals or birds, or toxic to other mammals, birds, and reptiles if such chemical toxicants may cause secondary poisoning effects; and to authorize the cancellation or reduction of grazing privileges for the unauthorized use of such chemicals.

In accordance with the Department's policy on public participation in rule making (36 F.R. 8336) interested parties may submit written comments, suggestions, or objections with respect to the

proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until May 1, 1972.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Information, Bureau of Land Management, Room 5643, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.-4:15 p.m.).

Parts 4110, 4120, 4130 of Subchapter D of Chapter II, Title 43 of the Code of Federal Regulations are amended as follows:

1. A new subparagraph (16) is added to § 4115.2-1(e) of Part 4110 to read as follows:

§ 4115.2-1 License and permit procedures; requirements and conditions.

(e) \* \* \*

(16) (i) Except as authorized in writing by the Secretary, no licensee or permittee, or the agent or employee of any licensee or permittee, shall make field use on the public lands of any chemical toxicant which may cause the death of any predatory mammal or bird, or the field use of any chemical toxicant which may cause any secondary poisoning effects to any mammal, bird, or reptile. Any unauthorized use may result in the cancellation or reduction of the grazing use.

(ii) As used herein, the term "field use" means use on any public land except use immediately adjacent to, or inside, occupied buildings; the term "chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to or injected into the body, in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death, to animals or man; the term "predatory mammal or bird" means any mammal or bird which habitually preys upon other animals or birds; and the term "secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed, or when applied to or injected into, a mammal, bird, or reptile, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter ingested by man, mammal, bird, or reptile, may cause significant bodily malfunction, injury, illness or death.

2. A new subparagraph (13) is added to § 4125.1-1(i) of Part 4120 to read as follows:

§ 4125.1-1 Leasing procedures; requirements and conditions.

(i) \* \* \*

(13) Except as authorized in writing by the Secretary, no lessee or the agent or employee of any lessee shall make field use on the public lands of any chemical toxicant which may cause the death of any predatory mammal or bird, or the field use of any chemical toxicant which may cause any secondary poisoning effects to any mammal, bird, or reptile.

Any unauthorized use may result in the cancellation or reduction of the grazing use. For definitions of the terms "field use," "chemical toxicant," "predatory mammal or birds," and "secondary poisoning effect," see § 4115.2-1(e) (16) (ii) of this chapter.

3. Paragraph (f) of § 4131.2-7 of Part 4130 as amended by adding a new subparagraph to read as follows:

§ 4131.2-7 Leases.

(f) *Restrictions.* \* \* \*

Except as authorized in writing by the Secretary, no lessee or the agent or employee of any lessee shall make field use on the public lands of any chemical toxicant which may cause the death of any predatory mammal or bird, or the field use of any chemical toxicant which may cause any secondary poisoning effects to any mammal, bird, or reptile. Any unauthorized use may result in the cancellation or reduction of the grazing use. For definitions of the terms "field use," "chemical toxicant," "predatory mammal or bird," and "secondary poisoning effect," see § 4115.2-1(e) (16) (ii) of this chapter.

MITCHELL MELICH,

*Acting Secretary of the Interior.*

FEBRUARY 25, 1972.

[FR Doc.72-3059 Filed 2-29-72; 8:52 am]

**DEPARTMENT OF AGRICULTURE**

Consumer and Marketing Service

[ 7 CFR Part 987 ]

**DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.**

**Proposed Definition and Disposition of Utility Dates**

Notice is hereby given of proposals to permit those dates which fail to meet the requirements for marketable dates but are not cull dates to be referred to either as substandard dates or utility dates. Currently, such dates are referred to only as substandard dates. The proposals are based on a unanimous recommendation of the California Date Administrative Committee established pursuant to the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987; 36 F.R. 15053), regulating the handling of domestic dates produced or packed in Riverside County, Calif. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to any written data, views, or arguments pertaining to the proposals which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington,

D.C. 20250, not later than 7 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

1. Add a new § 987.103 to Subpart—Administrative Rules and Regulations (7 CFR 987.100-987.174; 37 F.R. 1159; 36 F.R. 23137) reading as follows:

§ 987.103 Utility dates.

"Utility dates" means "substandard dates" as that term is defined in § 987.15.

§§ 987.102, 987.145, 987.161, 987.162, 987.164 [Amended]

2. In §§ 987.102(c), 987.145(f), 987.161(h), 987.162(e), and 987.164, substitute the word "utility" for "substandard".

3. Amend § 987.156 by revising the heading and paragraph (a) thereof to read as follows:

§ 987.156 Disposition of utility dates.

(a) *Specified product outlets.* Utility dates of any variety inspected and certified in accordance with § 987.56 may be disposed of by handlers for use, or used by them, in the production of table syrup. Utility dates of any variety inspected and certified in accordance with § 987.56 may be disposed of during the period December 4, 1971, through September 30, 1972, by handlers for use, or used by them, in the production of date products for human consumption in the form of rings, chunks, pieces, butter, paste, or macerated dates.

Dated: February 24, 1972.

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

[FR Doc. 72-3053 Filed 2-29-72; 8:51 am]

[7 CFR Part 1133]

[Docket No. AO-275-A24]

MILK IN THE INLAND EMPIRE  
MARKETING AREA

Notice of Hearing on Proposed  
Amendments to Tentative Market-  
ing Agreement and Order

Notice is hereby given of a public hearing to be held at the Holiday Inn, Sunset Highway, Spokane, Wash., beginning at 10 a.m., local time on March 14, 1972, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Inland Empire marketing area.

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 govern-

ing 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 amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

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

Proposed by the Inland Empire Producers' Class I Base Plan Committee:

PROPOSAL No. 1

A. *Base-earning period for initial production history bases.* Production history bases should be determined as follows:

1. The full base-earning period should be the market's four lowest months of production in each of the last 3 calendar years. For the initial issuance of production histories, the calendar years of 1969, 1970, and 1971 would be used.

2. A production history base may be determined from deliveries in parts of 1, 2, or 3 years if the producer did not deliver in all of 3 calendar years.

3. If a producer delivers milk during at least the last 4 months of a calendar year, he shall be considered as having delivered in that calendar year for the purposes of determining a production history base. His deliveries in the last 4 months of a year shall be adjusted to reflect the market's 4 lowest months of production in that calendar year and used to determine his history of production. This adjustment is to insure that production by such producers in a portion of a calendar year which is used to determine a production history base will be equitable with production of other producers during the market's 4 lowest months of production.

4. A production history base once issued and not transferred or forfeited will be protected for future years if a producer reduces his production, but not below the Class I base issued to him pursuant to paragraph 1 of section F.

5. An "average daily producer milk delivery" will be determined for each producer for each year by dividing the producer milk delivered by the number of days in the producer's production history months.

B. *Method to determine the first production history bases for different categories of producers under the new plan.*

1. For a producer who delivered milk in all of 1969, 1970, and 1971.

(a) Determine an average daily producer milk delivery for each year by dividing his deliveries during the market's 4 low months of each of the last 3 calendar years (1969, 1970, and 1971) by the number of days in those 4 months.

(b) The highest average daily delivery of 1969, 1970, or 1971 as determined in (a) above will be the producers initial production history base.

(c) The producer's history of production for the 3 years would be adjusted to reflect that his average daily deliveries in each of the 3 years would be the same

as his issued production history base. For example: A producer averaged in 1969—1,000 lbs., 1970—900 lbs., 1971—800 lbs. His initial production history base would be 1,000 lbs. and his records would be adjusted to indicate that his average daily deliveries during the 4 low months of the market for each of the 3 years 1969, 1970, and 1971 was 1,000 lbs.

2. For a producer delivering milk when the new plan starts and who did not deliver milk in all of 1969, 1970, and 1971.

(a) A producer who has delivered at least the last 4 months of 1969 and all of 1970 and 1971 shall be treated the same as a producer who has delivered milk in all of 1969, 1970, and 1971 except that his last 4 months deliveries in 1969 shall be adjusted pursuant to paragraph (3) of section A above. If he did not deliver the whole year of 1969 but did deliver during the 4 base making months, the last 4-month-of-the-year procedure would not apply.

(b) A producer who has delivered at least the last 4 months of 1970 and all of 1971 shall be treated the same as a producer who has delivered milk in all of 1969, 1970, and 1971 except that his last 4 months' deliveries in 1970 shall be adjusted pursuant to paragraph (3) of section A above. If he did not deliver the whole year of 1970 but did deliver during the 4 base making months, the last 4-month-of-the-year procedure would not apply.

(c) A producer who has delivered at least the last 4 months of 1971 shall be treated the same as a producer who has delivered milk in all of 1969, 1970, and 1971 except that his last 4 months' deliveries in 1971 shall be adjusted pursuant to paragraph (3) of section A above. If he did not deliver the whole year of 1971 but did deliver during the 4 base making months the last 4-month-of-the-year procedure would not apply.

(d) A producer who has delivered at least 7 months preceding the effective date of this provision shall have his eligible deliveries during the first 4 full months of delivery divided by the number of days in that 4-month period adjusted pursuant to paragraph (3) of section A above. He will be treated the same as a producer who has delivered in all of 1969, 1970, and 1971 insofar as initial production history base.

(e) For a producer who starts deliveries after October 1, 1971, but before February 29, 1972, a production history base will not be issued at the start of the new plan, but he will be given a base milk assignment for each month May 1972 through January 1973 pursuant to paragraph 5 of this section. February 1, 1973, he would be given a production history base equal to 60 percent of his average daily deliveries during the applicable months of his first production year. February 1, 1974, he would receive a production history base equal to 80 percent of his average daily deliveries during the applicable months. February 1, 1975, he would receive a full production history base as old producers in the market.

3. For producers who enter the market after the new plan is issued.

(a) Persons who become producers because the plant to which they ship milk becomes regulated shall be given base immediately computed on the basis of the number of years for which they can prove production. (If they can prove a 3-year production history they would get a full base, 2 years 80 percent, etc.)

(b) Persons who were producers for another market and who start delivering milk to this market from the farm operated during the base-earning period shall receive only the Class III price for their deliveries up to their first 90 days of production. They will then have a production history base determined from deliveries from the farm operated during the base-earning period as for old producers pursuant to paragraph 1 or 2 of this section. Such base would be usable only from that same farm. (Persons in this category must prove a 3-year production history upon entering the market to qualify for a full base.)

(c) Persons who begin milk production during March 1972 shall receive the Class III price for their deliveries in May 1972. They would then receive base milk beginning June 1972 pursuant to paragraph 5 of this section. Persons who begin milk production during April 1972 shall receive the Class III price for their deliveries in May and June 1972. They would then receive base milk beginning July 1972 pursuant to paragraph 5 of this section.

(d) Persons who begin milk production after May 1, 1972, shall receive the Class III price for up to their first 90 days of delivery. They would then receive base milk pursuant to paragraph 5 of this section. Persons in this new producer category would then receive comparable treatment to the producer as outlined in paragraph 2(e) of this section subject to a further reduction of 20 percent if he began production after May 1, 1972.

4. Persons who previously held a designation as a producer-handler shall have a production history base determined when they become a producer as for old producers pursuant to paragraph 1 or 2 of this section. Persons who enter the market in this manner must prove a 3-year history production from the same farm to qualify for a full base.

5. A producer who enters or re-enters the market pursuant to paragraphs 2(e), 3(c), and 3(d) of this section or paragraph 2 of section E shall receive a base assignment in the first eligible month applicable to him. As a step preliminary to calculation of Class I base assignment for such producer, in each month his average daily deliveries would be adjusted seasonally in relation to the change in level of daily market receipts in the current month compared to market receipts in the production history months of the preceding year. His Class I base assignment each month would be 40 percent of such adjusted average daily deliveries, subject to further reduction of 20 percent and multiplied by the Class I base percentage most recently determined by the market admin-

istrator. The further reduction of 20 percent would not be applied to producers who entered the market between October 1, 1971, and April 30, 1972. Such method of base assignment would continue until he has qualified for a 1-year production history base.

C. *Amount of Class I base to issue.*  
1. At the start of the new plan the total Class I base to be issued will be the average daily usage of Class I milk during the calendar year 1971 plus a 20-percent reserve.

2. On each February 1 thereafter the amount of Class I base to be issued will be the average daily usage of Class I milk during the preceding calendar year plus a 20-percent reserve.

D. *Calculation of percentage to use to determine Class I base from production history base.* A percentage shall be calculated by dividing the Class I base to be issued by the sum of the production history bases determined for producers. A percentage will be determined when the new plan becomes effective and then a new percentage shall be determined on succeeding February 1's. A percentage once determined shall be used until the next February 1 for determining all Class I bases to be issued and for determining the percentage to be used in allocating base milk to producers who were not issued a Class I base.

E. *Reallocation of bases.* Production history bases and Class I bases will be updated or reallocated on February 1 of each year according to the following procedures:

1. A production history base will be determined for each eligible producer and will be the higher of the following:

(a) A producer's protected production history base; or

(b) A base determined by dividing the sum of the "average daily producer milk deliveries" (actual or assigned) in each available year of the base earning period (last 3 years) by three, after adjusting average daily producer milk deliveries for disposition of base by transfer or forfeiture, and further adjustment to 80 percent and 60 percent for 2-year and 1-year production histories.

2. For a producer, who after having forfeited or disposed of all of his Class I base, in this or any other Federal order, either continues as a producer on the market, discontinues deliveries to the market, returns to the market as a producer or transfers from another order with a Class I Base Plan (market hopping) shall be assigned base milk computed in the manner specified in paragraph (5) of section B, such assignment to be effective on the latter of the following dates: The first day of the third month after the month in which he recommences deliveries of producer milk on the market, or the first day of the seventh month after the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. He must then start earning a production history base and deliveries prior to the expiration of the seventh month period cannot be used toward the earning of a new base.

In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture.

3. A Class I base will be determined by multiplying the appropriate production history base for each producer by the percentage determined under section D.

F. *Forfeiture of bases (base rules).* 1. A producer who does not deliver his average Class I base held in the market's 4 lowest months of production in a calendar year shall have his production history reduced on the next February 1 by one-third the proportion that he failed to deliver his Class I base.

2. A person who does not deliver producer milk to the market for a period of 30 consecutive days shall immediately forfeit all production history base and Class I base held, and all credit for deliveries made prior to the 30-day period of nondelivery, except that a person entering the military service may retain them until 1 year after being released from active military service.

G. *Transfers of base (and related production history bases).* Transfer of base should be permitted so as to encourage new producers to acquire base by transfer rather than to earn bases. It should also permit an old producer to acquire additional base by transfer rather than only by increasing production. The base rules should be such as to prevent bases from taking on an unreasonable value.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of the Class I base prior to the first day of the month of transfer of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer and the amount of base to be transferred if less than the entire Class I base held by the transferor.

(c) It must be established to the satisfaction of the market administrator that

the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(d) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(e) A transfer of Class I base may be made in amounts of not less than 150 pounds or the entire base, whichever is smaller.

(f) Transfers which do not qualify as intrafamily or are not as the result of a bona fide sale and purchase by a person not now a baseholder in the market of the entire farm, including the herd, production facilities and at least substantially all of the land associated with the production of milk (subject to the approval of the market administrator that the purchaser is substantially "standing in the shoes of" the seller and is continuing the operation uninterrupted) may be made as follows:

(1) Of the amount of Class I base to be transferred by a producer, one-third shall be forfeited and the other two-thirds will be transferred.

(2) The production history base of the transferee producer will be changed to reflect Class I base received by transfer.

(3) The transferor producer's Class I base, production history base and credit for production used to determine a production history base shall be reduced by any transfer and/or forfeiture.

(g) An intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) will not be subject to a one-third lapse of base: *Provided*, That the transfer implements a continuous operation of the same farm with the same herd. All restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(h) A transfer of a portion of the Class I base shall be a partial transfer and shall be effective only on the first day of a month. A transfer where the transferee producer will combine the Class I base received with Class I base already held shall be considered a partial transfer.

(i) A transfer of a complete Class I base of a producer to a person who does not hold a Class I base will be effective on the date of transfer of herd and farm, or on the first day of the month if no herd and farm is transferred, provided in either case that a base transfer request was made to the market administrator before the first day of the month of transfer.

(j) A producer who receives a base because his plant becomes a pool plant or one who becomes a producer under this order and could have been issued base when the plan began or was updated and who continues to ship from the same farm may not transfer such base, other than pursuant to paragraph (g) of this section, for 1 year from date of receipt or such later date as provided in paragraph (1) of this section.

(k) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 3 years from the date of receipt, except to a member of the immediate family pursuant to paragraph (g) of this section.

(l) A base which has been computed from a less than 3-year production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (g) of this section.

(m) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons will require a transfer of bases and compliance with all base rules therein.

**H. Miscellaneous base rules.** The following base rules shall be observed in the determination of bases:

(a) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(b) Any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who disposes of his base by transfer and then seeks a designation as a producer-handler pursuant to § 1133.16 shall not receive such designation until a 12-month period has elapsed following the date of the transfer of base. Such person may earn no base during this period, but he may achieve a producer-handler designation if he purchases and then forfeits base equivalent to that previously transferred.

(c) Any person entering the market by purchase of base forfeits any right to earn initial base by production as a new producer.

**I. Hardship provisions.** Requests of producers for relief from hardship or inequity will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide, residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base because of off market for 30 or more consecutive days;

(4) Loss or potential loss of Class I base because of underdeliveries;

(5) Inability to transfer base;

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after being notified of the amount of base issued him with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraphs (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to subparagraphs (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the

Director, Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected for their services at \$20 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

Proposed by the Inland Empire Dairy Association:

**PROPOSAL No. 2**

Amend § 1133.50(c) as follows:

**§ 1133.50 Basic formula price.**

(c) *Class III Milk.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk creamery butter at Chicago as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents, and round to the nearest cent.

Proposed by Spokane Milk Producers Association:

**PROPOSAL No. 3**

Amend § 1133.50(c) as follows:

**§ 1133.50 Basic formula price.**

(c) *Class III Milk.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk creamery butter at Chicago as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month

through the 25th day of the current month; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract as a make allowance the same make allowance which the Secretary of Agriculture uses in the same current year to determine the purchase prices of butter and powder under the price support program.

**PROPOSAL No. 4**

Amend § 1133.70, and other appropriate provisions, to provide that fluid milk products received at a pool plant from an unregulated supply plant or from a partially regulated distributing plant, which have previously been priced as Class I milk under a Federal milk order, will not be subject to additional charges under order No. 133.

Proposed by the Dairy Division, Consumer and Marketing Service:

**PROPOSAL No. 5**

Revise § 1133.15(d) by removing the handler option on farm bulk tank milk.

**PROPOSAL No. 6**

Limit the location adjustment credit on other source milk.

**PROPOSAL No. 7**

Change from the Chicago 93-score butter price to the Chicago 92-score butter price as a basis to compute the handler butterfat differentials.

**PROPOSAL No. 8**

Revise the format of order provisions to provide for a more appropriate and simplified arrangement.

**PROPOSAL No. 9**

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, James A. Burger, West 55 Mission Avenue, Spokane, WA 99201, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on February 25, 1972.

JOHN C. BLUM,  
Deputy Administrator,  
Regulatory Programs.

[FR Doc.72-3082 Filed 2-29-72;8:53 am]

**Farmers Home Administration**

**[ 7 CFR Parts 1804, 1823 ]**

[FHA Instruction 442.1, AL-870(442) ]

**COMMUNITY DOMESTIC WATER AND WASTE DISPOSAL SYSTEMS**

**Loan and Grants**

Notice is hereby given that the Administrator of the Farmers Home Adminis-

tration is considering amending Part 1823 of Title 7 of the Code of Federal Regulations, Chapter XVIII, Subchapter B, "Loans and Grants Primarily for Real Estate Purposes," by revising Subpart A. Changes made by this revision include those to:

1. Allow the financing of that portion of a facility that will serve a rural area when the facility is planned to serve both rural and urban areas.

2. Make more specific the area required to be served by a facility and require verification of the number of signed users agreements.

3. Incorporate Subpart B of Part 1804 (36 F.R. 1095) into this subpart and to clarify contract award policy.

4. Provide additional guidance in the development of solid waste disposal projects.

5. Make certain changes and additions to the management assistance procedures in order to explain borrowers' responsibilities and to set forth guidelines pertaining to accounting systems, management reports, and required audits.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 30 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Assistant Administrator for Management during regular business hours. (8:15 a.m.-4:45 p.m.)

As proposed, the revised Subpart A reads as follows:

Sec.	
1823.1	General.
1823.2	Definitions.
1823.3	Eligibility.
1823.4	Determining need for development grant.
1823.5	Use of loan and grant funds.
1823.6	Loan and grant limitations.
1823.7	Obligations incurred before closing.
1823.8	Security.
1823.9	Loan terms.
1823.10	Reserves.
1823.11	Insurance and bonding.
1823.12	Coordination with Federal, State, and local agencies.
1823.13	Professional services and contracts related to the facility.
1823.14	Facility control.
1823.15	Purchase price of land and rights, existing facilities, and machinery and equipment.
1823.16	Preparation of appraisal reports.
1823.17	Title to pledged assets.
1823.18	Title to unpledged land rights.
1823.19	Effect of special programs—regulations.
1823.20	Applications.
1823.21	County Committee recommendations.
1823.22	Dockets.
1823.23	Review and approval.
1823.24	State Office controls.
1823.25	Preparation for loan and grant closing.
1823.26	Loan and grant closing.
1823.27	Actions subsequent to loan or grant closing.

Sec.	
1823.28	Applications not receiving favorable consideration and loan or grant cancellation.
1823.29	Planning and performing development.
1823.30	State requirements, forms, guides, and other issuances.
1823.31	Management assistance.
1823.32	Loan and grant approval authority.
1823.33	Loan and grant servicing.
1823.34	Subsequent loans and grants.
1823.35	Handling preliminary inquiries for loan and grant assistance for water and sewer projects (Standard Form 101).
1823.36	Appendix 1 (referred to in FHA offices as Exhibit K), Planning and Developing Community Water and Waste Disposal Facilities.
1823.37	Technical services.
1823.38	Preplanning conference.
1823.39	Preliminary engineering reports.
1823.40	Construction bids and contract awards.
1823.41	Preconstruction conference.
1823.42	Resident inspection.
1823.43	Changes in development plans.
1823.44	Additional information.
1823.45	Appendix 2 (referred to in FHA offices as Exhibit E), Requirements for Accounting and Financial Reporting by Community Programs Borrowers.
1823.46	Borrower responsibilities.
1823.47	Accounts and records.
1823.48	Management reports.
1823.49	Additional reports.
1823.50	Audits.
1823.51	Financial reports for organizations not required to submit an audit report.
1823.52	Minimum chart of accounts for water and waste disposal borrowers.
1823.53	Appendix 3 (referred to in FHA offices as Exhibit D), Information Pertaining To Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants.
1823.54	Bond transcript documents.
1823.55	Interim financing from commercial sources during construction period.
1823.56	Permanent instruments for FHA loans to repay interim commercial financing.
1823.57	Multiple advances of FHA funds using permanent instruments.
1823.58	Multiple advances of FHA funds using temporary debt instruments.
1823.59	Minimum bond specifications.
1823.60	Notices of sale.
1823.61	Bids.

**AUTHORITY:** The provisions of this Subpart A issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development Conservation, 36 F.R. 21529.

#### § 1823.1 General.

This subpart outlines the policies and authorizations and sets forth the procedures for making and processing insured and direct loans and development grants to rural communities and other associations of farmers and rural residents for central domestic water systems and waste disposal systems.

#### § 1823.2 Definitions.

The following definitions are applicable to terms used in this subpart:

(a) **Association.** The term "association" includes municipalities, counties, other political subdivisions of a State; districts, public authorities and the like often referred to as quasi-public agencies; and cooperatives and corporations operated on a nonprofit basis, which have the legal powers to engage in the activities authorized in this subpart.

(1) An existing private corporation even though organized under the general profit corporation laws may come within this definition if it actually will be operated on a nonprofit basis under such charter, bylaws, mortgage, or supplementary agreement provisions as may be required as a condition of loan approval. Associations just being formed will be incorporated under appropriate State nonprofit or cooperative statutes, unless State statutes do not provide for nonprofit corporations or cooperatives suitable to carry out the purposes of the loan or grant.

(2) An association may receive assistance for more than one of the major purposes listed in this subpart when it is organized with the necessary powers conferred by State law to engage in multiple purpose activities.

(b) **Farmer.** The word "farmer" as used herein means one who is engaged in the production of agricultural commodities (including persons engaged in the production of fish under controlled conditions), ranchers, farm tenants, and farm laborers.

(c) **Rural resident.** The term "rural resident" means anyone who permanently resides in a rural area.

(d) **Rural areas.** The term "rural area" means open country, an incorporated or unincorporated town, village, or other place which does not include:

(1) Any city, town, village, or the like which has a population in excess of 5,500 permanent inhabitants, according to the latest reliable dependable population estimate.

(2) A densely settled area (where the principal land use and occupancy is residential or commercial) surrounding, adjacent to, or growing out of a town, village, or place of more than 5,500 people.

(3) An established community or subdivision development near to or likely to become closely associated with a town, village, or place of more than 5,500 people. When determining whether a residential area is to be considered near to, a part of, or likely to become closely associated with, a place of more than 5,500 people, minor open spaces due to physical or legal barriers, commercial or industrial development, parks, areas reserved for convenience or appearance, or narrow strips of cultivated land will be disregarded.

(e) **Direct loan.** A "direct loan" means a loan made from funds in the Farmers Home Administration (FHA) direct loan account.

(f) **Insured loan.** The term "insured loan" means either:

(1) A loan made from funds furnished by a lender and insured by the Government at the time of closing, or

(2) A loan made from the Agricultural Credit Insurance Fund (also referred to as ACIF), to be sold to a purchaser and insured by the Government at the time of sale from the ACIF.

(g) **Development grant.** The term "development grant" means a grant made by FHA to assist in financing the development cost of domestic water and waste disposal systems. These grants are made from direct appropriated funds administered by FHA.

(h) **Development cost.** The term "development cost" means the cost of construction of the proposed facility, including land rights, easements, rights-of-way necessary water rights, engineering fees, legal fees, administrative costs in connection with construction and acquisition, and estimated interest during the development period on any funds borrowed to perform such development.

(i) **Tax-exempt public body.** Term "tax-exempt public body" means a municipality, political subdivision, public authority, district or similar organization issuing obligations on which the interest income is exempt from Federal income taxes.

(j) **Typical year.** The term "typical year" as used in this subpart means a year after which the association has completed its development and which is anticipated to be representative of the ordinary or normal year the association may expect. The number of users, members, or participants to use in analyzing the typical year operation will be those who reside in the area at the time of loan closing and can reasonably be expected to become users of the facility.

(k) **EDA.** The term "EDA" means the Economic Development Administration, an agency of the Department of Commerce.

(l) **EDA area.** The term "EDA area" means an area designated by the EDA as a "qualified area" under the Public Works and Economic Development Act.

(m) **Regional Economic Development Commission.** This refers to the Appalachian, New England, Ozark, Upper Great Lakes, Coastal Plains, Northern Great Lakes, and Four Corners Regional Development Commissions.

(n) **EPA.** The term "EPA" refers to the Environmental Protection Agency. (This agency now handles responsibilities formerly administered by FWQA and FWPCA).

(o) **Public Law 660 Grant.** This is a grant made for waste treatment facilities by the EPA pursuant to Public Law 89-660, as amended, and administered by the State Pollution Control Agency.

(p) **State Pollution Control Agency.** This term refers to the State agency which is responsible for administering Public Law 660 funds within the State.

(q) **Waste treatment facility.** This term is limited to that portion of the interceptor beyond the point where the last raw sewage lateral joins the interceptor line to the treatment plant, the sewage treatment plant, and outfall lines.

### § 1823.3 Eligibility.

To be eligible for financial assistance, an association must:

(a) Propose central domestic water or waste disposal facilities which will be:

(1) Primarily used by, or which will generate substantial, tangible benefits primarily for farmers and other rural residents. In the case of a private corporation, the use or benefit test is applied to members of the corporation. In the case of a public body, the use or benefit test is applied to the permanent residents within its boundaries or within the boundaries of the rural area to be served by the proposed facility. (An example of substantial, tangible benefits other than direct use of facilities: A rural community may need assistance to extend a water system to serve existing or committed industrial or commercial users whose operation will result in a substantial amount of employment for the local rural residents.) Membership of associations providing community facilities should be broadly based and representative of the community benefitting from the facility.

(2) Located in a rural area and serve farmers and rural residents living in the area. The facility will be controlled by farmers and rural residents, except that if the applicant is a public body and the State Director finds that control by the farmers and rural residents is not feasible, the control may be exercised by the public body when the State Director determines that it can adequately represent the interest of the rural people to be served. In those cases where a project will serve both urban or urbanizing and rural areas, FHA may finance that portion of the facility serving the rural area provided that FHA will have a valid security interest in the revenues from or tax obligations of the borrower attributable to that portion financed by FHA. The dockets for all projects serving both urban and rural areas will be submitted to the National Office for review prior to loan or grant approval.

(b) Propose a facility which will not duplicate or compete with existing or planned private or public facilities. In any case where there is a question as to whether the facility will duplicate or compete with existing or planned public or private facilities, complete information on the degree of duplication or competition will be forwarded to the National Office for consideration before the project summary is prepared. Submissions will include statements from local leaders and from owners of existing or planned private facilities and such statements should explain their attitude toward the proposed facility. In any instance where two or more applications for projects that would serve substantially the same group of residents within a single rural area are received and one of the applications is submitted by a village, town, county, or other unit of local government, assistance will be provided through the unit of local government unless prior approval of the National Office is obtained.

(c) Be without sufficient funds to carry out the purposes for which the loan or grant is requested and be unable to obtain adequate credit from other sources on reasonable rates and terms. In considering the availability of credit through general obligation bonds, it is not intended that a community be required to exhaust all of its taxing authority to meet this requirement when such remaining authority is limited and is likely to be needed to finance facilities which cannot be financed through revenue bonds or other means. In order to establish that sufficient funds at reasonable rates and terms, as evidenced by a predetermined reasonable annual debt service cost, are not otherwise available to tax-exempt public bodies, all such applicants for either direct or insured loans in excess of \$50,000 will be required to advertise on the open market for a lender (on a non-FHA-insured basis) before FHA makes either a loan or grant or insures a loan. If the applicant does not receive an offer from other sources to purchase all of its bonds at rates that will result in a net interest cost as low as or lower than the applicable FHA interest rate, FHA will proceed to make the loan provided it is otherwise sound and proper.

(d) Have the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan.

(e) Propose a system which will be designed and installed to serve the entire service area with service to be provided to anyone within the service area who desires to be served insofar as is economically feasible. No user or area will be denied service because of race, color, creed, or national origin.

(1) Systems serving incorporated municipalities and similar entities will be installed so as to afford service to all users living within the corporate limits plus adjacent built-up areas which logically should be served by the central system unless State or local law precludes service outside the corporate limits or prior exception is granted by the National Office.

(2) Systems serving open country will be installed so as to serve all users requesting service insofar as economically feasible.

(3) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, creed, or national origin.

(4) The requirements of subparagraphs (1), (2), and (3), of this paragraph do not preclude the financing of:

(i) Projects by phases when it is not practical to finance the entire project at one time, and

(ii) Projects for municipalities where it is not economically feasible to serve the entire area provided economic feasibility is determined on the basis of the entire system, not by considering the cost of separate extensions to or parts thereof; the applicant must have and

publicly announce a plan for extending service to areas not initially receiving service from the system; and those families living in the areas not to be initially served must receive written notice from the applicant that service will not be provided until such time as it is economically feasible to do so.

(iii) Extensions to serve industrial areas when service is made available to users located in the service area of the extension.

(5) The applicant will be required to notify each potential user of the availability of the service.

(i) If a mandatory hookup ordinance will be adopted, the required note or bond advertisement will be considered adequate notification, except in those cases being processed under subdivision (ii) of subparagraph (4) of this paragraph.

(ii) When any portion of the income will be derived from user fees and a mandatory hookup ordinance will not be adopted, each potential user will be afforded an opportunity to request service by signing a Users Agreement. Forms are available in all FHA offices to expedite this service as well as forms for those declining such service. The applicant will prepare a map showing each potential user surveyed, and the results of the survey. Also, a list should be maintained of those who decline service.

### § 1823.4 Determining need for development grant.

(a) In order that beneficial use of development grant funds may be made, a development grant will not be considered in docket preparation until the State Director has made a preliminary determination regarding the grant request. Such determination will be based on a review of the preliminary engineering report, a draft of the proposed budget, facts concerning income levels in the applicant community, emergency, health, economic, and other factors, and a comparison of proposed user charges with user charges of established systems of similar size and cost and ratio of residential users serving communities of similar economic circumstances.

(b) Development grants may be made to eligible associations to assist in financing specific projects for development, storage, treatment, purification, and distribution of domestic water, and the collection, treatment, or disposal of waste in rural areas where such grants are necessary to reduce average annual user charges to a reasonable level. Grants may be made to supplement funds provided by private sources or in connection with FHA loans for development.

(c) Grants may be made only when the cost of the proposed development would result in the user charges being excessive to the average residential user, and by the use of grant funds to reduce the amount of the applicant's share of the total project cost, the user charges would be lowered to a reasonable level. The following will be determined and considered in establishing a reasonable

level and the amount of the development grant:

(1) The amount of the average annual residential user cost, including revenues from periodic charges, taxes, and assessments, without taking into consideration any FHA grant.

(2) The amount of average annual residential user cost, including periodic charges, taxes and assessments, levied in connection with established systems of similar size and costs and percentage of residential users in communities of similar economic conditions.

(3) The difference between the cost found in subparagraphs (1) and (2) of this paragraph. If the average annual residential user cost as determined in subparagraph (1) of this paragraph significantly exceeds that as determined in subparagraph (2) of this paragraph, consideration may be given to a development grant.

(4) Income levels in the community and emergency, health, economic, and other factors.

#### § 1823.5 Use of loan and grant funds.

Funds may be used in accordance with the following:

(a) *Loan and development grant funds.* Loan funds may be used for all of the following purposes. Development grant funds may be used only for the following purposes which represent a part of the development cost, except interest:

(1) *Domestic water and waste disposal facilities.* Install and improve central community domestic water and waste disposal facilities including:

(i) Facilities for the development, storage, treatment, purification, and distribution of water.

(ii) Sanitary sewer facilities including collection lines, treatment plants, outfall lines, disposal fields, and stabilization ponds.

(iii) Storm sewers for the collection and disposal of surface drainage.

(2) *Individual facilities.* Provide service through individual facilities for users who normally would be considered to be within the central system service area but who live beyond the physical or economic limits of the central system, when the association determines it is more feasible to provide such service through individual facilities. In making its determination, the association will consider such items as: Adequacy and permanency of the individual user facility; cost of the individual facility as compared with the cost per user on the central system; health and pollution problems attributable to individual facilities; and the various types of users.

(i) Agreements between the association and individuals for the installation and payment for individual facilities and their operation will be subject to approval by FHA. A form suggested for this purpose and which may be used as a guide for the preparation of such agreements is available in all FHA offices.

(ii) Notes representing indebtedness owed an association by a user for an individual facility will be scheduled for re-

payment over a period not to exceed the useful life of the facility. The interest rate will be the same as the rate owed by the association on its FHA loan. Such notes will be assigned to the FHA as security.

(iii) Associations providing service through individual facilities will obtain such security as the State Director determines is necessary to insure collection of any sum the individual is obligated to repay the association.

(3) *Acquire land and rights.* Acquiring land, interests in land, and rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control which are necessary to development of the facility.

(4) *Buildings, fences, secondary facilities, and relocation.* (i) Construct buildings of modest design, size, and cost, and fences essential to the successful operation or protection of authorized facilities and to provide storage for tools and supplies needed to operate the facility, and secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(ii) Relocate roads, bridges, utilities, fences, and other public or private improvements.

(5) *Services and fees.* Pay costs incidental to establishment of such facilities or for services necessary in accomplishing any of the above purposes, including but not limited to:

(i) Paying fees or other legal expenses of establishing a water right through appropriation, agreement, permit, or court decree.

(ii) Paying for other services necessary in obtaining the loan or grant, and in planning and completing the facilities to be financed.

(iii) Acquiring a water supply by the purchase of water stock or membership in a water users association.

(b) *Loan funds.* Funds may be used for:

(1) *Paying interest.* Funds may be included in loans in an amount necessary to pay interest installments when such installments cannot be deferred as authorized by § 1823.9(c) until such time as the facility is generating sufficient revenue to be self-supporting in accordance with the following:

(i) *Amount.* The amount of such funds will not exceed the amount of interest which will accrue on the loan from the estimated date of loan closing to a date not beyond the end of the second full calendar year after the estimated loan closing date, and such interest may be paid with loan funds only when revenues or tax receipts will not be sufficient or collectible in time to pay such accrued interest. However, the State Director may authorize the use of loan funds to pay interest for a longer period with prior approval of the National Office.

(ii) *Direct loans.* Funds will not be advanced to pay interest unless State statutes preclude the deferment of interest payments or unless the bonds are required to be offered for public sale in accordance with § 1823.3(c). This re-

quirement does not preclude the transfer of loan funds remaining after construction is completed from the construction account to the debt service account if such transfer is required by the bond ordinance or resolution.

(2) *Purchase existing facilities.* Loan funds may be used only when it is determined that the purchase is necessary to provide efficient service through an association owned and operated facility, or the present owner is either unwilling or unable to make improvements, enlargements, or extensions needed.

(3) *Refinancing.* Loan funds may be used for refinancing debts incurred by or on behalf of an association prior to an application for a loan when all of the following conditions exist:

(i) The debts were incurred for the facility or part thereof or service to be installed or improved with the loan.

(ii) Arrangements cannot be made with the creditors to extend or modify the terms of the debt so that a sound basis will exist for making a loan.

(iii) The prior approval of the National Office has been obtained when it is proposed that the amount to be advanced for refinancing will exceed 50 percent of the total loan.

(4) *Initial operating expenses.* Loan funds may be used to pay initial operating expenses that will be incurred before any or sufficient revenue is realized from the system or from taxes or assessments when the association is unable to pay such expenses from contributions or other sources, or due to unforeseen construction delays, it is determined that such purpose be permitted to protect FHA security, and the State Director has approved such action in advance. No such expenses may be allowed for a period of more than 1 year. Ordinarily, it is expected that such expenses will be paid from cash contributions, membership fees, dues, assessments, or taxes.

(5) *Equipment (including office equipment).* Loan funds may be used to purchase or rent equipment to install, or to purchase equipment to maintain facilities which may be installed or improved in accordance with this subpart, when it is not practical for the applicant to purchase such equipment with contributions or funds otherwise available, provided such equipment is not otherwise available when and as needed, and there is sufficient need to justify ownership or rental. It is expected that borrowers ordinarily will purchase such equipment from their cash on hand or cash contributions.

(6) *Solid waste disposal projects.* Other facilities for the collection, treatment, or disposal of human, animal, agricultural, and other wastes including items such as garbage trucks and equipment, sanitary landfills, and incinerators.

(i) In order to permit FHA to work more closely with State and local governments desiring to accomplish positive environmental improvement programs through the establishment of effective solid waste disposal facilities, State Directors are authorized to use up to ten

(10) percent of their annual allocation of loan and grant funds for solid waste projects. Applications for solid waste projects will not be included in processing schedules, but funds to be used for such projects must be considered when preparing the schedule.

(ii) All loans and grants for solid waste projects will be made to public bodies unless specific approval is obtained from the National Office to proceed otherwise.

(iii) Grants for solid waste projects may be made without regard to the residential user cost comparisons required by § 1823.4(c). Grants for solid waste projects may not exceed 20 percent of the eligible portions of the total development cost of the project unless otherwise authorized by National Office memorandum in response to a specific recommendation by the State Director.

(iv) State Directors may recommend higher percentage ceilings than those set out in subdivisions (i) and (iii) of this subparagraph for their States by a memorandum which contains the essential facts to support such recommendation.

(v) Loans for solid waste projects will be evidenced and secured as are loans for water and sewer facilities as set forth in § 1823.8(b), except as to revenue bonds. Revenue bonds may be used only where the revenues pledged include those from the solid waste project plus revenues from other facilities of the applicant with tie-in enforcement rights.

§ 1823.6 Loans and grant limitations.

(a) *Loans and grants.* Neither loan nor grant funds may be used to:

(1) Pay for the construction of any new combined storm and sanitary sewer facilities.

(2) Pay any annually recurring costs that are generally considered to be operation and maintenance expenses. This does not preclude the use of loan funds for the purposes named in § 1823.5(b) (4).

(3) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale.

(4) Purchase fire trucks, hoses, and other firefighting equipment or construct housing for such equipment.

(5) Pay rental for the use of equipment or machinery owned by the association.

(6) Develop facilities when the primary purpose of such facilities is to promote speculation, acquire or develop land for sale, or develop new subdivisions.

(7) Construct buildings and facilities beyond those which are moderate in cost and design.

(8) Sales rooms and other purposes not directly related to operation and maintenance of the facility being installed or improved.

(b) *Grants.* Development grant funds will not be used to:

(1) Pay any portion of the cost of the facility unless such facility is:

(i) Economically planned and designed.

(ii) Designed and will be constructed so that adequate capacity will be or can

be made available to serve the present population of the area to the extent that such service is feasible and also to serve the reasonable foreseeable growth needs of the area. (The requirements of this subparagraph (1) and of subparagraph (2) of this paragraph, will be considered as having been met if the system is designed and is installed in accordance with a design which meets the criteria expressed in this subpart.)

(2) Finance any part of the development cost of any project unless the approval office determines that the project will serve a rural area which is not likely to decline in population below that for which the facility is designed.

(3) Purchase existing systems.

(4) Refinance existing indebtedness.

(5) Pay any portion of the cost of a facility in cases where the annual reserve based on a typical year exceeds one-tenth of the average annual debt service requirement unless State regulatory agencies require a larger reserve, or where operation and maintenance costs are unrealistic.

(6) Pay interest.

(c) *Amount.*—(1) *Loans.* No association loan may be made or insured which will cause any association's total unpaid FHA principal indebtedness for association loans (including prior Soil and Water (SW) and Water Facilities (WF) loans) together with any FHA development grant to exceed \$4 million.

(2) *Grants.* (i) An FHA development grant may not be made in excess of 50 percent of the eligible development cost. However, for sewage treatment facilities but not sewage collection, the following requirements will apply:

(a) Eligible costs are limited to those for which EPA grants may be made including the treatment plant, necessary interceptor lines, outfall lines, and related facility costs such as engineering and legal fees. Costs of land or rights in land are not eligible.

(b) The total of the FHA grant plus the grant of any other Federal agency will not exceed 30 percent of the eligible development cost except:

(1) If a State has agreed with EPA to pay 30 percent of the costs of all projects for which EPA grants may be made, then the total Federal grants may not be more than 40 percent; or

(2) If a State has agreed with EPA to pay 25 percent of the costs of all projects for which EPA grants may be made and has established enforceable water quality standards for the waters into which the project discharges in accordance with section 10(c) of the Federal Water Pollution Control Act, then the total Federal Grant may not be more than 50 percent; or

(3) If the area is designated as "qualified areas" under the Public Works and Economic Development Act of 1965 (EDA area), then the total Federal grant may not be more than 50 percent.

(ii) If any other Federal grants are made in connection with the proposed project, the amount of any FHA grant plus the amount of other Federal grants may not exceed 50 percent, or the appli-

cable percentage for sewage treatment facilities, of the development cost of the project unless such other Federal grants are being made by the Department of Defense, EDA, or a Regional Economic Development Commission.

(iii) Facilities previously installed will not be considered in determining the development costs. The amount of any FHA advance for planning previously made may be included in the development cost.

(iv) In those cases where States have grant funds (not Public Law 660 funds), use of such funds ordinarily will be considered before using FHA grant funds. However, such funds need not be considered in computing the grant percentages for Federal grant determinations.

§ 1823.7 Obligations incurred before closing.

When an applicant files an application for assistance, the County Supervisor will advise the applicant that construction work must not be started and obligations for such work or materials and obligations for other purposes must not be incurred before the loan or grant is closed. If the applicant nevertheless wishes to proceed before closing because of emergency conditions, it may request permission from the State Director to pay such obligations if a loan or grant is made.

(a) Upon receipt of such a request the State Director will determine whether:

(1) A necessity exists for incurring obligations before loan or grant closing.

(2) The obligations will be incurred for authorized loan or grant purposes.

(3) Contract documents have been approved by FHA.

(4) The association has the legal authority to incur the obligations at the time proposed.

(5) Payment of the debts will remove any basis for any mechanic's materialmen's, or other liens that may attach to the security property.

(b) If the State Director finds that all the conditions under this subpart are met, he may give the applicant written permission for the payment of such obligations from loan or grant funds if a loan or grant is closed. His letter will specifically state that the permission granted is on the condition that the FHA is not committed to make a loan or grant and assumes no responsibility for any obligation incurred by the applicant because of the permission granted, and that the applicant must subsequently meet all FHA requirements for the loan or grant.

§ 1823.8 Security.

All loans to associations will be secured in a manner which will adequately protect the interest of the FHA during the payment period of the loan. Loans will be secured in accordance with the following:

(a) *Loans to other than public bodies.*

(1) A lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, and similar property rights, used, or to be used in connection with the facility whether owned at the time the loan is approved

or acquired with loan funds. In unusual circumstances where it is not feasible to obtain a lien on such land rights (such as land rights obtained from Federal or local Government agencies and from railroads) and the State Director determines that the interest of the FHA otherwise is secured adequately, the lien requirement may be omitted as to such land rights. In those instances where such property rights have not been legally perfected, it will be the responsibility of the applicant to obtain and record such releases, consents, subordinations to such property rights from holders of outstanding liens, or other instruments, as it determines, with the advice of its attorney, that are necessary for the construction, operation, and maintenance of the facility. When easements only are obtainable on sites for structures such as reservoirs and pumping stations, releases, consents, or subordinations may be required by the FHA. The mortgage will provide for the applicant to pay from its own funds for any excess installation costs resulting from a failure to obtain adequate land, rights-of-way, or subordinations.

(2) Where the loan is approved for the acquisition of real property subject to an outstanding lien indebtedness, the next highest priority lien obtainable will be taken.

(3) No lien will be taken on the personal property owned at the time of loan approval or acquired with loan funds or otherwise, except when it is deemed necessary to take a lien on such personal property to provide adequate security for FHA.

(4) Assignments of association income will be taken and perfected by filing, if legally permissible.

(5) Promissory notes, stock or membership subscription agreements, individual member's liability agreements, or other evidences of debt, as well as mortgages or other security instruments encumbering the private property of members of the association may be pledged or assigned to the FHA as additional security in any case in which the interest of the FHA will not be otherwise adequately protected.

(b) *Loans to public bodies.* State statutes generally provide detailed requirements for evidencing and securing loans to municipalities, districts, and other public bodies. Loans to such associations will be evidenced by notes, bonds, warrants, or other contractual obligations as may be authorized by relevant State statutes and by association documents, resolutions, and ordinances. State statutes also generally specify the security that may be given by the applicant. This security may be one or more of the following:

(1) Pledges of revenues to be derived from operation of the association's facilities.

(2) Pledges of taxes or assessments.

(3) Liens on real and personal property where such liens are permitted by State law.

(4) The full faith and credit of the borrower where the debt is evidenced by general obligation bonds.

#### § 1823.9 Loan terms.

(a) *Repayment period.* (1) Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note(s) or bond(s). In addition, no repayment period will exceed any statutory limitation on an association's borrowing authority, nor will it exceed the useful life of the facility to be financed.

(2) Repayments will be scheduled annually beginning with January 1 following the date of loan closing or on the first January 1 following the end of any approved deferment period unless an annual due date other than January 1 is required by State statute or upon prior written authorization of the National Office. In those cases where loans are being made under statutes requiring a repayment date other than January 1, the State Director will forward to the Finance Office a copy of the OGC's opinion that the date of other than January 1 is required.

(b) *Repayment schedules.* (1) In cases where the payment of interest has been deferred, all collections will be applied to interest until such interest has been paid. Also, when a full installment is not paid when due, the payment made will be applied first to accrued interest.

(2) In those cases where the indebtedness will be represented by serial bonds, annual payments of principal and interest will be scheduled so as to permit them to be paid in amounts approximately equal to the amounts required for annual amortized installments.

(3) If the borrower will be retiring other debts represented by bonds or notes, the repayment on such bonds may be considered in developing the repayment schedule for the FHA loan. In some cases, it may be desirable to reduce the amount of repayments to FHA in the early years of the loan in order to preclude the necessity for refinancing the outstanding debt. When such repayment schedules are proposed, National Office authorization is to be obtained prior to loan approval.

(c) *Deferred payments.* Principal and interest may be deferred on a direct loan but only principal may be deferred on an insured loan. The payments may be deferred in whole or in part for a period not to exceed the end of the second full calendar year after the estimated date of loan closing. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the National Office. However, when the bonds are to be offered for public sale, interest payment should not be deferred.

(1) Deferments of principal or interest will not be used to:

(i) Postpone the levying of taxes or assessments.

(ii) Delay the collection of the full rates which the association has agreed to charge users for its services as soon as major benefits or the improvements are available to those users.

(iii) Create reserves for normal operation and maintenance.

(iv) Make any capital improvements except those considered by the State Director to be essential to the repayment of the loan or to the obtaining of adequate security therefor and upon prior written approval of the National Office.

(v) Accelerate the payment of other debts.

(vi) Permit making a loan when repayment will depend upon anticipated income from service to users who are not located in the service area at the time the loan is closed or who have not at that time agreed to accept and pay for such service.

(2) Proposed deferments will be consistent with provisions of State or local laws affecting the creation and repayment of debts by borrowers.

(d) *Interest rates.* Current information regarding interest rates may be obtained from any County or State Office of the FHA or from its National Office at 14th and Independence Avenue SW, Washington, DC 20250.

#### § 1823.10 Reserves.

Each borrower will be required to establish and maintain reserves for delinquent accounts sufficient to assure that loan installments will be paid on time. Reserve accounts will also be established for emergency maintenance and for extensions to facilities. In those cases where statutes provide for extinguishing assessment liens of public bodies when properties subject to such liens are sold for delinquent State and local taxes, special reserves will be established and maintained for the protection of the borrower's lien of assessment. Provision for the accumulation of necessary reserves over a reasonable period of time will be included in the loan documents and in assessments, tax levies, or rates charged for services.

(a) *General obligation or special assessment bonds.* Ordinarily, the requirements for reserves will be considered to have been met if general obligation or other bonds which pledge the full faith and credit of the political subdivision are used, or special assessment bonds are used, and if such bonds provide for the annual collection of sufficient tax or assessments to cover debt service, operation and maintenance, and a reasonable amount for emergencies and to offset the possible nonpayment of taxes or assessments by a percentage of the property owners, or a statutory method is provided to prevent the incurrence of a deficiency.

(b) *Revenue bonds.* It is expected that associations issuing bonds pledging facility revenues as security will ordinarily plan their reserve program to provide for a total reserve in amount equal, at least, to one average loan installment. It also is expected that ordinarily such reserve will be accumulated at the rate of at least one-tenth of the total each year until the desired level is reached.

#### § 1823.11 Insurance and bonding.

Property insurance, Workman's Compensation Insurance, liability insurance, and fidelity bonds will be required as follows:

(a) *Property insurance.* In like manner as provided in Part 1806 of this chapter, fire and extended coverage will be required on all aboveground structures, including association-owned equipment and machinery housed therein. This does not apply to water reservoirs, standpipes, elevated tanks, and other noncombustible materials used in treatment plants, clearwells, clarification units, filters and the like. Where lift stations are properly ventilated, insurance may not be required except only for the value of the pumping equipment and electrical equipment therein.

(b) *Workman's compensation.* The association will be required to carry suitable Workman's Compensation Insurance for all of its employees in accordance with appropriate State laws.

(c) *Liability and property damage insurance.* Requirements for liability insurance will be carefully and thoroughly considered in connection with each project financed by a loan. Public liability and property damage insurance amounts will be established accordingly. If the association owns trucks, tractors, or other vehicles that frequently are driven over public highways, public liability and property damage insurance will be required.

(d) *Fidelity bonds.* (1) The association will provide fidelity bond coverage for the positions of officials (not necessarily including employees such as checkstand operators, caddies, concession operators, and other such employees) entrusted with the receipt and disbursement of its funds and the custody of any property. The amount of the bond will be at least equal to the maximum amount of money that the association will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. If permitted by State law, the United States will be named as co-obligee in the bond. Corporate fidelity bonds will be obtained except that in unusual circumstances the National Office may give prior approval to cash bonds. Form FHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(2) In cases where the State Director determines that the cost of fidelity bonds in amounts sufficient to cover all accumulated reserves is excessive the State Director may approve the use of a fidelity bond in an amount equal to the amount of funds collected by the association in 1 year and the depositing of reserves in a special account requiring the counter-signature of the County Supervisor for withdrawals. In such cases, the State Director will request the assistance of the OGC in preparation of the deposit agreement.

(e) *Public-body-type organization.* Public-body-type organizations receiving assistance as authorized in this subpart will provide insurance and bonds as required insofar as they are able to do so under applicable State statutes and regulations.

§ 1823.12 Coordination with Federal, State, and local agencies.

Projects financed in whole or in part with association loan or grant funds will

be coordinated with appropriate Federal, State, and local agencies in accordance with the following:

(a) *Memorandum of understanding with the Economic Development Administration Department of Commerce.* Two memoranda of understanding between EDA and FHA have been executed; one outlines policies for projects where EDA provides a basic grant and FHA provides a loan only; the other memorandum outlines policies for projects where FHA assistance includes a grant which is being supplemented by an EDA "supplemental grant." Copies of these two memoranda are available at all FHA offices and will be used as guides in developing project management agreements for projects when both EDA and FHA provide financial assistance. Every such agreement must be consistent in all respects with the appropriate memorandum.

(b) *Bylaws for Nonprofit Water and Sewer Corporations—Consistent With the Federal Housing Administration Regulation.* A set of model bylaws for nonprofit water and sewer corporations consistent with the Federal Housing Administration regulation has been reviewed and approved by the Federal Housing Administration, therefore, members of nonprofit water associations should experience no difficulty in obtaining financial assistance from that agency when these bylaws are used. These bylaws should be used in all cases unless prohibited by State statutes. Copies are available at all FHA offices.

(c) *Compliance with special laws and regulations.* Applicants for loans or grants will be required to comply with State and local laws and any regulatory commission rules or regulations pertaining to:

(1) Organization of the association and its authority to install, operate and maintain the facilities proposed to be constructed.

(2) Borrowing of money, giving security therefor, and raising revenues for the repayment thereof.

(3) Appropriation, diversion, storage, and use of water and disposal of excess water. All of the rights of any landowners, appropriators, or users of water from any source will be fully honored in all respects as they may be affected by facilities to be installed. If under the provisions of State law, notice of the proposed diversion or storage of water may be filed in the office of a State official, such notice must be filed by the applicant. Even though such filing may be optional under State law the record might be of value at some future time to protect the association's right or priority to the use of water. An applicant must furnish evidence to provide reasonable assurance that its water rights will be or have been properly established, will not interfere with prior vested rights, will likely not be contested or enjoined by other water users or riparian owners, and will be within the provisions of any applicable interstate compact.

(4) Land use zoning.

(5) Permission to construct facilities and the approval of construction plans and specifications by State and local officials.

(6) Health and sanitation standards.

§ 1823.13 Professional services and contracts related to the facility.

The FHA may provide advice and consultation in connection with preliminary determinations regarding engineering feasibility, economic soundness, cost estimates, organizations, financing and management. Applicants will be responsible for providing the services necessary to plan projects, including design of facilities, preparation of cost and income estimates, and development of proposals for organization and financing. The County Supervisor will inform the association of the services it must provide.

(a) *Selection of legal counsel.* The association will be responsible for selecting its legal counsel, and FHA personnel are prohibited from recommending a particular attorney or firm of attorneys. The applicant may select any attorney who is qualified and agreeable to performing the required legal services. A sample form entitled "Legal Services Agreement," is available at all FHA offices and may be used as a guide for preparation of legal services agreements. The State Director is authorized to approve such agreements.

(1) *Tax-exempt public bodies.* Tax-exempt public body applicants will obtain the services and opinion of recognized bond counsel with respect to the validity of a bond issue. Ordinarily, the bond counsel will be retained by the applicant through its local attorney. A statement as to the exemption of interest income on such obligations from Federal and State Income taxes will be included in the opinion. (See Appendix 3, § 1823.53 at the end of this subpart for prescribed policies on tax-exempt public bodies.)

(2) *Applicants other than tax-exempt public bodies.* Recognized bond counsel should not be needed.

(b) *Water purchase contracts.* Associations proposing to purchase water from private or public sources will be required to have written contracts for such supply, and all such contracts will be reviewed and approved by FHA prior to their execution by the association. Form FHA 442-30, "Water Purchase Contract," will be used for this purpose unless the circumstances are such as to require a different form of agreement. In all cases, water purchase contracts will:

(1) Include a definite commitment by the supplier to furnish at a specified point a specified minimum quantity of water and provide that in case of shortages, all of the supplier's users will share the shortages proportionately. However, if it is impossible to obtain a firm commitment for a minimum supply of water at all times, a contract may be executed and approved if the State Director makes a positive determination that the supplier has adequate supply and treatment facilities to furnish its other users and the applicant association for the foreseeable future, and that a suitable alternative supply could be arranged within the repayment ability of the association if it should ever become necessary.

(2) Set out the ownership and maintenance responsibilities of the respective parties for the master meter at the point of delivery. It is generally simpler if the supplier installs, owns, and maintains the meter.

(3) Specify the rates at which water will be sold to the association. Since it is difficult to predict future costs of water production, it is generally most satisfactory to provide some kind of escalator clause which will permit rates for the association to be raised or lowered proportionately as certain specified rates for the supplier's regular customers are raised or lowered. Provisions may be made for altering rates in accordance with the decisions of the appropriate State agency which may have regulatory authority.

(4) Run, if possible, for a period of time which is at least fifty percent longer than the repayment period of the loan. State Directors may approve contracts for shorter periods of time if the supplier cannot legally contract for such period, or if the applicant and supplier find it impossible or impractical to negotiate a contract for the maximum period permissible under State law, provided:

(i) The contract contains adequate provisions for renewal.

(ii) A determination is made that in the event the contract is terminated, there are or will be other adequate sources of water available to the applicant that can be developed or purchased feasibly.

(5) Set out in detail the amount of connection charges or demand charges, if any, to be made by the supplier as a condition to making the service available to the association. However, the payment of such charges from loan funds should not be approved unless the State Director determines that it is more feasible and economical for the association to pay such a connection charge than it is for the association to provide the necessary water supply by other means.

(6) Provide for a pledge of the contract to the FHA as part of the security for the loan.

(7) Not contain provisions for:

(i) Construction of facilities which will be owned or operated by the supplier. This does not preclude the use of money paid as a connection charge for construction to be done by the supplier.

(ii) Options for or agreements to the future sale or transfer of association assets to the supplier, whether or not such sale or transfer would be for a monetary consideration.

(c) *Contracts for other services.* Contracts or other forms of agreement for services such as waste treatment will be developed by the applicant and presented to the County Supervisor. The State Director may approve such forms with the assistance of the OGC provided they meet the requirements of paragraphs (b) (2), (4), (5), (6), and (7), of this section, and are otherwise acceptable.

#### § 1823.14 Facility control.

Each association must obtain such control over its project area as will be

necessary to accomplish its objectives. The control may be obtained by means of deeds, satisfactory contracts, permits, and leases with private landowners, or public agencies having appropriate jurisdiction.

#### § 1823.15 Purchase price of land and rights, existing facilities, and machinery and equipment.

(a) *Land, rights, and existing facilities.* (1) In those cases where land and rights in land being acquired do not represent relatively large purchase prices, the State Director will assure that they are being acquired at a reasonable price. He may require an appraisal report if there is reason to question the proposed purchase price.

(2) In those cases where relatively large or expensive tracts of land, or rights in land, and other such interest needed for facility development are being acquired, their purchase price will not exceed their present market value or the price established by the court in those cases where land or rights in land are being acquired through condemnation.

(3) In all cases where existing facilities are being acquired, the purchase price will not exceed their present market value.

(4) Present market value will be determined only after a review of an appraisal report prepared in accordance with § 1823.16.

(b) *Machinery and equipment.* Where substantial amount of funds are necessary for purchase of machinery and equipment, associations ordinarily will be required to call for bids in a manner specified by the loan approval official to assure the best obtainable price.

#### § 1823.16 Preparation of appraisal reports.

Reports will be prepared using Form FHA 442-1, "Appraisal Report (Farm Tract)," with appropriate supplements and modified to recommend the present market value. Such appraisal reports will consider the use for which the property is intended and will be made on an "as is" rather than a "developed" basis. Appraisal reports prepared for use in connection with the purchase of existing water and waste disposal facilities will be prepared by the FHA engineer. All other appraisal reports will be prepared by qualified FHA appraisers, except that no FHA employee may make an appraisal in connection with a loan which he will approve.

#### § 1823.17 Title to pledged assets.

The association will provide evidence of title satisfactory to the FHA for all assets which will constitute security for the loan.

(a) Whenever real estate other than easements, rights-of-way, or similar interest will be taken as security, the applicant should furnish the County Supervisor with a copy of its deed or purchase contract and any mortgage or other lien on the property offered as security. If water stock is being offered as security for the loan, the applicant should furnish the stock certificate. The other title

evidence furnished will be one of the following:

(1) An opinion of title prepared by the applicant's attorney. This opinion may be on Forms FHA 427-9, "Preliminary Title Opinion," and FHA 427-10, "Final Title Opinion." The opinion will be based upon an examination of the public records or a current abstract of title, or a combination thereof, in accordance with the practice in the community. If based on an abstract of title, the abstract and abstractor's certificate must cover all matters below. If the abstractor's certificate or certificates are limited in any way, they must be supplemented by the attorney's own examination of records or other competent evidence of title. The opinion of title will set forth the ownership and condition of the title to the land, the manner in which title was acquired, and will list all unreleased mortgages, judgments, unpaid taxes, liens or other encumbrances, pending suits, reservations, exceptions, leases, easements, and any other outstanding interest. The title search must cover such period as the examining attorney determines necessary to issue his opinion as to whether the title is good and marketable according to title examination standards prevailing in the area, except that title examination need not go back beyond a Farm Ownership (FO), Rural Housing (RH), or individual SW (not Water Facilities) security instruments. If the examining attorney finds an FHA security instrument in the chain of title and is not certain that it is one of the types mentioned in the preceding sentence, he may consult the County Supervisor.

(2) Policy of title insurance obtained from a title insurance company approved by FHA.

(b) Applicants will be responsible for obtaining adequate, continuous, and valid rights-of-way for the construction, operation, and maintenance of its facilities.

(1) The applicant will submit the following documentary evidence to the FHA:

(i) Copies of the right-of-way instruments. Rights-of-way with restrictive provisions should be accepted only in very unusual circumstances. Whenever the form of the instrument differs from Form FHA 442-20, "Right-of-Way Easement," or contains special provisions that are required by either the applicant or the grantor, copies of such instruments will be submitted to the FHA for review prior to acceptance and recording. Either specific rights-of-way containing a legal property description or a centerline description of the rights-of-way or general rights-of-way containing only a description of the tract or parcel of land affected, may be used.

(ii) A certificate by a duly authorized official of the applicant that it has obtained and presently holds adequate and sufficient legal title to all rights-of-way, permits, licenses, and other authorizations deemed necessary by the applicant, its engineer, and its attorney for an uninterrupted right-of-way for the construction, operation, and maintenance of

the facilities. Use Form FHA 442-21, "Right-of-Way Certificate."

(iii) A right-of-way map showing the location of all structures, pipelines, ditches, and the like. When completed, the map should show that the rights-of-way are continuous with no gaps. Rights-of-way acquired by use or adverse possession will be shown by some distinctive color. This map will be prepared by the applicant's engineer and it will bear the signature of the engineer and the presiding official of the applicant.

(iv) An opinion of the applicant's attorney relating to the adequacy and legality of the rights-of-way covered by the right-of-way certificate and right-of-way map. Use Form FHA 442-22, "Opinion of Counsel Relative to Rights-of-Way," to the extent possible.

(2) When a lien will be taken on a site for structures such as a reservoir or pumping station, the applicant is able to obtain only a right-of-way or easement on such site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing the ownership of the land and all mortgages or other liens, defects, or encumbrances, if any. The title report will cover the same period of time prescribed in paragraph (a) (1) of this section. Consents, releases, or subordinations will be obtained from the holders of outstanding liens or mortgages as may be required by the FHA.

(c) When a mortgage or an assignment will be taken on water rights owned or to be acquired by the association, the following will be furnished as applicable:

(1) A statement by the association's attorney regarding the nature of the water right owned or to be acquired by the applicant (conveyance of title, appropriation and decree, application and permit, public notice of appropriation and use, and so forth).

(2) A copy of any contract with another company or municipality to supply water or stock certificate in another company representing right to receive water.

(d) When liens will be taken on chattel property, the following will be furnished:

(1) Description of the property for use in preparing the security instruments.

(2) Form FHA 440-13, "Report of Lien Search," or similar form prepared in accordance with the State requirement prescribing the use of such form for operating loans.

(e) If the information supplied is not consistent with information in the report on application, the applicant must furnish a full explanation of the variations satisfactory to the FHA. The applicant will be required to furnish such additional title evidence as may be called for by the representative of the OGC.

(f) All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the borrower when the loan has been closed. The opinion of title or title insurance policy and any water stock certificates will be retained

in the borrower's County Office case folder.

#### § 1823.18 Title to unpledged land rights.

Applicants whose land rights are not to be pledged as security will submit evidence of title in accordance with § 1823.17(b) (1) (ii) and (iii).

#### § 1823.19 Affect of special programs—regulations.

Loans and grants to which this subpart pertains are affected as shown below by certain special programs, regulations, and laws.

(a) *Equal opportunity in employment for construction.* This applies to all loans and grants which may involve construction work exceeding \$10,000 to be paid for in whole or in part with FHA loan or grant funds. (See Part 1890 of this chapter.)

(b) *Pledging collateral for deposits of funds in supervised bank accounts.* Collateral must be pledged for all supervised bank accounts in excess of \$20,000 for projects being financed under this subpart.

(c) *Nondiscrimination by recipients of Farmers Home Administration—financial assistance in accordance with title VI of the Civil Rights Act of 1964.* This applies to direct loans, loans made from the ACIF, and grants. (See Part 1890 of this chapter.)

(d) *Davis-Bacon and related acts.* The provisions of the Davis-Bacon and related acts do not apply to loans or grants made by FHA under this subpart. The Act may apply to portions of such projects which are being financed in part by other Federal agencies. In such cases, it will be the responsibility of such other Federal agencies to assure compliance unless some other agreement has been reached with the other agency. (See Part 1890 of this chapter.)

#### § 1823.20 Applications.

Each applicant will make application on Standard Form 101, "Preliminary Application for Requesting Federal Assistance for Public Works and Facility-Type Projects," which will be forwarded to the State Office in accordance with § 1823.35. When the County Supervisor has been notified that FHA has assumed jurisdiction for the project, he will complete the applicable portion of Form FHA 442-34, "Information For Use in Establishing Processing Schedule," and forward it to the State Office. No further action will be taken toward processing such applications until notified by the State Director to proceed. The date that FHA assumes jurisdiction will be considered as the application date. Applicants need not be legally organized to file Standard Form 101.

#### § 1823.21 County Committee recommendations.

Just as soon as adequate information has been assembled on the association's application to enable the County Committee to make its recommendations, the proposal will be presented to the Committee by the County Supervisor. Com-

mitted recommendations will be made on Form FHA 440-2, "County Committee Certification or Recommendation."

#### § 1823.22 Dockets.

(a) *Content.* The loan docket will include the forms and documents listed in instructions available in all FHA offices.

(b) *Assembly.* Dockets ordinarily will be assembled to include all forms and documents required. Dockets for which complete construction contract documents have not been completed and for projects for which preparation of complete development plans, including construction contract documents will be relatively expensive, may be initially submitted without complete construction documents and without all legal work completed. In such cases, the docket will include a preliminary engineering report prepared in accordance with this subpart. Although all legal work in connection with organization and processing items, such as bonds and ordinances, may not yet be complete, the proposed form of such bonds and ordinances and other similar items will be included in the docket.

(c) *Coordinating docket preparation.* The County Supervisor is responsible for coordinating the development of association dockets. In order to successfully carry out this responsibility, he must make maximum use of conferences with applicant representatives, checklists designed to provide for continuous monitoring of progress in docket development, and other measures to assure effective liaison and communication between him, the applicant, and the applicant's technical and professional consultants.

(1) Each applicant should be requested to name an individual and an alternate whom the County Supervisor may contact in connection with association business. These individuals should be members of the applicant's governing body or organizing committee, not the applicant's engineer, architect, or attorney. The County Supervisor must accomplish his work with the applicant through the designated representative except where otherwise provided in this subpart.

(2) As soon as the County Supervisor has been notified by the State Director to proceed with processing, he will discuss matters such as application processing, the applicant's need for an engineer, architect, or other consultant, and an attorney, and other such items with the governing body or organizing committee. At this meeting, the County Supervisor will initiate use of a processing checklist for establishing a time schedule for completion of items. Use Form FHA 442-39 or Form FHA 442-40 or, if desired, an approved State form for this purpose. Immediately following the discussion, he will confirm by letter to the applicant the decisions made and forward a copy of the processing checklist. He will retain a copy of the processing checklist and forward a copy to the State Office through his District Supervisor. The District Supervisor will assist each of his County Supervisors in conducting such conferences

until it is established that the County Supervisor likely will be able to successfully carry on such conferences without assistance.

(3) As soon as the applicant has selected its engineer, and prior to commencing facility planning, the County Supervisor will hold a "preplanning" conference with members of the association's governing body or organizing committee and its engineer. At this conference, development of the preliminary engineering report or complete development plans, whichever is appropriate, will be discussed in detail to assure that the applicant and its engineer understand FHA designed policies, as well as their respective responsibilities, FHA policies and requirements regarding service areas and providing service to all within such areas desiring service will be thoroughly explained at the preplanning conference. The applicant and its engineer will be given copies of appropriate guidance material and forms, and the County Supervisor will thoroughly discuss items to be completed by the engineer. In this activity, the County Supervisor will be assisted by the District Supervisor and State Office personnel. The processing checklist will be updated and extended to include additional items discussed at the conference. Again, decisions reached will be confirmed by letter and the processing checklist extended.

(4) As the application is being processed, and the need develops for additional conferences, the County Supervisor will call such conferences, extend and update the processing checklist, and confirm by letter the decisions made.

(5) All processing checklists will be submitted to the State Office through the District Supervisor. If an extended and updated checklist for each application in process has not been submitted during the month, it will be submitted no later than the close of business on the last working day of the month. On receipt of an extended or updated checklist, the State Director will return the checklist on hand to the County Supervisor. This copy may be used by the County Supervisor for future submissions.

(d) *Preparation of bonds and bond transcript documents.* Appendix 3, § 1823.53 contains FHA requirements pertaining to preparation of bonds and bond transcripts for loans to public bodies. For such loans copies of Appendix 3 will be handed to the applicant for use by its attorney and bond counsel at the preplanning conference. Additional copies of this appendix may be requisitioned from the Finance Office.

(e) *Preliminary determination for development grants.* In order that most beneficial use be made of available development grant funds, State Directors will make a determination regarding each such grant before it is considered in the development of a docket. County Supervisors will submit to their State Office the following material as soon as it is available in connection with each application for a development grant for which a docket is being assembled: Preliminary engineering report; draft

budget on Form FHA 442-7 (without taking into consideration any grant); information in narrative form pertaining to income levels in the applicant community, emergency, health, economic, and other factors which may appear pertinent.

(1) If the plans are for a system of acceptable design and the proposed budget indicates that requirements of §§ 1823.4 and 1823.6 will be met, the State Director will proceed to determine the amount of the grant in accordance with § 1823.4(c). He will inform the County Supervisor of his tentative determination and return the material submitted to the County Office.

(2) State Directors will assemble for their use in making these determinations information regarding user costs throughout the State.

(3) The County Supervisor will proceed with docket preparation. He will be cautious, however, to be sure that he, in no way, leads the applicant's representatives to believe that a grant has been approved or that the amount of the grant has been finally determined until he has received notice of approval.

#### § 1823.23 Review and approval.

(a) *Approval official review.* The loan approval official will review the docket to determine that:

(1) The County Committee's recommendation has been properly completed and signed by at least two committeemen, neither of whom is a member of the applicant association.

(2) The applicant is eligible.

(3) The funds are requested for authorized purposes.

(4) The proposal is sound.

(5) All other pertinent requirements are, or apparently can be met.

(6) The facility has been planned and designed within the criteria established by this subpart. The State FHA-Engineer will complete Form FHA 424-14 for each central domestic water system and Form FHA 424-15 for each central domestic waste disposal system.

(7) Adequate credit at reasonable rates and terms is not available.

(i) This determination for public body applicants for loans not over \$50,000 and for other than public body applicants will be based on information available to the State Director. If the docket does not contain information sufficient for him to arrive at the determination, he may request the applicant to seek other credit and present evidence of the results of such action or he may make inquiry regarding other credit.

(ii) Final determination regarding the availability of other credit for tax-exempt public bodies applying for loans in excess of \$50,000 will be made as required in § 1823.25(e).

(8) The articles of incorporation, bylaws, rules and regulations, or other official documents contain no restrictions that would limit use of the facilities due to race, color, creed, or national origin.

(9) Each proposal is based on a realistic user estimate.

(i) In estimating the number of users and establishing rates or fees on which the loan will be based for new systems and for extensions to existing systems, consideration should be given to the following:

(a) It will likely be several years before all residents in the community will need the services provided by the system.

(b) The maximum estimated number of initial users should not be used when setting user fees and rates. Reduce the user estimate to a realistic number and compensate for the reduction by raising the fees and rates.

(c) User agreements from vacant lot owners must not be considered when determining feasibility. Income from these sources will be considered only as extra income.

(ii) In order to establish realistic user estimates, the following are required:

(a) Enforceable users agreement with penalty clause. In those cases where all or a part of the project revenues will come from service fees an enforceable user's agreement will be required unless State statutes or local ordinances require mandatory use of the system and the applicant agrees in writing to vigorously seek enforcement of such statutes or ordinances. Such user agreements will provide for meaningful, enforceable penalties for failures to connect to the system. Users presently receiving service will not ordinarily be required to sign a user's agreement.

(b) Meaningful user cash contribution. Contributions shall be high enough to indicate sincere interest on the part of the user but not so high as to preclude service to low-income families. Contributions ordinarily shall be an amount approximating 1 year's minimum use fees and shall be paid in full before loan closing. User cash contributions are required except: In connection with loans secured by general obligation bonds; for users presently receiving service; and, in those cases where the State Director determines that users cannot make a cash contribution or the applicant has other satisfactory plans for assessing user connections which are approved by the State Director.

(c) An audit of user list and user agreements. Such audit must show that there are sufficient users who have made the required cash contribution and have agreed to pay fees in an amount adequate to support the budget. See § 1823.25 (b) for conducting the audit.

(d) Borrower user connection programs. In those cases where all or a part of the borrower's revenues will come from user fees, applicants must provide, for review and approval by the State Director before loan closing, a positive program to encourage connection by all users as soon as service is available. Such program shall include:

(1) An aggressive information program to be carried out during the construction period. The borrower should send written notification to all signed users at least 3 weeks in advance of the date service will be available, the date

users will be expected to have their connections completed, and the date user charges will begin.

(2) Positive steps to assure that installation services will be available. These may be provided by the contractor installing the system, local plumbing companies, or small contractors.

(3) Aggressive action to see that all signed users can finance their connections. This might require collection of sufficient user contributions to finance connections. Extreme cases might necessitate additional loan and grant funds for the purposes; however, such funds should be used only when absolutely necessary.

(b) *Letter of conditions.* If the proposal appears to be sound and proper, the loan approval official will prepare a letter of conditions listing all requirements which the applicant must agree to meet within a specified time before the application will receive further consideration and any loan or grant approved. All letters of conditions will be addressed to the applicant, signed by the County Supervisor, and mailed or handed to the appropriate applicant representatives by the County Supervisor.

(1) Requirements listed in the letter will include those relative to:

- (i) Maximum amount of loan or grant which may be considered.
- (ii) Term of loan and any deferment.
- (iii) Number of users (members) and verification required.
- (iv) Contributions required.
- (v) Interim financing.
- (vi) Security requirements.
- (vii) Title to property.
- (viii) Organization.
- (ix) Business operations.
- (x) Insurance and bonding.
- (xi) Construction contract documents and bidding.
- (xii) Accounts, records, and audit reports required.
- (xiii) Advertising for private lenders and execution of loan agreement by tax-exempt public body applicants.
- (xiv) Adoption of Form FHA 442-9 for other than public bodies.
- (xv) Closing instructions.
- (xvi) Other requirements which must be met and forms to be completed.

(2) Each letter of conditions will contain the following as the first three paragraphs:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application.

This letter is not to be considered as (loan) (and) (grant) approval or as a representation as to the availability of funds. The docket may be completed on the basis of a (loan not to exceed \$.....) (and) (grant not to exceed \$.....). If FHA makes the loan, the interest rates will be that charged by FHA at the time of loan approval.

Please complete and return the attached Form FHA 442-46, if you desire that further consideration be given your application.

(c) *Project summary.* Upon authorizing the County Supervisor to issue the letter of conditions, the State Director will immediately forward one copy of Form FHA 442-45 to the National Office,

attention: Community Services Division.

(d) *Docket processing.* Docket processing will be accomplished expeditiously and in accordance with the following:

(1) The County Supervisor will forward the docket to the State Director for review. The State Director will prepare the letter of conditions and forward it to the County Supervisor along with a memorandum authorizing the County Supervisor to sign the letter of conditions. The County Supervisor will proceed as in subdivision (ii) of this subparagraph.

(i) If National Office authorization is required for loan or grant approval, the State Director will:

(a) Forward to the National Office the following material only assembled in the following order from top to bottom:

(1) Transmittal memorandum including:

- (i) Recommendation.
- (ii) Position of the project on the current processing schedule.
- (iii) Date that you expect to obligate funds.

(iv) If the request is for an increase in the amount of loan or grant, indicate whether the loan or grant has been obligated and, if obligated, the date of each obligation.

(v) If the request is for a subsequent loan and/or grant, indicate the date the initial loan and grant funds were obligated. If the initial loan and grant have been closed, indicate the date of loan closing.

(vi) If the request is for an increase in the amount of the loan and the grant is not being increased, indicate the changes in economic conditions that will enable the users to pay higher user rates than previously established.

(vii) If the project is dependent on a grant from another Federal agency, State, or other source, indicate source and if a commitment for the grant has been made from the other source.

(viii) If loan request is for a subsequent loan indicate amount outstanding and repayment status of such loan.

(ix) Any other unusual circumstances that should be brought to the attention of the National Office.

(2) Copies of the following:

(i) Proposed letter of conditions.

(ii) Comments from the applicable State, Regional, and metropolitan clearingshouses.

(iii) Form FHA 442-45.

(iv) Operating Budget or Statement of Income and Expenses—Form FHA 442-7.

(v) Preliminary Engineering Report.

(vi) FHA Engineer's Design Evaluation—Forms FHA 424-14 and/or FHA 424-15.

(vii) Map of area to show relation of the proposed project to the nearest urban area. A copy of a road map may be used.

(viii) Form FHA 442-12, Financial Statement.

(ix) Other forms and documents on which there are specific questions. No other forms or documents are to be submitted.

(b) Send the County Supervisor and District Supervisor an information copy of his transmittal memorandum.

(c) On receipt of National Office authorization to approve, the State Director and County Supervisor will proceed as in this subparagraph (1). If after construction bids are opened it is found that the project costs will exceed the amounts on which the National Office authorization is based and such costs cannot be reduced by negotiation, redesign, use of bid alternates, or other means, the amounts of the loan and grant (either or both) may be increased up to 10 percent without further approval of the National Office.

(ii) The County Supervisor will sign the letter of conditions, discuss its requirements with applicant representatives, and afford them an opportunity to execute Form FHA 442-46.

(a) If the applicant declines to execute Form FHA 442-46, the County Supervisor will immediately notify the State Director and provide him complete information as to the reasons for such declination. He will provide the District Supervisor with an information copy of his report.

(b) If the applicant executed Form FHA 442-46, the County Supervisor will complete Form FHA 442-14, Form FHA 440-1, and Form FHA 440-3 and forward the original and one copy of (each) Form FHA 442-14 and Form FHA 440-1 and FHA 440-3 to the State Director.

(iii) The County Supervisor will assist all applicants in the completion of their dockets. Completed dockets will be forwarded to the State Director for review and transmittal to the OGC for preparation of closing instructions.

(iv) The State Director is responsible for approval of all construction contracts, utilizing the legal advice and guidance of the OGC where necessary.

(v) The OGC will forward all closing instructions to the State Office where they will be reviewed and forwarded to the County Supervisor.

(e) *Obligating funds.* State Directors may obligate funds when they are available and in accordance with the following:

(1) Funds may not be obligated until the applicant has legal authority to contract for a loan or grant and enter into the required agreements. Funds must be obligated in multiples of \$100.

(2) The approval official must have executed Form FHA 442-38.

(3) The approval official must have executed a completed copy of Form FHA 440-1 and mailed or handed an executed completed copy to the applicant. The original and one copy must be sent to the Finance Office.

(4) If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the original of Form FHA 440-3.

(5) When use of fund reservation request procedures are required, the State Director will forward the original and one copy of (each) Form FHA 442-14 to the Finance Office for fund reservation.

The Finance Office will return the copy of (each) Form FHA 442-14 stamped "Funds Reserved, date \_\_\_\_\_" to the State Director as soon as funds are available for the project. When the State Director receives notice that funds are reserved, he will forward the press release to the National Office and cause the obligating documents to be executed and distributed in accordance with the applicable Forms Manual Inserts. Obligating documents must be forwarded to the Finance Office within 15 days after receipt of the notice that funds are reserved. If it is determined that the funds should not be obligated, a memorandum will be sent to the Finance Office to cancel the reservation of funds.

#### § 1823.24 State Office controls.

Each State Director will establish and maintain sufficient records to assure adequate supervision of his loan and grant allocations. Such records should be maintained for each type of fund and purpose (for example, direct loans—waste disposal) and should contain at least the following: Amount of allocations, date initial, and subsequent allocations received; amount reserved for use through the issuance of a letter of conditions, along with the name of the applicant, date funds will likely be needed; amounts and dates of obligations showing the name of the applicant and the date funds will likely be needed; and, current totals unreserved and unobligated.

(a) It is necessary that State Directors maintain processing schedules current and keep their District and County Supervisors currently informed regarding those applications which are to be processed and the availability of funds for such applications.

(b) All copies of Forms FHA 440-1, FHA 440-3, and FHA 442-14 will be processed through the State Office including those pertaining to loans approved by District and County Supervisors. This will permit State Directors to maintain accurate records regarding their fund allocations.

(c) Form FHA 440-36, "Association or Organization Activity Card," will be maintained for each applicant.

#### § 1823.25 Preparation for loan and grant closing.

(a) *Preparation for closing.* Upon receipt of closing instructions, the County Supervisor will:

(1) Discuss with the association's governing body and its architect or engineer, attorney, and other appropriate association representatives, the requirements contained therein and any actions necessary to proceed with closing.

(2) Hand the association officers three copies of the closing instructions.

(3) Plan carefully with association officers the timing of all steps to be taken before closing.

(b) *User (member) and cash contribution audit and verification.* The State Director will require a member of his immediate staff or the District Supervisor to authenticate the number of users obtained. Such individual will review

each signed user agreement and check evidence of cash contributions. If during his review, he receives any indication that all signed users may not connect to the system, he will make such additional investigation as he deems necessary to determine the number of users who will connect to the system. He will record his determination in a memorandum to the State Director in which he will state at least the following:

(1) He has reviewed all signed users agreements and evidence of cash contributions and has determined that the number of signed users and the cash contributions equal or exceed the requirements set forth in the letter of conditions.

(2) The results of any additional investigations he may have made.

(3) All other requirements for closing have been met.

(4) If for any reason the signed user agreements or the cash contributions are less than those required by the letter of conditions, he will forward a memorandum to the State Director setting forth his recommendations. The State Director will review the findings and arrange for such further investigation as he deems necessary. He may find that the applicant needs additional time to sign more users or that the project may be feasible with fewer users and increased rates. If the State Director determines that a rate adjustment is necessary, he will notify the County Supervisor to have the applicant present a new budget. There may be cases where the State Director will determine that there is insufficient interest on the part of the potential users and that the applicant is not ready for a system. In such cases, the applicant will be notified by letter.

(c) *Preloan closing compliance review.* The staff member or District Supervisor conducting the audit and verification required by paragraph (b) of this section, will also complete Form FHA 400-8, "Annual Compliance Review." A copy of the form will be forwarded to the State Director and a copy filed in the County Office docket.

(d) *Determining whether the project can be constructed within estimate.* If it appears that the applicant will be able and is ready to meet the closing requirements, the State Director must determine whether the facility likely can be constructed for an amount within the estimate. In order to make this determination, he may require that construction contract bids be invited and opened prior to further processing. Construction contract bids will be invited and opened in all cases prior to loan and grant closing, unless an exception is made by the State Director. This will be accomplished in accordance with the requirements of this subpart.

(e) *Determining availability of loan funds from other sources at reasonable rates and terms.* Each tax-exempt public body applicant for a loan in excess of \$50,000 will be required to offer its bonds for sale as soon as it has been determined that the facility can be completed within the estimate.

(1) FHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FHA is required to bid, the bid will be made at the applicable FHA interest rate. If there is more than one acceptable bid offering the same net interest cost, the applicant may negotiate with these bidders in selecting a lender. However, if FHA is not making the loan or a grant, it need not be concerned with such negotiations.

(2) Appendix 3, § 1823.53 contains instructions pertaining to notices of sale, advertising, and other information relative to the sale of bonds.

(f) *Notification to bidders.* Whenever certified checks or other forms of bid deposits are required in connection with an advertised sale of bonds, the County Supervisor must make certain that the deposits of the unsuccessful bidders are returned immediately upon formal determination of the successful bidder. Under no circumstances should such checks or other forms of bid deposits be destroyed. Use Form FHA 442-27 and Form FHA 442-26 to notify successful and unsuccessful bidders. All such notifications will be signed by the association. The State Director will sign the approval on the notification to the successful bidder, if he approves the bid. As soon as each sale has been held the State Director will forward a compilation of bids received to the National Office.

(g) *Ordering loan checks.* Checks will not be ordered until:

(1) The signed copy of Form FHA 440-3 has been received from the Finance Office.

(2) The association has complied with approval conditions and closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto.

(3) The association is ready to start construction or proceed with development.

(4) No increase or decrease in the amount of the loan or grant is contemplated. If it becomes evident at or before closing that the amount of the funds should be decreased or increased, the County Supervisor will request that all distributed docket forms be returned to him for revision and proceed with the revised docket.

(5) For a direct loan or grant the County Supervisor will check the block for issuance of the check on a copy of Form FHA 440-3, sign the form, insert the date of signature, and forward it to the Finance Office. For loans or grants with more than one advance, an extra copy of Form FHA 440-3 will be prepared and submitted to the Finance Office for each subsequent advance.

(6) Order insured loan checks in accordance with Part 1812 of this chapter.

(h) *Ordering development grant checks.* The policy of FHA is not to disburse grant funds from the Treasury until they are actually needed by the applicant.

(1) In order to comply with this policy, the County Supervisor will send the Finance Office a request for a grant check so that the check will be received in the County Office not more than 10 days before the estimated date the applicant will expend the grant funds. If the County Supervisor, upon receiving a grant check after the grant is closed, determines that more than 20 days will elapse before the first grant funds are needed by the applicant, he will return the check to the Regional Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, MO 64142, and specify a remailing date.

(2) All grant funds which the applicant will expend within a 30-day period will be included in one advance. When the amount of the grant does not exceed \$20,000, the entire grant will be disbursed in one advance. When neither of the foregoing situations prevails, multiple advances will be made to effect the procedure outlined in subparagraph (1) of this paragraph except that when the balance is \$20,000 or less, the remaining grant funds may be drawn in one advance.

(i) *Interim financing from commercial sources.* In all cases of FHA loans exceeding \$50,000, to public bodies and nonpublic bodies, where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be obtained so as to preclude the necessity for multiple advances of FHA funds. Interim commercial financing is not required for that portion of the project to be financed with a development grant. When interim commercial financing is used, the docket will be processed—including obtaining construction and bond bids—to the stage where the FHA loan would normally be closed, that is immediately prior to the start of construction. FHA loan and grant funds will be obligated before the applicant proceeds with the final arrangements for interim commercial financing. The FHA State Director or County Supervisor may deliver a copy of Form FHA 440-1 as evidence of the FHA commitment, if necessary, or a letter stating that funds in specified amounts have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions. FHA will assume the same responsibilities as if FHA funds had been advanced from the standpoint of approving construction contracts and the supervision of construction. The supervised bank account will normally not be used for funds obtained through interim commercial financing. However, the County Supervisor will approve Form FHA 424-18, "Partial Payment Estimate," to insure that funds are used for authorized purposes. When the interim financing funds have been expended, the FHA loan will be closed and permanent instruments will be issued to evidence the FHA indebtedness. The FHA loan proceeds will be used to retire the interim commercial indebtedness. Before the FHA loan is closed, the ap-

plicant will be required to provide the County Supervisor with statements from the contractor(s), engineer, and attorney that they have been paid to date in accordance with their contracts or other agreements.

(j) *Multiple advances of FHA loan funds.* In the event interim commercial financing is not available, multiple advances of FHA loan funds are required. Multiple advances will be used in such cases for all loans in excess of \$50,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period. Advances should not exceed 24 in number nor extend longer than 2 years beyond loan closing. Normally, the retained percentage withheld from the contractor to assure construction completion will be included in the last advance.

(1) Appendix 3, § 1823.53 contains instructions for making advances to public bodies.

(2) Nonpublic bodies will evidence their indebtedness by using Form FHA 440-22, "Promissory Note (Association or Organization)."

(i) For insured loans, notes will be issued in amounts not to exceed \$500,000 or that amount estimated necessary for an 8-month construction period, whichever is smaller. For example, when it appears that construction will require from 8 to 16 months, two notes will be used. If it appears that construction will require more than 16 months, three notes will be used. The first note will be for the amount estimated to be needed during the first 8 months. The second note will be for the balance of the loan if it is estimated that construction will be completed in 16 months, or for the amount estimated to be needed the second 8 months if it appears that construction will require more than 16 months. In these cases, the third note will be for the balance of the loan. In any event, no note may exceed \$500,000. This may require more than three notes.

(ii) For direct loans, only one note will be used to evidence the total amount of the loan.

(3) Loan funds will be included to pay interest in accordance with § 1823.5(b) and also interest on interim commercial financing. Funds to pay interest will be included in the last advance made prior to each interest payment date.

(4) When FHA provides loan funds during the construction period using interim financing instruments, the following action will be taken prior to issuance of the permanent instruments:

(i) The Finance Office will be notified of the anticipated date for the retirement of the interim instruments and the issuance of permanent instruments of debt.

(ii) The Finance Office will prepare a statement of account including accrued interest through the proposed date of retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the County Supervisor.

(iii) The County Supervisor will collect interest through the actual date of

the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately. In developing the permanent instruments, the sequence of preference set out in Appendix 3, § 1823.53 will be followed.

(5) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, rights-of-way and land, legal, engineering interest, and other expenses as needed. The association will prepare Form FHA 440-11, "Estimate of Funds Needed," to show the amount of funds needed during the 30-day period. After the County Supervisor determines that the estimate prepared by the association is adequate, he will request the advance by executing and forwarding to the Finance Office Form FHA 440-3. For instance, with a loan of \$200,000, advances will be made as follows: Assuming that the loan will be closed on July 1, the association will complete Form FHA 440-11 in sufficient time so that funds will be available on the day of loan closing. The estimate should be broken down for the first advance in a manner similar to the following:

Construction .....	\$43,000
Land acquisition .....	10,000
Engineering .....	14,000
Legal .....	3,000
<b>Total .....</b>	<b>70,000</b>

An advance in the amount of \$70,000 would then be available on July 1, the day of loan closing. The second advance will also be based on the association's estimate prepared on Form FHA 440-11 and will be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction .....	\$19,600
Engineering fees .....	400
<b>Total .....</b>	<b>20,000</b>

The same routine will be followed for each advance until the project is completed. In this example, the initial principal payment will be deferred until the second January 1 following loan closing. Loan funds for the payment of interest due on January 1, will be requested in sufficient time to be available in the December advance.

(6) Any deviation from the procedure for multiple advances of FHA loan funds must have the prior approval of the National Office.

(k) *Borrower and grant recipients receiving funds from other agencies.* County Supervisors will be sure that FHA borrowers and grant recipients expecting funds from other agencies such as EDA, EPA, and others for use in completing projects being partially financed with FHA funds have evidence that funds from such other agencies will be available at the time needed for construction of the project before closing the FHA loan or grant. If there are any questions

regarding the availability of such funds, the County Supervisor will report the complete circumstances to the State Director and request instructions for proceeding.

#### § 1823.26 Loan and grant closing.

Loans and grants will be closed in accordance with the closing instructions issued by the OGC as soon as possible after receiving the check. A grant may be closed in accordance with instructions of the OGC as soon as the required instruments, including the grant agreement and any other necessary instruments have been executed.

(a) *Authority to execute, file, and record legal instruments.* Properly bonded County Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for association loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgments, and other certificates.

(b) *Preparation of mortgages.* Unless otherwise required by State law, or an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even though the indebtedness is to be evidenced by more than one note.

(c) *Preparation of promissory notes and bonds.* Notes and bonds will be completed to the extent possible on the date of loan closing. The amount of each note or bond will be in multiples of \$100.

(1) Form FHA 440-22 will be used for loans to nonpublic bodies.

(2) Appendix 3, § 1823.53 contains instructions for preparation of notes and bonds evidencing indebtedness of public bodies.

(3) The following types of provisions in instruments of debt should be avoided:

(i) Requirement that the holder manually post each payment to the instrument.

(ii) Requirement for returning the instrument to the borrower in order that it, rather than FHA, may post the date and amount of each multiple advance or repayment on the instrument.

(d) *Source of funds for insured loans.*  
(1) All insured loans to public bodies will be made from the Agricultural Credit Insurance Fund and will not be offered to local lenders.

(2) For insured loans to other than public bodies, see Parts 1812 and 1873 of this chapter.

(e) *Obtaining development grant agreement.* Form FHA 442-31 will be completed and executed in accordance with requirements of approval and closing instructions. Both County Supervisors and State Directors are authorized to sign the grant agreement on behalf of the FHA. For grants that supplement FHA loan funds, the grant should be closed simultaneously with the closing of the loan. The grant will be considered closed when Form FHA 442-31 has been properly executed. The original should be forwarded to the Finance Office immediately after execution.

(f) *Payment of fees and costs.* Statutory fees and other charges for filing or

recording mortgages or other legal instruments, and notary and lien search fees incident to loan transactions will be paid by the association from its own funds or from the proceeds of the loan, whenever cash is accepted by FHA personnel to be used to pay the filing or recording fees or the cost of making lien searches, Form FHA 440-12, "Acknowledgment of Payment for Recording Lien Search, and Releasing Fees," will be executed.

(g) *Obtaining insurance, fidelity bonds, and assignments.* Required property insurance policies, liability insurance policies, fidelity bonds, and assignments will be obtained by the time of loan closing.

(h) *Distribution of recorded documents.* The originals of the recorded deeds, easements, permits, certificates of water rights, leases, or other contracts and similar documents which are not required by the loan approval official to be held by the FHA will be returned to the association.

(i) *Posting management system records.* Record on Form FHA 405-10, "Management System Card—Association," any actions to be completed subsequent to loan closing.

(j) *Use of and accountability for funds.* (1) Loan and grant funds and any funds furnished by the association to supplement and loan including contributions to purchase major items of equipment, machinery, and furnishings will be deposited and handled in accordance with Part 1803 of this chapter in a bank in which deposits are covered by Federal Deposit Insurance. The funds so deposited in a supervised bank account are public moneys under title 12, section 265, United States Code, because they are subject to control by an employee of the United States, and therefore, if the amount deposited exceeds \$20,000 the bank will be required to pledge collateral security for such excess pursuant to Treasury Department Circular No. 176 before the funds are deposited.

(2) If the financial operations of the association are so limited by State laws, or by other special circumstances, that use of a supervised bank account is impossible, loan funds and applicant contributions may be deposited in a special bank account without provisions for countersignature of checks or warrants by the County Supervisor. In such cases, arrangements must be agreed upon for the prior approval by the County Supervisor of the bills or vouchers upon which warrants will be drawn so that the necessary control of payments from loan funds can be maintained and records in the County Office can be kept current. Periodic audits of such accounts should be made by the County Supervisor at such times and in such manner as the State Director will prescribe in the conditions of loan approval, and suitable followups should be established in the management system. If the applicable State laws contain specific and mandatory provisions regulating the depositories to be used, the security given by the depository for funds of the association, or the bond required of the associa-

tion, or the bond required of the association's treasurer, such requirements should be complied with. If, however, there are no such mandatory provisions in the State laws, the State Director should include in his conditions for loan approval requirements for the protection of the loan funds by the depository, placing in escrow or pledging sufficient obligations of the United States or furnishing a good and sufficient bond by a reputable surety company authorized to do business in the State. If other types of protection of the loan or grant funds are proposed, they should be submitted to the Administrator for approval.

(3) Careful accounting is also necessary to see that FHA loan and grant funds will be used for authorized purposes.

(i) It will be necessary to make sure that the total grant funds advanced do not exceed the approved percentage of the total actual development cost. Borrower funds and loan funds will be disbursed from the supervised or special bank account before any grant funds are disbursed; but this provision will be subject to subdivision (iii) of this subparagraph when funds remain after project completion.

(ii) Should loan or grant funds remain available including obligated funds not advanced after all costs incident to the basic project have been paid or provided for, such funds may be used for needed extensions, enlargements, and improvements of the project with the prior permission of the State Director. If the additional work is to be undertaken by the contractor(s) already engaged in the construction of the project, the additional work may be authorized by a change order. If the amount of such loan or grant funds remaining available exceeds 20 percent of the project costs, the prior approval of the National Office will be obtained before any additional work is authorized by the State Director.

(iii) In those cases where funds remain after project completion, including any expenditures made as authorized in subdivision (ii) of this subparagraph, the remaining balance will be considered to include both loan and grant funds and the amount of each will be in direct proportion to the amount obtained or obligated from each source. For the purposes of this computation, that portion of the applicant's cash contribution which was deposited in the supervised or special bank account will be considered a part of the loan proceeds. For example, if FHA development grant funds represented 30 percent of the total loan and grant obligations plus such cash contributions of the applicant, 30 percent of the remaining funds will be identified as FHA development grant funds.

(iv) Obligated funds and any borrower contributions which are in the supervised or special bank account and remain after all authorized costs have been provided for will be disposed of as follows:

(a) Development grant funds in the amount determined under subdivision (iii) of this subparagraph will be returned to the Finance Office.

(b) Loan funds and such contribution from the applicant will be returned to the Finance Office and applied as a refund payment on the loan unless other disposition is required by these instructions, by the bond ordinance or resolution, or by State statutes. For tax-exempt bonds, see Appendix 3, § 1823.53 at the end of this subchapter.

(c) See Part 1862 of this chapter for instructions as to the method of returning loan and grant funds to the Finance Office.

(4) Whenever a check for a direct loan or grant or a loan from the ACIF is received, lost, or destroyed, the County Supervisor will take the appropriate actions. Checks which cannot be delivered within 21 days will be returned to the regional disbursing office of the U.S. Treasury. The Finance Office will be requested to mail the check to arrive when the check is needed in the County Office.

(5) If, for any reason, a loan check for an insured loan by a private lender cannot be delivered to the association, it will be returned to the lender with a request for cancellation. When a loan check is lost or destroyed, the County Supervisor will notify the lender immediately. If the association desires that a new check be issued, the lender will be requested to issue a new check.

(6) When a loan check is issued payable jointly to the association and the FHA, the County Supervisor is authorized to endorse the check on behalf of the FHA at the time of loan closing as follows:

Endorsed without recourse:

FARMERS HOME ADMINISTRATION

By \_\_\_\_\_  
Title \_\_\_\_\_

The State Director also is authorized to endorse such a check in the same manner. Authority to endorse such checks in no way relates to or modifies the regulations contained in Part 1862 of this chapter regarding collection items, or the endorsement of such items.

(7) In those cases where there are funds in the construction account, that is the supervised bank account or special account, which are not immediately needed for the payment of development costs, excess funds may be:

(i) Deposited in an interest-bearing account in a bank (but not in a savings and loan association) which has qualified as a designated depository under § 1823.19(b). The account of deposits will be in the name of the association and the FHA County Supervisor, by title, under a three-party deposit agreement executed by the association, the bank, and the County Supervisor. Use Form FHA 402-4, "Interest-Bearing Deposit Agreement." The original of such three-party agreement will be delivered to the association, a signed copy will be placed on file with the bank, a signed copy will be placed in the association's case file, and a conformed copy will be attached to any certificate(s) of deposit which may be issued to represent such deposits.

(ii) Used by the association to purchase insured notes or bonds held by the FHA in the ACIF, if any such notes are available under any purchase policy then in effect. Upon such purchase, the association will sign a written agreement that it will not sell or assign the obligations purchased without the approval of the FHA, and that the proceeds of any such resale will be reinvested in similar obligations or will be deposited under the same conditions as original loan funds are deposited. For associations contemplating the purchase of insured notes or bonds, State Directors will contact the Director, Finance Office, well in advance of loan closing to determine that such notes will be available for purchase on terms which will permit the association to obtain cash when needed for authorized loan purposes.

(iii) Invested in obligations of the United States or in other obligations in which political subdivisions of the State are authorized to invest under applicable statutes (this is equally applicable to corporation borrowers) with prior approval of the State Director. Before approving such a request from the borrower, the State Director must be satisfied that adequate provisions are made for continued FHA control over such investments. For bearer obligations this may be accomplished by an escrow agreement with the depository bank whereby the bank agrees to retain custody of the bearer paper subject to the joint signature of the borrower and the County Supervisor.

(8) All income from investments under subparagraph (7) (i), (ii), or (iii) of this paragraph must be deposited along with loan funds and be used for approved loan purposes or applied on the association's obligation to the FHA or in accordance with the bond ordinance or resolution. However, any income from the investment of grant funds shall be returned to FHA unless the grantee is a State. "State" includes instrumentalities of a State but not political subdivisions of a State. A State grantee is not accountable for interest earned on grant funds.

§ 1823.27 Actions subsequent to loan or grant closing.

(a) *Mortgages.* The real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the association. The original instrument for both insured and direct loans if returnable after recording or filing will be retained in the association County Office case folder.

(b) *Notes.* For a direct loan, the original of the note, or for a loan from the ACIF, the original and a conformed copy of the note will be sent to the Finance Office immediately after loan closing. For an insured loan, not made out of the ACIF, the original of the note along with the properly executed insurance endorsement will be delivered or sent to the lender. A conformed copy of the note and

insurance endorsement will be sent to the Finance Office.

(c) *Bonds.* Bonds evidencing direct loans or loans from the ACIF will be forwarded to the Finance Office.

(d) *Multiple advances — bond(s).* Where temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper right hand corner of such paper by the County Office. The permanent bond(s) should be forwarded to the Finance Office as soon as possible after the last advance is made.

(e) *Bond registration record.* Form FHA 442-28 may be used as a guide to assist associations in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(f) *Development grant agreement.* The original will be forwarded to the Finance Office, a copy retained for the County Office docket, and a copy handed to the association.

(g) *Disposition of title evidence.* All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the association when the loan has been closed.

(h) *Disbursement of funds.* Funds may be disbursed for authorized purposes as soon as the loan or grant has been closed.

(i) *Material for State Office.* When the loan or grant has been closed, the County Supervisor will submit to the State Director:

- (1) The completed docket.
- (2) A statement covering information other than the completion of legal documents showing what was done in carrying out loan closing instructions.

(j) *State Office review of loan and grant closing.* The State Director will review the County Supervisor's statement concerning the loan and grant closing, the security instruments, and other documents used in closing to determine whether the transaction was closed properly. All material submitted by the County Supervisor, including the executed contract documents with the certification of the association's attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to the OGC for post review. OGC is responsible for reviewing the submitted material to determine whether all legal requirements have been met. OGC will not review FHA's standard forms except for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. It is not expected that facility development including construction will be held up pending receipt of the final opinion from OGC. When the opinion from OGC is received, the State Director will advise the

County Supervisor of any deficiencies that must be corrected and return all material that was submitted for review.

(k) *Safeguarding bond shipments.* Shipments of negotiable notes or bonds and interest coupons will be by registered mail. When mailing registered bonds and other nonnegotiable bonds and coupons which generally are made payable to the named party, certified mail will be used.

(l) *Water stock certificates.* Water stock certificates will be filed in the loan docket in the County Office.

**§ 1823.28 Applications not receiving favorable consideration and loan or grant cancellation.**

(a) *Applications not favorably considered.* If at any time prior to loan or grant approval the County Supervisor is informed that favorable action will not be taken on an application, he will notify the association immediately informing it of the reasons why the request was not favorably considered.

(b) *Cancellation of loans or grants.* Loans or grants which have been approved and obligations which have been established may be canceled before closing as follows:

(1) The County Supervisor or State Director may prepare and execute Form FHA 440-10, "Notification of Loan or Grant Cancellation." When a grant is being canceled, the form will be modified as appropriate.

(i) For an insured loan by a private lender, any checks advanced will be returned promptly to the lender with an explanatory letter.

(ii) For a direct loan or a loan made from the ACIF, if the check has been received or is received subsequently in the County Office, the County Supervisor will return it to the U.S. Treasury Regional Disbursing Office with a copy of Form FHA 440-10.

(2) If the docket previously has been forwarded to the OGC, that office will be notified of the cancellation.

(3) Any application for title insurance will be canceled in accordance with Part 1807 of this chapter. Likewise, the association's attorney and engineer if any should be notified of the cancellation. The County Supervisor may provide the association's attorney and engineer with a copy of his notification to the applicant.

**§ 1823.29 Planning and performing development.**

Appendix 1 (§§ 1823.36 through 1823.44) outlines FHA policies pertaining to planning and developing community water and waste disposal facilities. Copies of Appendix 1, together with State supplements necessary to comply with State laws or regulations are available in all FHA offices, and will be handed each applicant prior to the preplanning conference.

(a) *Project compliance.* No loan or grant will be closed unless the docket contains written evidence that the project is in compliance with State and local laws and regulations and comprehensive area and other development plans.

(b) *Projects with facilities located in flood plains.* Facilities may be located in flood plains only after careful evaluation of the proposal and a determination by the State Director that flood damage will not likely occur.

(c) *Preplanning conference.* The County Supervisor or other FHA employee designated by the State Director is responsible for holding the preplanning conference.

(d) *Preliminary engineering reports.* The County Supervisor or other FHA employee designated by the State Director will review all preliminary engineering reports prior to submitting them to the State Office to be sure that they contain all major items listed in the format for preparing preliminary engineering reports.

(e) *Projects requiring National Office review.* The review and approval of the National Office is required for the following facilities:

(1) Water storage reservoirs which exceed 20 feet in height measured between the upstream toe of the embankment to the crest of the dam and structures which will impound 15 or more acre feet of water. Plans and specifications for such facilities will be submitted prior to their review and approval by appropriate State agencies and after having been reviewed and found satisfactory by the State Director.

(2) Water systems which will provide peak flows of less than 1 gallon per minute per user. Submit the preliminary engineering report and clearinghouse comments prior to the issuance of the Letter of Conditions.

(3) Pressure or vacuum sewerage systems. Submit the preliminary engineering report and clearinghouse comments prior to the issuance of the Letter of Conditions.

(4) Solid waste disposal systems involving composting, recycling, or incineration. Submit the preliminary proposal prior to the issuance of the Letter of Conditions.

(f) *Form FHA 442-19, "Agreement for Engineering Services."* (1) Each State Director will have an Attachment I to Form FHA 442-19 showing approved suggested fees for his State which has received prior approval from the National Office. State Directors may, with the assistance of the OGC, supplement Form FHA 442-19 for use in their State(s). Such supplements will be made on a State basis in order to fit needs for the State and will not be done on a project basis. Sufficient space has been left at the end of each lettered section for making necessary additions.

(2) Applicants unable to provide planning assistance: If an applicant does not have the resources to pay for project planning work, cannot arrange to have it done on credit, has no qualified personnel to do such work, and the technical assistance required is not available from other Federal or other public agencies, FHA may provide the necessary planning assistance by utilizing the services of available FHA personnel.

(g) *Plans and specifications review.* Plans for all facilities to be financed with

FHA loans or grants will be reviewed to be sure that such facilities are planned and designed in accordance with the criteria established in this subpart. The FHA engineer will complete Form FHA 424-14, "Design Evaluation—Domestic Water System," for each community domestic water system and Form FHA 424-15, "Design Evaluation—Waste Disposal System," for each waste disposal system.

(h) *Methods of performing development.* All development planned and agreed upon will be performed in accordance with § 1823.36 and the following unless the National Office has given prior approval to another method:

(1) *Borrower method of construction.* (i) Incidental items of construction. Cases involving relatively insignificant items such as landscaping, minor repairs to existing structures, fencing and other similar small items may be completed by the borrower method. The borrower method includes cases where the borrower purchases all material and hires labor to complete the particular improvement involved. Development funds should not be used to pay members of the borrower for labor; however, in justified cases, the State Director may authorize the use of development funds for special skilled labor performed by the members if the wages are not in excess of the average for similar skills in the area. Whenever it is necessary to obtain certain special services to complete portions of the project by the borrower method, a written lump-sum agreement or Form FHA 424-6, "Construction Contract," must be used to document the borrower obligation. Purchase of any necessary equipment will be evidenced by a purchase agreement or sales contract.

(ii) Applicants experienced in construction work. Communities which have sufficient management ability, available equipment, and experienced labor to adequately rehabilitate, extend, enlarge or modify existing facilities may be authorized by the State Director to complete construction by the borrower method. All such construction must be completed in accordance with approved plans and specifications. Materials will be purchased through competitive bid awards. FHA funds may be used only for payment of expenses actually incurred in construction of the project. Such expenses will be evidenced by invoices which have been approved by the governing body.

(2) *Self-help method.* The self-help method of performing development is simply the borrower method applied to cases where it is imperative to utilize member labor contributions to develop a feasible project. In justifiable cases, with the approval of the State Director, this method of development may be used for water and waste disposal systems. The size of the project in which the self-help method may be used will be regulated by the ability and resources of the members and the availability of adequate supervision to make the method of development successful.

(i) *Construction contracts.* All contracts will contain a provision that they are not in full force and effect until they

have been approved in writing by the FHA State Director. FHA will not become a party to a construction contract or incur any liability therefor.

(1) *Contract approval.* The State Director is responsible for approval of all construction contracts, utilizing the legal advice and guidance of the OGC where necessary. If the construction contract utilized the format of the model forms available in all FHA offices, or some other guide form which has been approved and issued by the State Office, it will not be necessary to submit individual contract documents to the OGC for prior approval. If, on the other hand, individual contract documents or attachments differ substantially from the model forms available in all FHA offices, or guides or forms already approved, they should be submitted to the OGC either separately or with the docket for review and approval before their use is authorized. The deviations from the approved guides or forms should be specifically enumerated by the State Director in his forwarding memorandum along with his comments and suggestions concerning the deviations.

(2) *Performance and payment bonds.* (i) Bonds assuring performance and payment of 100 percent of the contract cost including all contracts, whether negotiated or obtained through competitive bidding procedures, will be required in connection with each contract.

(ii) The State Director may waive the requirement for bonds on contracts of \$50,000 or less if he determines that:

(a) More effective competition can be obtained if performance and payment bonds are not required.

(b) The borrower's interest will be more adequately served and the borrower agrees in writing that the performance and payment bonds are unnecessary.

(c) The Government's interests will be adequately protected.

(iii) The State Director may recommend an exception to the National Office only in exceptional cases when cogent reasons exist for waiving the performance and payment bond if the amount of the contract exceeds \$50,000 and negotiations or competitive bidding procedures conducted in accordance with this subpart have not resulted in an acceptable contractor who can provide a bond.

(3) *Bid openings.* Bid openings will be attended by a representative of FHA.

(4) *Bid irregularities.* Any irregularities in the bids received or other matters pertaining to contract award having legal implications will be cleared with OGC before the State Director consents to the contract award.

(j) *Preconstruction conference.* FHA will arrange for the preconstruction conference.

(k) *Development inspections.* Unless the State Director designates another FHA representative, County Supervisors are responsible for monitoring the construction of all projects being financed, wholly or in part, with FHA funds. In all cases where the governing body has entered into an agreement for technical services with an engineer or if such serv-

ices are being made available by another Federal or State agency, the County Supervisor is authorized to countersign checks for payments as work progresses in accordance with estimates prepared by the engineer. Each payment estimate will contain a certification that all material purchased and all work performed is in accordance with the plans and specifications. Each payment estimate must also be approved by the governing body. Form FHA 424-18, "Partial Payment Estimate," may be used for this purpose. If there is any indication that construction is not being completed in accordance with the plans and specifications or that any other problems exist, the County Supervisor should notify the State Director immediately and withhold all payments on the contract. To assist the County Supervisor in evaluating project inspection, the engineer should furnish him a daily inspection report. A suggested format is available at any FHA office for use as a guide for preparing a suitable daily inspection report.

(l) *Changes in development plans.* Changes in the development plan requested by the borrower may be approved as follows:

(1) *Authority of the County Supervisor.* The County Supervisor is authorized to approve changes in development provided:

(i) The change will not represent a change in technical design of the facility.

(ii) Total project cost is not increased.

(2) *Authority of State Director.* The State Director is authorized to approve all additional changes not authorized by the County Supervisor, provided:

(i) The change is for a purpose for which loan funds can be used and which is consistent with loan approval conditions.

(ii) Sufficient funds are available to cover the contemplated changes when the change involves additional funds to be furnished by the borrower.

(iii) The change will not adversely affect the soundness of the operation or the Government's security.

(3) *Recording changes.* All changes agreed on, including extra work orders, will be recorded on Form FHA 424-7.

(m) *Planning and developing community water and waste disposal facilities.* See §§ 1823.36 through 1823.44 for prescribed policies.

**§ 1823.30 State requirements, forms, guides, and other issuances.**

The State Director will supplement this subpart with State issuances necessary to the successful operation of the program. The State Director with the assistance of the OGC may change or substitute documents or modify procedures as set out in this subpart only to the extent necessary to enable applicants to comply with the applicable provisions of State laws. Each State Director will include in his State issuances:

(a) Additional definitions, if needed.

(b) Instructions relative to processing applications.

(c) Requirements for reporting progress on application processing.

(d) District Supervisor responsibilities.

(e) Assembly of material for presentation to the OGC.

(f) Bond counsel.

(g) Requesting assistance of State staff.

(h) Security including preparation of instruments.

(i) Handling of mortgages and security instruments.

(j) Notes, bonds, resolutions, and ordinances including preparation.

(k) Reserves.

(l) Insurance and bonding.

(m) Coordination with local agencies.

(n) Selection of and relations with attorneys, engineers, and other technical and professional applicant representatives.

(o) Preparation of appraisal reports.

(p) Affect of State statutes, rules and regulations on programs, including whether State statutes forbid deferment of interest on direct FHA loans.

(q) State forms, guides, checklists, and other issuances.

(r) Items to be included in dockets.

**§ 1823.31 Management assistance.**

Management assistance will be based on such key factors as observation of borrower operations and facility maintenance and review of the periodic management and audit reports. The amount and type of assistance provided will be that needed to assure borrower success and compliance with its agreements with FHA.

(a) *Borrower management reports, audits, and accounting systems.* Requirements pertaining to borrower accounting systems and management reports are detailed in § 1823.45. Requirements pertaining to audit reports are contained in a booklet, "FHA Instructions to Independent Certified Public Accountants and Licensed Public Accountants." Copies of Appendix 2 (See § 1823.45) and the audit booklet will be given to each applicant at a time not later than delivery of the Letter of Conditions.

(1) *Management reports.* (i) County Supervisors will obtain from borrowers and forward to the State Director two copies of:

Form FHA 442-1, "Forecast of Cash Receipts and Disbursements (Operating Budget)," for the new fiscal year no later than 20 days after the beginning of the borrower's new fiscal year.

Form FHA 442-2, "Statement of Income and Expense for Fiscal Year to Date," within 20 days after the end of each quarter.

Form FHA 442-3, "Balance Sheet," within 20 days after the end of each fiscal year.

(ii) The State Director will designate a member of the Community Programs staff to be responsible for the review of borrower management reports. Ordinarily, review findings and instructions regarding further assistance will be forwarded to FHA field personnel within 20 days of submission for delinquent and problem borrowers, and within 40 days for other borrowers. Form FHA 430-4, "Five Year Progress Report," will be updated during each State Office review.

(iii) Copies of review findings, instructions for further assistance, and management reports pertaining to delinquent and problem borrowers will be forwarded to the National Office.

(iv) The State Director may:

(a) After the end of the borrower's third full fiscal year of operation, exempt it from submitting management reports other than annually, provided it is current on its loans, is meeting the conditions of its agreements with FHA, is properly maintaining its facility, and has demonstrated its ability to successfully operate its facility and manage its affairs. Borrowers qualifying for this exemption will only be required to submit copies of Forms FHA 442-1, FHA 442-2, FHA 442-3, and for those borrowers required to submit an audit, a copy of the audit report.

(b) Reinstate the requirement for submission of periodic management reports for those borrowers who become delinquent or otherwise are not carrying out their agreements with FHA.

(c) Require more frequent submission of management reports.

(2) *Audit reports and accounting systems.* (i) The County Supervisor will obtain audit reports from those borrowers required by § 1823.46 to submit such reports, and send them to the State Director for forwarding to the National Office. All audit reports will receive National Office review. Review results and recommendations or instructions for further assistance and audit preparation will be provided the State Director.

(ii) Borrower accounting systems must be approved by the State Director before loan funds are advanced.

(iii) The State Director may:

(a) Waive FHA accounting and auditing requirements for a public entity borrower if State statutes or regulations require adequate accounting and auditing procedures and he has reasonable assurance that he will obtain the necessary financial information for borrower assistance from the accounting system and audit reports prepared in accordance with such State statutes or regulations.

(b) Require an audit report from any borrower in addition to those described in § 1823.46 when he determines that FHA or borrower's interests would be better protected if such an audit were made.

(b) *Application to borrowers indebted to FHA on receipt of this subpart—(1) Management reports.* The requirements of this subpart will apply.

(2) *Accounting systems.* The requirements of this subpart apply to all such borrowers who the State Director determines are not now maintaining adequate accounting systems.

(c) *District Supervisor reports.* The District Supervisor will complete and forward to the State Director Form FHA 442-4, "District Supervisor Report Association—Organization Borrowers," for all borrowers between the fourth and ninth month of operation in the first year, and prior to March 31 of each year for borrowers delinquent in making their annual payments by January 21.

(d) *Security inspections.* A representative of the borrower will ordinarily accompany the FHA County Supervisor during each inspection.

(1) *Initial inspection.* The County Supervisor will inspect each borrower's security property and facility at the end of the first year of operation. The results of this inspection will be reported to the State Director on Form FHA 424-12, "Inspection Report."

(2) *Subsequent inspections.* The County Supervisor will make subsequent inspections of borrower security property and facilities during each third year after the initial inspection. The results of this inspection will be reported to the State Director on Form FHA 424-12.

(3) *Special inspections.* The County Supervisor may request or the State Director may determine the need for a member of his State staff to make certain security inspections. In such cases the State Director will detail a member of his staff to make such inspections.

(4) *Followup inspections.* If any inspection discloses deficiencies or exceptions or otherwise indicates a need for subsequent inspections prior to the third year, the State Director will prescribe the type and frequency of followup inspections. These inspections will be made until all deficiencies and exceptions have been corrected.

(e) *Development grant recipients.* Grant recipients will be assisted to the extent necessary to assure that facilities are constructed in accordance with approved plans and specifications and funds are expended for approved purposes.

#### § 1823.32 Loan and grant approval authority.

Current information regarding limitations on loan approval authorities of various officials of the FHA may be obtained from any County or State Office of the Farmers Home Administration or from its National Office at 14th and Independence Avenue SW., Washington, DC 20250.

#### § 1823.33 Loan and grant servicing.

Loans and grants will be serviced in accordance with Subpart C of Part 1861 of this chapter.

#### § 1823.34 Subsequent loans and grants.

Subsequent loans and grants will be processed in accordance with this subpart.

#### § 1823.35 Handling preliminary inquiries for loan and grant assistance for water and sewer projects (Standard Form 101).

This section outlines procedures for handling preliminary inquiries from public bodies and other nonprofit associations for assistance to water and sewer projects under the programs administered by the Community Facilities Administration, Department of Housing and Urban Development (DHUD); (EDA), Department of Commerce; the Environmental Protection Agency; and (FHA), U.S. Department of Agriculture. The communities will indicate their in-

terest in obtaining such assistance by completing and filing Standard Form 101, "Preliminary Application for Requesting Federal Assistance for Public Works and Facility-Type Projects." Standard Form 101 will be filed with field offices of the FHA or DHUD, except that if grant assistance for sewer treatment facilities for public bodies is involved, Standard Form 101 will be filed with the State Pollution Control Agency. This section is based upon directives from the Director of the Bureau of the Budget dated October 12, 1965, and December 16, 1965.

(a) *Definitions—(1) Qualified area.* This term will be used to mean those areas announced by the EDA to qualify for consideration under titles I and IV of the Public Works and Economic Development Act (by reason of unemployment conditions, low income, or previous designation under the Area Redevelopment Act).

(2) *Intercepting sewer.* That portion of a main trunkline extending from the last lateral raw sewage collection line entrance to the treatment plant.

(3) *Outfall sewer.* This term is used for the sewer line from the treatment plant to the point of final discharge.

(b) *Receiving and processing Standard Form 101.* A preliminary inquiry form, Standard Form 101, will be used by representatives of communities to indicate their desire to obtain Federal financial assistance for water and sewer projects. All initial inquiries for assistance for water and waste disposal systems will be made on Standard Form 101. This form may be filed with the field offices of the FHA or the DHUD. However, in the case of grants for sewage treatment facilities for public bodies, the form will be filed with the State Pollution Control Agency.

(1) *Action by County Office.* If representatives of the community contact the FHA, the County Supervisor will assist them in completing the preliminary inquiry form. He will also provide them with appropriate leaflets or any other information available which may be helpful. In addition, he will obtain at the time of the applicant's visit information about the applicant organization and its proposals which may be helpful in determining the Federal agency to which the application should be referred for further action. The preliminary inquiry form will be filed at the County Office in triplicate. If the application is for a grant for sewage treatment facilities from a public body, the application form will be filed at the County Office in an original and four copies. The County Supervisor will retain a copy and send the original and the other copies of the inquiry immediately to the State Office with a memorandum setting out all the information that might assist the State Director in reaching a decision as to the Agency that should receive the inquiry.

(2) *Action by State Office.* (1) If the inquiry is from a community which need not be referred to another agency, the State Director will advise the County

Supervisor to have the group make application for FHA assistance by completing Standard Form 101. The County Supervisor will, upon receipt of Standard Form 101, process the application in accordance with the preceding sections of this subpart. The following are inquiries that need not be referred to another agency:

(a) Inquiries for grants to a nonpublic body in an area having no place, town, or village of more than 5,500 population and not located in an EDA qualified area.

(b) Inquiries for loans and grants other than for sewage treatment, in an area which does not have a place, town, or village of 2,500 population or more and is not located in an EDA qualified area.

(ii) Inquiries for grants for waste treatment facilities (including intercepting and outfall sewers) from public bodies will be directed to the State Pollution Control Agency in an original and two copies. This State Agency has the responsibility for determining the priority that should be assigned to the inquiry. If the request includes financial assistance beyond that which could be provided by a grant through the State Pollution Control Agency, an extra set of Standard Form 101 must be duplicated in order to make the proper referrals to all agencies.

(iii) Inquiries for grants from other than public bodies for water or waste disposal systems will not be referred to DHUD or to the State Pollution Control Agency for Federal assistance because these agencies are not authorized to make grants to nonpublic bodies.

(iv) All other inquiries for loans and grants for sewer or water facilities (excluding sewage treatment grant requests and grants from nonpublic bodies) will be referred as follows:

(a) Inquiries will be referred to DHUD from those areas which contain a community with a population of 2,500 or more, but not over 5,500.

(b) Inquiries will be referred to DHUD if the communities now have less than 2,500 population but are likely to become residential, industrial, or commercial as shown by existing plans for future development of a community or area with a population of 2,500 or more.

(c) Inquiries from areas located in Standard Metropolitan Statistical Areas (SMSA) will be referred to DHUD, except that inquiries from that part of such areas that are selected and agreed by U.S. Department of Agriculture and DHUD as not likely to become associated with the principal Metropolitan Community will be handled as if the inquiry was from a community outside of SMSA areas.

(v) One copy of each inquiry for a project involving water or sewer facility loans and grants will be referred to the appropriate Area Office of the Economic Development Administration if it is located in one of the qualified areas under the Public Works and Economic Development Act of 1965 and provided the State Director, based on information entered in Block 3A of Standard Form 101,

or for other reasons, believes that the applicant may be eligible for EDA assistance. The FHA will take no further action on the inquiry until it has heard from EDA.

(vi) Other agencies may also refer inquiries they have received to FHA. In such cases, the State Director should determine within 5 days of receipt of the inquiry the referral action that he proposes to take on the inquiry and notify the agency from which the Standard Form 101 was received.

(vii) Within 5 days from receipt of a preliminary inquiry from the County Office, the State Director will determine the proper agency to which the form is to be forwarded and send that agency the original and one copy of the form together with any appropriate comments, except in the case of the State Pollution Control Agency, the original and two copies will be sent. Suggested guide letters listed below for making these referrals are available in all FHA offices.

Letter to Regional Director, DHUD.  
Letter to Area Office Director of EDA.  
Letter to State Pollution Control Agency.

(a) The State Director will advise the County Supervisor as soon as the inquiry is referred to another agency by providing him with a copy of the referral memorandum.

(b) The remaining copy of the inquiry will be retained in a State Office suspense file in the State Office. A suitable followup system will be established to insure that the agency to which the inquiry is referred responds promptly.

(viii) If an inquiry is filed directly with the State Office, the State Director will make the necessary referral as outlined above. He will, at the same time, send one copy of the inquiry to the County Office with appropriate comments on any future action needed.

(c) *General.* (1) Some of the inquiries referred to the Environmental Protection Agency, EDA, and DHUD will be returned to FHA for final processing because the proposal does not entirely meet the criteria of the agency to which it was referred. In such cases, the State Director will direct the County Supervisor to proceed with the processing in accordance with the preceding sections of this subpart.

(2) Lists of the address of the appropriate field offices of the agencies to which referrals are made must be maintained in each State Office.

(d) *Joint financing of projects.* Joint financing of a project by FHA and some other agency may sometimes be desirable where combined authorizations may need to be utilized to make it feasible. In such cases, the State Director will reach an agreement with the representatives of the other agency on distribution of responsibilities for handling various aspects of the project. These responsibilities will include supervision of construction accounts, inspections, and determinations of compliance with appropriate regulations concerning equal employment opportunities, wage rates, and nondiscrimination in making services or benefits available. However, pro-

visions of the preceding sections of this subpart and Part 1803 of this chapter must also be followed in handling funds. If any problems develop which cannot be resolved locally, complete information should be sent to the National Office for advice.

**§ 1823.36 Appendix 1 (referred to in FHA offices as Exhibit K), Planning and Developing Community Water and Waste Disposal Facilities.**

This appendix (consisting of §§ 1823.36 through 1823.44) outlines the policies for planning and developing community water and waste disposal facilities.

(a) *Design policies.* Facilities financed by FHA will be designed and constructed in accordance with sound engineering practices; meet the requirements of State and local agencies having jurisdiction in such matters; have sufficient capacity to provide for reasonable growth; and provide revenues from initial users which with other dependable applicant income may be pledged to debt repayment under existing State statutes is sufficient for debt repayment, operation and maintenance costs and required reserves.

(1) Minimum monthly payments by vacant lot owners ("dry taps") will not be included in estimates of project income, feasibility determination, or considered in computing average system investment per tap. There is no objection to an applicant's accepting subscriber agreements for such "dry taps" or connections to pay monthly minimum bills for certain periods, but they should be considered only as indications of future growth possibilities.

(2) If developers request a system be constructed to provide capacities to serve undeveloped areas, they will be required to pay for such additional capacities in cash before approval of the loan. Subdivision developers must provide the distribution system for users in the subdivision and dedicate (donate) the distribution system to the applicant.

(b) *Compliance with State Health Department standards.* Each FHA financed facility will comply with the requirements of the State Health Department (or other appropriate regulatory agency). The applicant is responsible for obtaining and presenting to FHA evidence of such compliance including approval of facility plans and specifications.

(c) *Compliance with environmental protection (pollution control) standards.*

(1) No FHA loan or grant for construction or improvement of a water system will be approved unless a certificate is provided by the appropriate State Environmental Protection Agency (EPA) showing that the system will not result in the pollution of waters of the State in excess of standards established by that agency.

(2) No FHA loan or grant for construction or improvement of a central sewer and waste disposal system will be approved unless a certificate is provided by the appropriate State EPA showing that the effluent from the system will conform with appropriate State and Federal water pollution control standards.

(3) Applicants will provide FHA with evidence of compliance consisting of letters or certificates from the appropriate State agency.

(d) *Consistency with comprehensive area plans for the development of water and sewer systems.* Water and waste disposal facilities for which FHA grant funds are to be used must be necessary for orderly community development and consistent with a comprehensive area sewer or water development plan for the rural area in which the project is located. Applicants will provide FHA with evidence of consistency with such plans. Such a plan must exist before an FHA grant may be made.

(e) *Consistency with other development plans.* No FHA grant for a water or waste disposal facility will be approved unless it is determined that the proposed project is not inconsistent with any planned development under State, county, or municipal plans approved as official plans (completed or under preparation) by competent authority for the area in which the rural community is located. Applicants will provide FHA with letters or certificates evidencing such lack of inconsistency.

(f) *Location of facilities in flood plain area.* Insofar as practical, facilities will not be located in flood plains. In the event it is necessary to consider locating facilities in a flood plain area, applicants will evaluate the proposal from the standpoint of special design and additional initial and maintenance costs. Normally, the Corps of Engineers or the Soil Conservation Service (SCS) of the U.S. Department of Agriculture will be in a position to provide information concerning the likelihood of flooding and the possibility of damage to the proposed facility. It will be the responsibility of the applicant to obtain information from the Corps of Engineers, the SCS, or other appropriate agencies concerning the possibility of flood damage to the proposed facility and provide FHA with a complete cost evaluation of such action.

(g) *Water systems—(1) Quality.* Water supplied shall be in accordance with requirements of the current edition of the U.S. Public Health Service Manual of Drinking Water Standards.

(2) *Pressures.* Maximum pressure should not exceed 90 p.s.i., minimum should not be less than 20 p.s.i., calculated at maximum use flow.

(3) *Storage.* Design on basis providing for 2-day use requirements; use current American Water Works Association (AWWA) specifications; not less than 300 gallons per meter served, except that peak-only storage may be less, based on study of specific project.

(4) *Plastic pipe.* Meet current product and American Society for Testing and Materials (ASTM) standards and be acceptable to the National Sanitation Foundation. Operating pressures not to exceed 2/3 rated working pressure. Wall thickness shall not be less than 0.090 inches. Friction loss computations not to exceed a C-factor of 150.

(5) *System testing.* Leakage shall not exceed 10 gallons per inch of pipe diameter per mile of pipe per 24 hours.

(h) *Sanitary sewerage systems—(1) Sewage treatment.* Treatment facilities shall be designed and installed so as to result in:

(i) Substantially complete removal of all floatable and settleable materials;

(ii) Removal of not less than 85 percent of 5-day biochemical oxygen demand;

(iii) Substantially complete reduction of pathogenic microorganisms;

(iv) Such additional treatment as may be necessary to meet applicable water quality standards.

(2) *Combined sanitary and storm sewerage systems.* Combined systems will not be approved except that improvements to existing combined systems may be financed by FHA provided it would be impractical to provide separate systems and the proposal is approved by the State EPA (Water Pollution Control).

(3) *Line capacities.* Lines shall be designed to provide for maximum hourly sanitary flow based on average daily per capita flow of not less than 40 gallons. Design lateral and submain lines with full running capacity of not less than 6 times the average daily flow. Design main outfall lines on basis of not less than 5 times average daily flow. Allow for additional waste from business establishments and infiltration of ground water.

(i) *Solid waste systems.* (1) A qualified engineer should assist with site selection, planning and design of the landfill, drainage control, roadways, and utilities. He should also consider any problems which may arise due to water leaching into or from sanitary landfills and should provide a design which will allow for proper handling of landfill gases.

(2) The SCS can assist in the evaluation of sanitary landfill sites and can advise on the suitability of the soils in the area involved. It can also provide advice on drainage problems, erosion control, land utilization, and site maintenance. The Health Department can assist with the selection of landfill sites and can provide guidance on potential air and water pollution problems. It can also provide advice on the design of the landfill and make suggestions concerning the control of insects, rodents, and other pests. An option should not be taken for a sanitary landfill site until the site has been approved by the State Health Department or other appropriate regulatory agency.

#### § 1823.37 Technical services.

(a) *General.* The FHA may provide advice and consultation in connection with preliminary determinations regarding engineering feasibility, economic soundness, and cost estimates. Applicants will provide the services necessary to plan projects, including design of facilities, and preparation of cost and income estimates.

(b) *Selection of engineer.* The applicant will select its engineer. Any engi-

neer who is registered in the State and has sufficient experience, capital, equipment, and staff to provide the required service is eligible. FHA personnel are prohibited from recommending any particular engineer. FHA may provide applicants, on their request, a list of engineers who have worked successfully on similar facilities in the area.

(c) *Engineering contracts.* Written contracts will be required for engineering services. Such contracts, including the amount of the fee to be paid, will be reviewed and, if satisfactory, will be approved by FHA after execution by the applicant and engineer. Form FHA 442-19, "Agreement for Engineering Services," will be used in connection with all water and sewer projects, except that FHA may approve other agreements entered into by the applicant and its engineer prior to filing an application or when special factual situations require, if the provisions of such agreements are consistent in all respects with those contained in Form FHA 442-19.

#### § 1823.38 Preplanning conference.

Ordinarily, the preplanning conference will be attended by applicant representatives, its engineer and attorney, an FHA representative, and other involved parties and will be held prior to commencing facility planning. At this conference the development of the preliminary engineering report or final plans and specifications, whichever is appropriate, will be discussed in detail.

#### § 1823.39 Preliminary engineering reports.

Use the following as a guide for preparation of preliminary engineering reports:

(a) *Area to be served.* (For all projects.) Describe—give natural boundaries, major obstacles, elevations, need for facility, and other pertinent information. Use maps, photographs, and sketches.

(b) *Existing facilities.* (For all projects.) Describe—include condition, adequacy, suitability for continued use of facilities now owned by the applicant.

(c) *Proposed facilities and services.* (For all projects.)

(1) General description of proposed facility, including design criteria adopted.

(2) Land, and other rights.

(i) Land.

(a) Amount required.

(b) Location—alternate locations.

(ii) Rights.

(a) Easements, permits, and other evidence of rights-of-way required—availability of alternates.

(b) State Health Department and other agency requirements.

(d) *Supply—collection systems—(1) Water supply.* (i) Requirements—quantities.

(ii) Requirements—quality.

(iii) Sources—include study on all feasible sources and provide comparison of such sources.

(iv) Treatment—requirements, if any, and proposals.

(v) Storage—requirements and proposals.

(vi) Pressure—requirements and proposals.

(vii) Distribution systems—requirements and proposals—give lengths and sizes—key features.

(viii) Hydraulic calculations in tabular form.

(2) For sanitary sewerage systems. (i) Collection systems.

(a) Requirements—quantities.

(b) Proposals.

(c) Describe—materials, problems.

(d) Hydraulic calculations in tabular form.

(e) Include cost comparisons where applicable.

(ii) Treatment facilities including interceptor and outfall sewers:

(a) Requirements—quantities.

(b) Proposals.

(c) Give key features.

(d) Problems foreseen.

(e) Calculations showing plant capacity and BOD and solids. Removal capabilities.

(iii) Show initial construction and annual operation and maintenance costs for the following types of treatment as a minimum:

(a) Waste stabilization lagoon.

(b) Aerated lagoon.

(c) Oxidation ditch.

(d) Mechanical plant.

(3) For solid waste disposal systems.

(i) Requirements—quantities.

(ii) Equipment required and plans of equipment rotation, transportation, and maintenance.

(4) For storm waste water disposal.

(i) Requirements—quantities.

(ii) Proposals.

(iii) Describe—materials, problems.

(iv) Hydraulic calculations in tabular form.

(v) Include cost comparisons where applicable.

(e) Cost estimate. (For all projects.)

Development.

Interest.

Land and rights.

Equipment.

Legal.

Contingencies.

Engineering.

Refinancing.

(1) For sanitary sewerage systems a separate cost estimate for each of the above items must be shown for both the collection system and treatment facility. The cost estimate for the treatment facility should consider only those items eligible for EPA (Public Law 660) grant assistance.

(2) For projects containing both water and waste disposal systems, provide a separate cost estimate for each system.

(f) Annual operating budget. (For all projects.)

(1) Income—Include rate schedule: Project income realistically. In the absence of other reliable information, base water use on 35 gallons per capita per day, or 140 gallons per family per day, or 4,200 gallons per meter per month. Where large livestock uses are projected, the report must include facts to substantiate such projections.

(2) Operation and maintenance costs: Project costs realistically. In the absence of other reliable data, base actual costs on other existing systems of similar size and complexity. Include

facts in the report to substantiate operation and maintenance cost estimates. Include the following:

Salaries—Wages.

Insurance.

Taxes.

Repairs and maintenance.

Accounting, auditing, legal.

Supplies.

Interest.

Office Expenses.

Utilities.

Other.

Gas—oil—fuel.

(3) Capital improvements.

(4) Debt repayment.

(5) Reserve: Unless otherwise required by State statute, establish at one-tenth of annual debt repayment requirement.

(g) Maps, drawings, sketches, and photographs. (For all projects.)

(1) Maps. Show locations, boundaries, elevations, population distribution, existing and proposed systems, right-of-way, and land ownership.

(2) Drawings, sketches. Show preliminary design and layout, elevations.

(3) Photographs. As indicated.

(h) Construction problems. (For all projects.) Discuss in detail, including information on items such as subsurface rock, high water table, or others which may affect cost of construction.

(i) Conclusions and recommendations. (For all projects.)

§ 1823.40 Construction bids and contract awards.

(a) Competitive bid contracts. All development work, including the purchase of material and equipment, will be completed by contracts which have been advertised and awarded to the most acceptable bidder except as provided in paragraph (b) of this section. This does not preclude rejection of all bids and negotiation with the bidders when a satisfactory bid was not received as a result of advertisement when not prohibited under State law. In such cases, negotiations will always be conducted with the lowest responsible bidder and may be conducted with other bidders at the discretion of the borrower, their engineer, and FHA. Development work may be completed in accordance with either lump-sum or unit-price contracts. Such contracts should contain the following:

- Item I—Notice and Instructions to Bidders.
- Item II—Bidder's Proposal.
- Item III—Notice of Award.
- Item IV—Bid Schedule.
- Item V—Construction Contract.
- Item VI—Performance Payment Bond.
- Item VII—Plans and Specifications.
- Item VIII—Contract Change Orders (Form FHA 424-7).
- Item IX—Compliance Statement (Form FHA 400-6).

Model forms of contract documents for items I through VI above, and items VIII and IX as FHA forms, are available at all FHA offices. Applicants may obtain additional copies of model forms from any County or State Office. All such contract documents and related items will be approved by FHA prior to the release of invitations to bid.

(1) Details of plans. Plans for lump-sum contracts should be complete in all details so as to define all features of the work. Plans for unit-price contracts

should be reasonably accurate with respect to quantities of work, and should clearly define the scope of the work and all typical details for each item of work upon which unit-price payments will be used.

(2) Section and details. Construction sections and large scale details should be drawn wherever the plan allows any doubt as to what is indicated. For grading operations, existing and final contours and the limits of grading should be accurately shown. Payment lines should be prominently shown where pertinent to the type of contract and computation of pay quantities.

(3) Existing conditions. Existing conditions and work which will be performed by others should be clearly indicated in the plans and specifications. Existing conditions at the site of the work should be determined by appropriate exploration and investigation and the results, together with other general information, should be furnished to bidders in the plans and specifications. The extent of borings, test pits, or other subsurface explorations should be based upon the nature of the project, and the findings should be shown on the plans. General topography should indicate existing structures, underground or overhead utilities, and drainage facilities. The extent of these investigations should be adequate to the preparation of sound and complete engineering design. Pertinent data on rock soundings should be furnished the bidder.

(4) Unit-price specifications. Extreme care should be utilized in phrasing the payment items for unit-price contracts. They must be carefully correlated with typical details for pay items shown on the plans, and should clearly indicate the method of measurement to be employed.

(5) Performance-type specifications. When performance or results are specified, a complete description of the desired result should be given and standard methods of tests for compliance, whenever applicable, should be stated.

(6) Liquidated damages. Liquidated damages shall be established in an amount which as a minimum shall cover the daily interest cost on the loan, the cost of inspection, and other anticipated expenses. Consideration also should be given to loss of revenue during the delay. The amount should be sufficient to assure completion of the work by the required date in the construction documents and to avoid any financial injury to the borrower.

(7) Time of completion. The contract will provide for the time of completion in calendar days. The time of completion should be estimated so that contractors who ordinarily bid on the type of project proposed can complete it within the allotted time.

(8) Bid bonds. Bid bonds will be in the amount of 5 percent.

(9) "Or equal." Performance specifications and the term "or equal" may be used for equipment and certain materials. In specifying pipe, however, the acceptable material(s) should be designed

into the project to assure proper installation of the materials chosen and to avoid uncertainty and misunderstanding. This can be done in the following ways:

(i) By reference to nationally-known materials standards such as ASTM and AWWA, or other specifications. The specifications should be complete, clear and concise with a statement setting forth the general scope of work and followed by an adequate description of the various classes of work segregated under the proper sections and headings. Specifications should be prepared in a manner so contractors may be assured that they completely describe the facility to be constructed and that they are fair and unbiased. General specifications attempting to include all types of construction or materials are unsatisfactory.

(ii) By specifying two or more materials, any one of which is acceptable to the owner.

(iii) By specifying the particular material required for the project. In specifying materials the applicant and his consultant will consider all materials suitable for the project. Where materials which would normally be suitable are not included for bidding, the applicant and his consultant must be prepared to justify the selection of the material used.

(b) *Negotiated contracts.* If allowed by State statutes, individual items including labor and material costing not in excess of \$50,000 may be completed by negotiated contracts with the written approval of FHA. Award of such contract will be subject to the determination by FHA that the prices agreed upon are reasonable and all available contractors or suppliers have been considered.

(c) *Performance and payment bonds.* Bonds assuring performance and payment of 100 percent of the contract cost including all contracts, whether negotiated or obtained through competitive bidding procedures, will ordinarily be required in connection with each contract.

(d) *Limitations on bidder.* No engineer or architect (individual or firm) who has prepared plans and specifications or who will be responsible for supervising the construction will be considered an acceptable bidder. Any firm or corporation in which such architect or engineer is an officer, employee, or holds or controls a substantial interest will not be considered an acceptable bidder. Bids will not be awarded to firms or corporations which are owned or controlled wholly or in part by a member of the governing body of the applicant. Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting, and multiplicity of small contracts on the same job) should be avoided whenever it is practical to do so.

(1) Contracts may be awarded to suppliers or manufacturers for furnishing and installing certain items which have been designed by the manufacturer and delivered to the jobsite in a finished or semifinished state, such as prefabricated buildings and lift stations. Contracts may also be awarded for materials delivered

to the jobsite and installed by a patented process or method.

(2) Contract awards may not be made for proposals which combine the engineering and construction of "turnkey projects."

(3) FHA loan and grant funds may be provided to applicants using their own "in-house" engineering staffs.

(e) *Bids and bid openings.* Bids will be invited and opened and contractors selected in a manner and on a time schedule so as to permit development to proceed with the least delay and cost to the borrower. The instructions to bidders will normally contain a provision that the owner has a specified number of days (ordinarily 60) in which to award the contract.

(1) *Bids.* Whenever it is practical, provisions should be made in the invitation bid schedule for bids on portions of the work by specialized contractors. For example, an invitation might permit bids on any one or more of such division of a job as "well and pump," "elevated tank," and "distribution system."

(i) Invitations to bid will be sent to local and regional contractors who might be interested in bidding on projects of the size and scope concerned. Advertisements for bids should ordinarily be published at least 3 weeks prior to the bid opening date in a publication which has at least nationwide circulation or in a recognized construction trade journal having circulation in the appropriate region.

(ii) *Bid delivery.* Bids should be delivered at a designated place and not later than a designated time, but not on a legal holiday or the day following. Bids should be opened and read in the presence of bidders and a tabulation of all bids received should be furnished to each bidder. An itemized reading of the apparent low bid or bids will be made at the request of any bidder. Under no circumstances should a bidder be permitted to alter his bid after the time designated for receipt of bids.

(2) *Bid openings.* Bid openings will be attended by an FHA representative.

(f) *Contract awards.* Ordinarily, contracts will be awarded to the lowest responsible bidder. The FHA representative, the engineer for the applicant, and the applicant will examine and thoroughly analyze the bids. They will mutually agree upon any contract awards to be made before the applicant takes any official action toward awarding contracts.

(1) *Deductive alternates.* Deductive alternates may be specified in the bidding documents to the extent necessary to insure a bid within the funds announced as available to finance the contract. Deductive alternates will be set up only for methods of construction and quantities of work. "Deductive alternates will not be included for materials" such as type of pipe. The preferential order of the acceptance of deductive alternates necessary to bring the project within the available funds will be clearly shown in the bid schedule. The applicant will announce the amount of funds available for construction at the bid opening immediately prior to the opening of the first bid.

The position of the bidders will be determined by the acceptance of the required number of deductive alternates necessary to bring the cost of the project within the amount of funds available. When accepting deductive alternates, the applicant must carefully evaluate the effect the acceptance of the alternate will have on the annual operating budget and on FHA loan approval conditions. The option to make an award on any basis specified above must be clearly stated in the bidding documents.

(g) *Contract approval.* The applicant's attorney will review the executed contract documents including performance and payment bonds and provide the County Supervisor with his certification that they have been properly executed and that the persons executing these documents have been properly authorized to do so. The contract documents, including bid bonds and bid tabulation sheets, will be forwarded to FHA for approval. All contracts will contain a provision that they are not in full force and effect until they have been approved by FHA in writing.

(h) *Equal opportunity in employment for construction.* All successful bidders for contracts in excess of \$10,000 will be required to execute and comply with the requirements of Form FHA 400-6, "Compliance Statement."

(i) *Davis-Bacon and related Acts.* The provisions of the Davis-Bacon and related Acts do not apply to loans or grants made by FHA for water and waste disposal projects. The Act may apply to portions of such projects which are being financed in part by other Federal agencies. In such cases, it will be the responsibility of such other Federal agencies to assure compliance with the Act. The FHA County Supervisor can provide further information.

#### § 1823.41 Preconstruction conference.

Prior to beginning development, an FHA representative will review the planned development with the applicant, its engineer and attorney, the contractor, and other interested parties. The conference will thoroughly cover the items included in Form FHA 424-16, "Record of Preconstruction Conference," and the discussions and agreements will be documented on that form.

#### § 1823.42 Resident inspection.

Full-time resident inspection is encouraged for all projects. This inspection may be provided by the consulting engineer or the applicant may engage a qualified inspector. Daily inspection report forms and partial payment estimate forms are available on request from the County Supervisor.

(a) *Inspectors daily diary.* The inspector will maintain a daily diary in accordance with the following:

(1) The diary shall be maintained in a hard-bound book.

(2) The diary book shall have all pages numbered and all entries written in ink.

(3) All entries shall be entered on a daily basis beginning with the date and weather conditions.

(4) Daily entries shall include daily work performed, number of men and equipment used in the performance of work, and all incidental happenings during that day.

(b) *Final inspection.* A final inspection will be made by representatives of the borrower's governing body, the engineer, the contractor, local, State, or Federal regulatory agencies, other agencies providing financial assistance, and FHA before final payment is made. Final payment will not be made until all parties concur in writing that the construction has been completed as planned.

**§ 1823.43 Changes in development plans.**

Changes in the development plan may be made at the request of the borrower provided funds are available to cover the costs. The proposed changes must be recorded on Form FHA 424-7, "Contract Change Order." The change order must be signed by the borrower, the project engineer, the contractor, and FHA before becoming effective.

**§ 1823.44 Additional information.**

The FHA County Supervisor will provide additional information needed by the applicant or its representatives and will supply the needed forms.

**§ 1823.45 Appendix 2 (referred to in FHA offices as Exhibit E), Requirements for Accounting and Financial Reporting by Community Programs Borrowers.**

This appendix (consisting of §§ 1823.45 through 1823.52) sets forth guidelines pertaining to accounting systems, management reports, and audits for Farmers Home Administration (FHA) borrowers. Accounting systems which utilize the suggested charts of accounts and which are maintained in accordance with generally accepted accounting principles will supply the necessary accounting data for borrower operations.

**§ 1823.46 Borrower responsibilities.**

All borrowers are required to maintain adequate records and accounts and submit financial and statistical reports to FHA. Borrower agreements provide that FHA representatives may have access to and the right to inspect any or all books, records, and accounts pertaining to the facility of the borrower. Those elected and/or appointed officials (hereinafter referred to as governing bodies) of the borrower are by virtue of their position charged with:

(a) Accepting their responsibilities as defined in the articles of incorporation and the bylaws, the statutes under which they operate, and the terms of their agreements with FHA.

(b) Conducting borrower's affairs so that the terms of its agreement with FHA will be fulfilled.

(c) Maintaining accounting records adequate for successful operation.

(d) Preparation of reports necessary for successful management and operation and submitting copies of such reports to FHA as required.

(e) Planning for sufficient income and control costs to the extent necessary to

assure that all financial obligations can be paid when due.

(f) Establishing and maintaining rules, regulations, rate schedules, fees, assessments, and policies necessary for orderly and economic operation.

(g) Providing proper control and management of operations, and informing membership, users, or patrons of organization goals, activities, and current financial situation.

**§ 1823.47 Accounts and records.**

Each borrower shall keep and safely preserve its books of account, and all other books, records, and memoranda which support the entries in such books of account so as to be able to furnish full information as to any items included in any account. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

(a) *Accounting systems.* Each FHA borrower is responsible for establishing and maintaining its accounting system, which must be operational and approved by FHA before any loan funds are received. Systems shall be maintained on an accrual basis.

(1) Borrowers with small operations may use Form FHA 430-5, "Bookkeeping System for Small Organizations."

(2) Accounting systems required by a State or regulatory agency for public entities may be acceptable to FHA.

(3) A recommended minimum chart of accounts is shown in § 1823.52.

(4) Accounting systems may be maintained by borrower personnel, a bookkeeping service, a computer service or through other arrangements satisfactory to the borrower and FHA.

(b) *Closing of books.* Each borrower shall close its accounting records at the end of its fiscal year unless State statutes or regulations prescribe otherwise.

(c) *Bank accounts.* (1) Borrowers shall maintain a bank account or bank accounts in a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

(2) The private bank account of the borrower shall be known as the Revenue Fund Account and all revenue shall be deposited therein and expended and used only in the manner prescribed by the bond ordinance, loan agreement, or loan resolution.

(3) The reserve cash account may be invested in an interest bearing savings account, certificates of deposit, treasury bills, a savings and loan association account, or may be used to make a prepayment on the FHA loan.

**§ 1823.48 Management reports.**

Effective decisions by governing bodies are critical to successful operation. In order to make effective decisions, the governing body must receive timely information by means of financial and other appropriate reports which will assist it in the fulfillment of its basic tasks, the formulation of plans to achieve goals, and the control of operations to accomplish planned results. The following minimum required reports will furnish the

governing body with a means of evaluating prior decisions and serve as a basis for planning the future operations and financial conditions of the borrower.

(a) *Form FHA 442-1, "Forecast of Cash Receipts and Disbursements (Operating Budget)."* (1) The operating budget shall be prepared and adopted by the governing body prior to the beginning of each fiscal year. It should be based on realistic and informed estimates of expected receipts and disbursements for the coming fiscal year. Planning should generally be done on the basis of control of expenses as much as possible, and making sure that rates, fees, and so forth, are set to provide the necessary revenue. Throughout the year, other financial reports which compare the operating budget with actual receipts and disbursements will provide valuable information in the preparation of future budgets.

(2) Two copies of Form FHA 442-1 and copies of the minutes of the meeting at which it was approved will be submitted to the FHA County Supervisor no later than 20 days after the beginning of the borrower's new fiscal year.

(b) *Statement of income and expense.* Form FHA 442-2 will be used to detail the income and expenses during a given accounting period. Two copies of Form FHA 442-2 will be forwarded to the FHA County Supervisor at the end of each quarter unless FHA requires more frequent submissions.

(c) *Balance sheet.* Form FHA 442-3 is a Statement of Financial Conditions and discloses the assets, liabilities, reserves, and net worth of the borrower as of the end of an accounting period such as quarterly, semiannually, or annually. The Balance Sheet shall be prepared as often as needed by the governing body. Two copies of the Form FHA 442-3, prepared as of the end of the fiscal year, will be forwarded to the FHA County Supervisor no later than 20 days after the end of the fiscal year.

(d) *Report submission.* Those borrowers using a machine accounting system may submit print-out type reports provided these reports are in the format of the required FHA forms. Also, borrowers desiring to submit more detailed information than required by FHA forms may attach such detail to the related FHA form.

**§ 1823.49 Additional reports.**

Each borrower is required to provide the FHA County Supervisor within 20 days following the end of the fiscal year the following:

(a) A letter showing:

(1) The name, address, and term of office for each member of the governing body, and

(2) The number of residential users and the number of commercial users.

(b) Evidence that required property and liability insurance, workman's compensation, and fidelity bond premiums have been paid.

**§ 1823.50 Audits.**

FHA borrowers required to have an annual audit performed by an independent

public accountant are those whose projected gross income for the first full year of operations (column 3 of Form FHA 442-1) exceeds \$25,000, and others as required by the FHA State Director. Borrowers whose annual gross income is less than \$25,000 may have an annual audit made by an independent public accountant.

(a) An independent public accountant is an independent certified public accountant or an independent licensed public accountant licensed on or before December 31, 1970, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(b) Audits will be prepared in accordance with the requirements of the handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees." Copies of this handbook may be obtained from the County Supervisor.

(c) Audit reports prepared for a borrower in accordance with the requirements of a State or other regulatory agency may be accepted by FHA in lieu of those required in paragraph (b) of this section.

(d) A copy of the audit report will be forwarded to the FHA County Supervisor by the borrower as soon as it is received.

**§ 1823.51 Financial reports for organizations not required to submit an audit report.**

Borrowers whose annual gross incomes (for first full year of operation) are less than \$25,000 and not having an annual audit made by an independent public accountant, will within 60 days following the end of each fiscal year, furnish the FHA County Supervisor with an annual report, consisting of a verification of the organization's balance sheet and statement of income and expense by a committee of the membership not including any officer, director, or employee. Such committees will be appointed by the borrower's governing body and will certify to its examination of the accounts and records. The final Statement of Income and Expense, Form FHA 442-2, for the year and the Balance Sheet, Form FHA 442-3, will be used.

**§ 1823.52 Minimum chart of accounts for water and waste disposal borrowers.**

Public body and nonprofit water and waste disposal associations will use the system of accounts prescribed by the State or other regulatory authority. If none is prescribed, the water association or public body may use the Uniform System of Accounts for Class D Water Utilities published by the National Association of Regulatory Utility Commissioners, or the following minimum suggested chart of accounts for FHA borrowers. Associations or public bodies using this system of accounts will use only those accounts necessary to adequately furnish

readily the information needed to prepare balance sheets and other financial reports.

(a) The numbers preceding each account are for reference purpose only and are not intended to represent a comprehensive method of coding.

**Assets—fixed:**

- 101 Utility Plant.
- 111 Allowance for Depreciation.
- 121 Land.
- 124 Other Investments.

**Assets—current:**

- 131 Cash—Revenue Fund Account.
- 132 Cash—Operation and Maintenance Fund.
- 133 Cash—Debt Service.
- 134 Cash—Reserve Fund.
- 135 Cash—Construction Funds.
- 136 Petty Cash and Change Fund.
- 141 Notes Receivable.
- 142 Customer Accounts Receivable.
- 144 Allowance for Uncollectible Accounts.
- 150 Materials and Supplies.

**Assets—deferred:**

- 165 Prepayments.
- 183 Other.

**Proprietary capital (net worth):**

- 208 Members—Investment.
- 215 Retained Earnings.
- 219 Net Income or (Loss).

**CURRENT YEAR**

**Liabilities—long-term:**

- 221 Bonds or Notes Payable—FHA.
- 224 Other.

**Liabilities—current:**

- 231 Notes Payable—Current Portion.
- 232 Accounts Payable.
- 235 Customer Deposits.
- 236 Taxes Payable.
- 237 Interest Payable.
- 238 Other.

**MINIMUM CHART OF ACCOUNTS FOR WATER AND WASTE DISPOSAL BORROWERS**

**Income Accounts:**

- 400 Operating Revenues.
- 415 Revenues from Jobbing and Contract Work.
- 418 Nonoperating Rental Income.
- 419 Interest and Dividend Income.
- 421 Miscellaneous Income.
- 460 Unmetered Sales to General Customers
- 461 Metered Sales to General Customers.
- 462 Private Fire Protection Service.
- 463 Public Fire Protection Service.
- 464 Other Sales to Public Authorities.
- 465 Sales to Irrigation Customers.
- 466 Sales for Resale.

**Operation and maintenance accounts plant operation:**

- 600 Salaries and Wages.
- 610 Purchased Water.
- 620 Fuel or Power Purchased for Pumping.
- 630 Chemicals.
- 640 Supplies and Expenses.
- 650 Repairs of Water Plant.
- 660 Transportation Expenses.

**General expenses:**

- 680 Administrative and General Salaries.
- 681 Office Supplies and Other Expenses.
- 682 Outside Services Employed.
- 683 Interest.
- 684 Insurance Expense.
- 686 Employees Pensions and Benefits.
- 688 Regulatory Commission Expenses.
- 689 Miscellaneous General Expenses.
- 690 Uncollectible Accounts.

**Other expenses:**

**§ 1823.53 Appendix 3 (referred to in FHA offices as Exhibit D), Information Pertaining To Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants.**

This appendix (consisting of §§ 1823.53 through 1823.61) outlines the policies of the Farmers Home Administration (FHA) with respect to preparation and issuance of evidences of debt (hereinafter in this appendix sometimes referred to as "bonds" or "debt instruments") by applicants whose obligations bear interest that is not subject to Federal income tax.

(a) To be eligible for an FHA loan, each applicant must establish that it is unable to obtain other credit to meet its needs at reasonable rates and terms.

(b) Each applicant will be required to make a public offering of its bonds for sale as soon as it has been determined that the facility can be completed within the estimate.

(c) FHA will work closely with the applicant through the various stages of application processing and bond offering. However, preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized bond counsel firm which has had experience in municipal financing and has previously issued opinions that have been accepted by municipal investors such as investment dealers, banks, and insurance companies.

(d) All bonds will be prepared in accordance with this exhibit and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area. Ordinarily the bonds should not be offered for sale until the exact amount of funds needed is determined by inviting construction bids. Notices of bond sales will be prepared to attract investors. If they make acceptable bids, the bonds will be sold to them. FHA will purchase the bonds only if acceptable bids are not received.

(e) Many matters necessary to comply with FHA requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of bond counsel will be issued by the Office of the General Counsel (OGC).

**§ 1823.54 Bond transcript documents.**

Any questions with respect to FHA requirements should be discussed with local FHA representatives. Bond counsel is required to furnish at least two complete sets of the following to the applicant, which will furnish one complete set to FHA:

(a) Copies of all organizational documents.

(b) Copies of general incumbency certificate.

(c) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(d) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to the calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(e) Certified copies of the resolutions or ordinances or other documents acted upon at such meetings, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(f) Copies of official Notice of Sale and affidavit of publication of Notice of Sale.

(g) Specimen bond, with any attached coupons.

(h) Attorney's no-litigation certificate.

(i) Certified copies of resolutions or other documents pertaining to the bond award.

(j) Any additional or supporting documents required by bond counsel.

(k) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized bond counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes.

**§ 1823.55 Interim financing from commercial sources during construction period.**

In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FHA funds. Where legally permissible, the applicant will advertise for the sale of permanent bonds prior to obtaining interim financing so that it may be determined definitely whether FHA will be the purchaser of the bonds. Of course, if FHA is not the purchaser, FHA will not require interim financing.

**§ 1823.56 Permanent instruments for FHA loans to repay interim commercial financing.**

Such loans will be evidenced by one of the types of instruments in the order of preference shown in § 1823.57.

**§ 1823.57 Multiple advances of FHA funds using permanent instruments.**

Where interim financing from commercial sources is not available, FHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed amount needed during 30-day periods. FHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(a) *First preference—Form FHA 440-22.* If legally permissible, use Form FHA 440-22, "Promissory Note (Association or Organization)." For insured loans, notes will be issued in amounts not to exceed \$500,000 or the amount estimated necessary for an 8-month construction period, whichever is smaller. For example, when it appears that construction will require

from 8 to 16 months, two notes will be used. If it appears that construction will require more than 16 months, three notes will be used. The first note will be for the amount estimated to be needed during the first 8 months. The second note will be for the balance of the loan if it is estimated that construction will be completed in 16 months, or for the amount estimated to be needed during the second 8 months if it appears that construction will require more than 16 months. In these cases, the third note will be for the balance of the loan. In any event no note may exceed \$500,000. This may require more than three notes.

(b) *Second preference—single instrument with amortized installments.* If Form FHA 440-22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each advance of the reverse of or on an attachment to the instrument. Form FHA 440-22 should be followed to the extent possible.

(1) In case the construction period exceeds 8 months, the requirements for more than one instrument but not exceeding a principal amount of \$500,000 as detailed in "First Preference" apply.

(2) Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular annual amortized installments of a specified dollar amount will be due on each installment date.

(c) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The annual principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal annual installments of combined interest and principal as required by the first two preferences.

(1) The repayment terms described in the last paragraph of the "Second Preference" apply. In case the construction period exceeds 8 months, the requirements for more than one instrument but not exceeding a principal amount of \$500,000 as detailed in "First Preference" apply.

(2) Instruments shall contain in substance the following provisions:

(i) A statement of principal maturities and due dates.

(ii) Annual payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest computed to the annual installment due date and next to principal. Other payments, regardless of the source of funds from which such payments may be made, shall, after payment of interest to the installment due date if the annual payment is insufficient to pay all such interest, be applied to the prin-

cipal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled. Such payments shall be applied only on the installment due dates.

(d) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of § 1823.59. Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph.

**§ 1823.58 Multiple advances of FHA funds using temporary debt instrument.**

When none of the instruments described in § 1823.57 are legally permissible for multiple advances, each advance will be evidenced by an instrument approved by the State Director, Regional Attorney, and Bond Counsel and, if feasible, issued as an FHA State form.

(a) The approved form or instrument will show at least the following:

(1) The date from which each advance will bear interest.

(2) The interest rate.

(3) A payment schedule providing for interest on outstanding principal to be paid on January 1 of each year (or other payment date(s) if required by State law).

(4) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

**§ 1823.59 Minimum bond specifications.**

The provisions of this section are minimum specifications only and must be followed to the extent legally permissible.

(a) *Type and denomination.* Bond resolutions or ordinances will provide that the instrument(s) will be, at the option of the successful bidder, either Serial bonds in denominations not to exceed \$10,000 (ordinarily in multiples of \$1,000), or a single bond. Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FHA. Coupon bonds will not be used unless required by statute.

(b) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FHA for registration purposes will be that of the local FHA County Office to which the borrower is to forward its payments.

(c) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling.

(d) *Date of bonds.* Bonds acquired by FHA will be dated as of the day of delivery and payment.

(e) *Payment date.* Payments on bonds purchased by FHA will be scheduled for January 1 unless an annual date other than January 1 is certified by bond counsel as being legally necessary for specified reasons. Principal payments will be scheduled annually beginning with the first annual installment date after loan closing or the first annual installment date after any approved deferment period. Interest payments will be scheduled annually beginning with the first annual installment date after loan closing. Semiannual interest payments, if required, will be scheduled for January 1 and July 1, unless other dates are certified by bond counsel as being legally necessary for specified reasons.

(f) *Maturity schedule.* The annual principal retirement should be the one best adapted to making bond retirement and interest payments which (with the addition of any other scheduled debt payments of the borrower) closely approximate equal annual installments of combined interest and principal over the term for which the FHA loan is approved.

(g) *Place of payment.* Payments on bonds purchased by FHA should be made by the borrower at the local FHA County Office without the assistance of a paying agent.

(h) *Redemptions.* Bonds should contain customary redemption provisions; subject, however, to unlimited right of redemption without premium of any bonds held by FHA except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in § 1823.57.

(i) *Additional bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, however, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and subordinate bonds may be issued without restriction.

(j) *Prohibitions.* The following types of provisions in debt instruments should be avoided:

(1) Provisions for the holder to manually post each payment to the instrument.

(2) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FHA, may post the date and amount of each advance or repayment on the instrument.

#### § 1823.60 Notices of sale.

(a) *Bond advertisement.* For loans in excess of \$50,000, bonds will be advertised for sale in a manner and to the extent

required to give adequate public notice. The Notice of Sale shall include a provision stating in substance that if the applicant does not receive a bid resulting in a net interest cost of the applicable FHA interest rate or less, FHA will purchase the obligations.

#### § 1823.61 Bids.

(a) *No block bidding by FHA.* If the applicant desires, block bidding may be invited, but FHA's commitment to buy will apply only to the entire issue.

(b) *Bidding by FHA.* FHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FHA is required to bid, the bid will be made at the applicable FHA interest rate.

(c) *Bid deposits.* Customary provisions for bid deposits will be included; which, however, will not be applicable to any FHA bid.

(d) *Bid rejection.* The applicant will reserve the right to reject any and all bids.

Dated: February 22, 1972.

JOSEPH HASPRAY,  
Deputy Administrator,  
Farmers Home Administration.

[FR Doc.72-3018 Filed 2-29-72;8:49 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[ 33 CFR Parts 80, 95 ]

[ 46 CFR Parts 10, 25, 30, 31, 32, 33,  
34, 61, 70, 71, 75, 90, 91, 92, 93,  
94, 112, 180, 187, 188, 190, 192 ]

[CGFR 72-37]

### NAVIGATION AND VESSEL INSPECTION

#### Notice of Proposed Rule Making

The Coast Guard is considering amending the navigation and vessel inspection regulations. This document provides a synoptic description of the substance and issues involved in the proposed amendments. For full particulars, the Marine Safety Council Public Hearing Agenda, CG-249, dated March 27, 1972, must be consulted.

The Marine Safety Council Public Hearing Agenda, CG-249, dated March 27, 1972, contains the specific changes being proposed to the navigation and vessel inspection regulations, and for certain items the present and proposed regulations are set forth in comparison forms, together with reasons for the changes. Copies of the Agenda have been mailed to persons and organizations who have expressed a continued interest in the subjects under consideration and have requested that copies be furnished them. Copies of the

Agenda will be furnished upon request to the Commandant (CMC), U.S. Coast Guard, Washington, D.C. 20590, so long as they are available. After the supply of extra copies is exhausted, copies will be available for reading purposes in Room 8234, 400 Seventh Street SW., Washington, DC 20590, or at the offices of the various Coast Guard District Commanders.

Comments on the proposed regulations are invited. Interested persons may participate in this proposed rule making by submitting written comments, data, views, or arguments to the U.S. Coast Guard (CMC), Washington, D.C. 20590. Each person submitting comments should—

(a) State his or her name, address, and business firm or organization (if any);

(b) Identify the notice (CGFR 72-37);

(c) Identify the section number (if any), the subject matter and the proposed change the commenter wishes to discuss; and

(d) Give reasons for any recommendations. Form CG-3287 is attached to the Agenda and can be used for the submission of comments.

The Coast Guard will hold a public hearing on Monday, March 27, 1972, commencing at 9:30 a.m. in Conference Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. The public hearing is informal and intended to obtain views and information from those persons affected by the proposals. There will be no cross-examination of persons presenting statements.

The Coast Guard will consider each written comment received before April 3, 1972, and each oral and written comment submitted at the public hearing and then take final action on this proposal. The proposed amendments may be changed as a result of these comments. Interested persons may examine all comments received by the Coast Guard at Headquarters, Room 8234, 400 Seventh Street SW., Washington, DC 20590.

Each item in the Agenda and this document has been given a general title, intended to encompass the specific proposals presented thereunder. However, the Agenda should be read completely because more than one item may apply to a specific employment or type of vessel.

It is proposed to amend the navigation and vessel inspection regulations as follows:

#### ITEM 1—SYNTHETIC FIBER ROPE FOR LINE-THROWING APPLIANCES (35-70, 27-71)

Present regulations do not allow the use of synthetic fiber rope for line-throwing appliances. This proposal would amend 46 CFR 33.55-10, 75.45-15, 94.45-15, 192.45-15, and 192.45-90 by allowing an auxiliary line for a line-throwing appliance to be made of either manila or an equivalent synthetic material that is (a) certified by the manufacturer to have a minimum 9,000 pounds breaking

strength, and (b) inhibited to resist the effects of violet rays.

**ITEM 2—TAILSHAFT INSPECTION AND DRAWING (67-71, 4-71)**

Section 61.20-15(b)(3) of Title 46, Code of Federal Regulations requires that a single tailshaft that (a) is fabricated of materials resistant to the corrosion by sea water, or (b) is fitted with a continuous liner or with a sealing gland, and (c) is designed to reduce stress concentrations in accordance with the standards established by the American Bureau of Shipping, be drawn from the vessel at least once every 4 years (instead of the usual 2-year period) for a visual examination checked by a nondestructive testing method. This proposal would add the following: (1) Review of the history by the Officer in Charge, Marine Inspection for repairs by welding or grinding-out of cracks in the tailshaft; and (2) Extension of the interval between drawings to 6 years for oil lubricated tailshafts that have mechanical seals, oil lubricated bearings, and keyways designed to reduce stress concentrations if at the last inspection the bearing clearances, mechanical seals, and lubrication systems were found satisfactory by the Officer in Charge, Marine Inspection.

**ITEM 3—STABILITY-WIND HEEL CRITERIA FOR CARGO AND MISCELLANEOUS VESSELS (43-71)**

Subchapter I of Title 46, Code of Federal Regulations, does not contain standards for stability. Usually, the stability criterion contained in Subchapter H of Title 46, Code of Federal Regulations is applied for cargo and miscellaneous vessels. Item 3 proposes stability standards for these Subchapter I vessels. The standard would be codified in a new Subpart 93.07 and would contain weather criteria. It is also proposed that when this criteria is inadequate to maintain an equivalent safety level on a vessel of unique design, such as a special purpose vessel or a vessel that varies substantially from the standard cargo vessel, the Commandant, U.S. Coast Guard, may require or accept a modification of the criteria or other calculations that demonstrate the limits of safe operation.

**ITEM 4—DEFINITION OF INTERNATIONAL VOYAGE (12-70)**

The term "international voyage" in the application descriptions in §§ 30.01-6, 70.05-10, 90.05-10, and 188.05-10 of Title 46, Code of Federal Regulations appears to be in conflict with the definitions of that term in §§ 30.10-36, 70.10-21, 90.10-17, and 188.10-35. While the application descriptions appear to limit the term to specific vessels, the definition includes every vessel that makes a voyage to a foreign port. In order to remove a possible source of confusion, it is proposed to incorporate the definition sections into the application sections so that the reader can determine when a vessel is on an "international voyage" and subject to requirements of the International Convention for the Safety of Life at Sea, 1960,

June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

**ITEM 5—PORTABLE FOAM FIREFIGHTING EQUIPMENT: TANK VESSELS (17-71)**

The Coast Guard has determined that a hand-held portable appliance is needed on board a tank vessel because it provides flexibility during the final stage of the extinguishment of a fire and covers blind portions of a mounted appliance's pattern. Accordingly, it is proposed to amend 46 CFR 34.20-15(c) by requiring at least one hand-held portable appliance to be on board a tank vessel.

Since the proposed hand-held portable appliance can be stowed in a location other than the foam station, the Coast Guard determined that appliances for all hose outlets at all foam stations should not be required. It is proposed to amend 46 CFR 34.20-20(b) accordingly, and only require sufficient appliances for two complete foam stations.

**ITEM 6—SUBCHAPTERS D, H, AND I: SAFETY FACTORS FOR CARGO GEAR (20-71)**

To make Tables 31.37-25(a), 71.47-25(a), and 91.37-25(a) of Title 46, Code of Federal Regulations, consistent with recognized industry standards, an alternate safety factor is proposed to be used

in the calculations for the design of cargo gear. This includes safety factors for stayed masts, pins, and connections.

**ITEM 7—VISUAL ACUITY REQUIREMENTS, ORIGINAL LICENSES (23-71)**

The requirements for a merchant mariner's license include a visual acuity test as part of the physical examination. The regulations permit the minimum standards for the visual acuity to be relaxed under special circumstances. A Coast Guard comparison has determined that the current visual acuity standards are more stringent than other government agencies' standards for comparable licenses. It has also been noted that technological advances such as navigation systems and radar in addition to the new improvements in vessel design and safety, have developed after the present regulations were promulgated. For these reasons, the Coast Guard proposes amendments to 46 CFR 10.02-5, 10.20-7, and 187.10-15 to relax current visual acuity standards for uncorrected vision and to require the applicant to meet more stringent requirements for corrected vision. A comparison of current requirements and proposed requirements is as follows:

License	VISUAL ACUITY			
	Present regulations		Proposed regulations	
	Uncorrected	Corrected	Uncorrected	Corrected
Deck.....	20/40-20/70	20/20-20/40	20/100 (both).....	20/20 (both).
Engineer.....	20/50-20/70	20/30-20/50	20/100 (both).....	20/20 (both).
Motorboat operator.....	20/40-20/70	20/20-20/40	20/100 (both).....	20/20 (both).
Radio Officer.....	20/50-20/70	20/30-20/50	20/100 (both).....	20/20 (both).

**ITEM 8—FLASHING NAVIGATION LIGHTS ON BARGES (33-71)**

Coast Guard investigations of multiple fatalities resulting from collisions between pleasure craft and pushed barges have indicated that inadequate lighting on the lead barge may have been a causal factor in most cases. The investigations revealed that the barge lights are difficult to distinguish because they blend with background lights. Recommendations have been made by the investigators that a flashing amber light, generally accepted by the public to denote danger, will be more discernible from a pleasure craft. Accordingly, the Coast Guard proposes to amend 33 CFR 80.16a(b) and 95.29(a) to require a flashing amber light placed at the extreme forward end of a tow and to amend 33 CFR 80.16(j) and 95.29(d) to require the amber light to flash 50 to 70 times per minute.

**ITEM 9—LIFE PRESERVER RESCUE LIGHTS (68-71)**

Coast Guard investigation of several major casualties revealed that rescue efforts are more successful if a person in the water shines a light. Accordingly, the Coast Guard proposes to require that a small battery powered light be attached to each life preserver on all inspected vessels, all commercial fishing vessels, and on other uninspected vessels

(except yachts) over 65 feet in length operating offshore or on the Great Lakes by adding such a requirement to §§ 25.25-10, 33.35-15, 75.40-5, 94.40-5, 180.25-1, and 192.40-5. The Commandant may exempt vessels having a low probability of being involved in a night search and rescue operation from the proposed requirement.

**ITEM 10—TWO AVENUES OF ESCAPE: TANK, CARGO, AND OCEANOGRAPHIC VESSELS (45-71)**

Sections 32.01-1, 92.10-5, and 190.10-5 of Title 46, Code of Federal Regulations require at least two means of escape from all general areas in which persons sleep or work. Item 10 proposes that all berthing compartments above the main deck have one avenue of escape in addition to an exit into a passageway. If such an avenue of escape is an air port, it is proposed that the air port be capable of being opened manually and have a useable opening diameter of 16 inches or more.

**ITEM 11—INSPECTION OF BOTTOM BEARING MOBILE OFFSHORE DRILLING AND WORK-OVER UNITS (87-71)**

Vessels involved in the exploration, production, stowage, drilling, and testing of natural resources of the subsoil and seabed of the Outer Continental Shelf have not been regulated while in

transit, because such vessels have had limited mobility. However, such vessels have grown more mobile, have increased in size, in many cases have changed in character, are more numerous, and have been involved in casualties while in transit. Accordingly, to provide a minimum standard of safety for the mobile drilling rig during transit, it is proposed to extend the present regulations in Subchapter I of Title 46, Code of Federal Regulations to those vessels.

These proposals are made under the authority of R.S. 4405, as amended, R.S. 4417a, as amended, R.S. 4462, as amended, R.S. 4472, as amended, sec. 6(b) (1), 80 Stat. 937, 46 U.S.C. 375, 391a, 416, 170, 49 U.S.C. 1655(b) (1); 49 CFR 1.46(b).

Dated: February 24, 1972.

W. F. REA III,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Merchant Marine  
Safety.

[FR Doc.72-3057 Filed 2-29-72;8:51 am]

## [ 46 CFR Part 146 ]

[72-34]

### DANGEROUS CARGOES

#### Notice of Proposed Rule Making

The Coast Guard is considering amending the dangerous cargoes regulations to:

1. Change the spelling of monofluorotrichloromethane.
2. Authorize DOT-5P insulated steel drum for monoethylamine.
3. Authorize certain organic peroxides in fiberboard boxes and fiber drums.
4. Authorize specification 106A500X tanks for nitric oxide.
5. Amend the storage and stowage chart of explosives to include cartridges, practice ammunition.
6. Authorize DOT 3A, 3AA, and 3E cylinders for nitrogen tetroxide, liquid.
7. Revise the exemptions concerning labeling requirements to bring them into consonance with DOT regulations.
8. Authorize fiber drums for the article "Empty cartridge cases, primed".

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGFR 72-34), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold an informal hearing on May 24, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend

the hearing and present oral or written statements on this proposal. There will be no cross examination of persons presenting statements. It is requested that anyone desiring to attend the hearing notify the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590.

The Commandant will evaluate all communications received before May 31, 1972, and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

By separate document published at page 4295 of this issue of the FEDERAL REGISTER the Hazardous Materials Regulations Board of the Department of Transportation proposes amendments to Part 172 of Title 49, Code of Federal Regulations. For reasons fully stated in that document the Board has proposed these changes. Proposals 1 to 5 and 8 are covered in that document.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR Part 146.

Proposals 6 and 7 are changes already made to Title 49 CFR. The Coast Guard is proposing these two regulation changes to bring Title 46 CFR 146 into agreement with Title 49 CFR 172, 173. In the Saturday, January 30, 1971, issue of the FEDERAL REGISTER, Docket No. HM-59, Amendment No. 173-42 was published by the HMRB and the authorization contained in that document was not completely adopted by the Coast Guard. In the Wednesday, May 19, 1971, issue of the FEDERAL REGISTER, Docket No. HM-28, Amendment No. 177-15A was published by the HMRB. The Coast Guard is now adopting the substance of that amendment to Title 49 CFR.

In consideration of the foregoing, it is proposed that Part 146 of Title 46 of the Code of Federal Regulations be amended as follows:

1. (a) Section 146.04-5—List of explosives and other dangerous articles and combustible liquids by deleting the article name "Dichlorodifluoromethane-monofluorotrichloromethane mixture" and inserting in place thereof the words "Dichlorodifluoromethane - trichloromonofluoromethane mixture".

(b) In § 146.26-100 Table G—Classification: Compressed Gases by deleting the article name "Dichlorodifluoromethane - monofluorotrichloromethane mixture" and by inserting in place thereof the words "Dichlorodifluoromethane - trichloromonofluoromethane mixture".

2. In § 146.21-100 "Table D—Classification: Inflammable liquids" for the article monoethylamine by deleting the words "Metal barrels or drums (DOT-5, 5A) not over 55 gal. cap." and insert in

place thereof the words "Metal barrels or drums (DOT-5, 5A, 5P) not over 55 gal. cap."

3. In § 146.20-90 *Stowage and storage chart of explosives* by deleting the heading of item 11 "Small arms ammunition" in both the horizontal and vertical columns and inserting in place thereof the words "Small arms ammunition, or cartridges, practice ammunition".

4. In § 146.22-200 Table E—Classification: Oxidizing materials for the article "Benzoyl peroxide by adding to columns 4, 5, 6, and 7 the following:

Authorized for benzoyl peroxide wet with not less than 20 percent by weight of water.  
Fiberboard boxes (DOT-12B) WIC not over 25 lb. net wt.  
Fiber drum (DOT-21C) WIC not over 25 lb. net wt.

5. Section 146.25-100 Table H—Classification: Class A extremely dangerous poisons is amended as follows:

(a) For the article "Nitric oxide" add to column 4 the following:

Tank cars complying with DOT regulations.

(b) For the article "Nitrogen tetroxide, liquid" add to column 4 the following:

Authorized for nitrogen tetroxide liquid only.  
Cylinders (DOT-3A1800, 3AA1800, or 3E1800) Specification 3A and 3AA cylinders must not exceed 125-pound water capacity (nominal) and must have valve protection or be packed in strong wooden or metal boxes as described in 49 CFR 173.227 (a)(2). Specification 3E1800 cylinders must be packed in strong wooden or metal boxes.

6. By revising § 146.08-31 to read as follows:

§ 146.08-31 Exemptions concerning labeling requirements.

(a) Packages containing explosives or other dangerous articles or substances need not be labeled when the packages are loaded and unloaded under the supervision of Department of Defense personnel in a separate vehicle.

(b) Cylinders containing compressed gases classed as flammable or nonflammable need not be labeled when the cylinders are—

(1) Carried by private and contract motor carriers;

(2) Not overpacked; and

(3) Durably and legibly marked in accordance with CGA Pamphlet C-7 Appendix A, dated May 15, 1971, entitled "A Guide for the Preparation of Precautionary Marking for Compressed Gas Containers".

7. In § 146.20-300 for the article "Primers" delete in columns 4, 5, 6, and 7 the words "Empty cartridge cases, primed may also be shipped in strong, tight, outside fiberboard boxes" and insert in place thereof the words "Empty cartridge cases, primed may also be shipped in strong, tight, outside fiberboard boxes and DOT 21-C fiber drums complying with DOT regulations".

(R.S. 4472, as amended, R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889,

sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)

Dated: February 18, 1972.

W. F. REA, III,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Merchant Marine Safety.

[FR Doc.72-2953 Filed 2-29-72; 8:45 am]

**Hazardous Materials Regulations Board**

[49 CFR Parts 172, 173, 174, 177, 178, 179]

[Docket No. HM-97; Notice No. 72-1]

**TRANSPORTATION OF HAZARDOUS MATERIALS**

**Notice of Proposed Rule Making**

The Hazardous Materials Regulations Board is considering amendment of several unrelated sections of the Department's Hazardous Materials Regulations. Commenters need only identify the particular proposal on which they wish to comment when responding. The proposals covered in this document are:

- A—Package markings.
- B—Spelling change for monofluorotrichloromethane.
- C—Empty primed cartridge cases.
- D—Monoethylamine in DOT-5P insulated steel drums.
- E—Organic peroxides in fiberboard boxes and fiber drums.
- F—Phosphorus trichloride in mild steel cargo tanks.
- G—Carbon dioxide.
- H—Hydrogen sulfide in cylinders and multi-unit tank car tanks.
- I—Nitric oxide in specification 106A500X tanks.
- J—Cartridges, practice ammunition.

**PROPOSAL A—PACKAGE MARKINGS**

The Hazardous Materials Regulations Board is considering amendment of §§ 172.1, 173.401, and 174.545 of the Department's Hazardous Materials Regulations to authorize the marking of packagings containing a mixture or solution with the specific names of the components of the mixture or solution and to require the marking of packagings containing radioactive materials with the proper shipping name.

This proposal is based on a petition by the Compressed Gas Association to permit the marking of compressed gas cylinders containing mixtures with the specific names of the gases which make up the mixtures. CGA has stated that the proposed change would minimize the use of "Compressed Gas, n.o.s.", and would serve to better inform anyone needing to know the contents of the container. The Board agrees with the petitioner and proposes to amend the regulations to authorize the marking of all packagings containing a mixture or solution with the specific names of the components of the mixture or solution, provided each component is shown in roman type in the commodity list in § 172.5(a). It is the Board's opinion that the CGA proposed manner of marking cylinders containing a mixture or solution would be beneficial

to anyone needing to know the contents of other forms of packagings containing a hazardous mixture or solution.

This proposal also provides for the marking of packagings containing radioactive materials with the proper shipping name (§ 172.5) unless this marking is otherwise exempted. The marking requirement for packagings containing radio active materials was overlooked in Docket No. HM-2; Amendment No. 173-3 (33 F.R. 14918).

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 172, 173, and 174 as follows:

I. In § 172.1, paragraph (b) would be added to read as follows:

**§ 172.1 Proper shipping name.**

(b) When shipping a mixture or solution, with or without water, which otherwise consists only of individual components appearing in roman type (not italics) in § 172.5(a), the marking of the packaging with the name of each individual component of the mixture or solution and the percentage (identified as by weight or volume) that each component is of the total mixture or solution is authorized in place of the appropriate n.o.s. description prescribed in § 172.5(a).

II. In § 173.401, paragraph (a) would be amended to read as follows:

**§ 173.401 Hazardous materials.**

(a) Packagings containing hazardous materials other than explosives must be marked, unless exempted, with the proper shipping name as shown in the commodity list (see § 172.5(a) of this chapter), except as provided in § 172.1 (b) of this chapter. For explosives, packagings must be marked in accordance with the requirements of § 173.400. For tank cars, this marking must appear either on the placards or commodity cards.

(1) Each portable tank used for the transportation of a hazardous material must be conspicuously and legibly marked, on a background of sharply contrasting color with a sign or lettering on the tank, such as "Corrosive Liquid", "Compressed Gas", or "Flammable Compressed Gas" as appropriate, and with the proper shipping name as shown in the commodity list (see § 172.5(a) of this chapter) except as provided in § 172.1 (b) of this chapter. The height of all required lettering must be at least 2 inches or one-tenth the diameter of the tank, whichever is greater. Each portable tank must be marked with the owner's name. In addition to these markings, the trade name for the contents may be marked on the portable tank: *Provided, however*, That no such marking will be of such size and character as to render the required markings inconspicuous.

III. In § 174.545, paragraph (a) would be amended to read as follows:

**§ 174.545 Commodity name on carloads.**

(a) Placards for carloads of class B explosives and other hazardous materials

must show in the space provided on the placard, the proper shipping name of the commodity as shown in the commodity list (see § 172.5(a) of this chapter), except as provided in § 172.1 (b) of this chapter. Alternatively, the proper shipping name may be shown on tag board cards measuring approximately 5 by 8 inches securely attached to each side of the car.

**PROPOSAL B—SPELLING CHANGE FOR MONOFLUOROTRICHLOROMETHANE**

The Hazardous Materials Regulations Board is considering an editorial change to §§ 172.5, 173.314, 173.315, and 178.337 of the Department's Hazardous Materials Regulations involving the "Dichlorodifluoromethane - monofluorotrichloromethane mixture" entries. This change would affect the spelling of monofluorotrichloromethane.

This proposal is based on a petition to change the spelling of monofluorotrichloromethane to trichloromonofluoromethane in § 172.5. The Board has proposed that this same spelling change be made in other sections of the regulations. The proposed change would be consistent with descriptions of this commodity found elsewhere in the regulations and would be in accord with the established industry practice of describing similar products by identifying the number of chlorine atoms before the number of fluorine atoms.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 172, 173, and 178 as follows:

I. In § 172.5(a), the commodity description of "Dichlorodifluoromethane-monofluorotrichloromethane mixture" would be changed to read "Dichlorodifluoromethane - trichloromonofluoromethane mixture".

II. (A) In § 173.314(c) table, the gas description for "Dichlorodifluoromethane-monofluorotrichloromethane mixture; Note 13" would be changed to read "Dichlorodifluoromethane-trichloromonofluoromethane mixture; Note 13."

(B) In § 173.315(a)(1) table, the gas description for "Dichlorodifluoromethane-monofluorotrichloromethane mixture (see Note 9)" would be changed to read "Dichlorodifluoromethane-trichloromonofluoromethane mixture (see Note 9)."

(C) In § 173.315 (h) (2) and (i) (2) the gas description in each table for "Dichlorodifluoromethane - monofluorotrichloromethane mixture" would be changed to read "Dichlorodifluoromethane - trichloromonofluoromethane mixture."

III. In § 178.337-14(a)(1) table, the gas description for "Dichlorodifluoromethane-monofluorotrichloromethane mixture" would be changed to read "Dichlorodifluoromethane-trichloromonofluoromethane mixture."

**PROPOSAL C—EMPTY PRIMED CARTRIDGE CASES**

The Hazardous Materials Regulations Board is considering amendment of

§ 173.107(b) of the Department's Hazardous Materials Regulations to authorize the shipment of empty primed cartridge cases in DOT Specification 21C fiber drums.

A petition has been filed with the Board to amend the regulations as described above.

Shipments have been made in the Specification 21C fiber drum under special permit, with no reported loss of product, for over 6 years. These shipments were restricted to drums rated for 250 pounds net weight.

On the basis of the petition and the satisfactory experience reported, the Board is proposing to incorporate the provisions of the special permit pertaining to packaging of empty primed cartridge cases into the regulations.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

I. In Part 173 Table of Contents, § 173.107 would be amended to read as follows:

Sec.  
173.107 Primers, percussion caps, grenades, empty, primed, and cartridge cases, empty, primed.

II. In § 173.107, the heading and paragraph (b) would be amended to read as follows:

§ 173.107 Primers, percussion caps, grenades, empty, primed, and cartridge cases, empty, primed.

(b) Empty cartridge cases, primed, must be packed in strong, tight, outside wooden or fiberboard boxes, or in specification packagings as follows:

(1) Specification 21C (§ 173.224 of this chapter) fiber drum. Each drum must be constructed for at least 250 pounds net weight of contents. Each drum having a metal top or bottom must have a protective corrugated paperboard pad inserted between the contents and the metal.

PROPOSAL D—MONOETHYLAMINE IN DOT-5P INSULATED STEEL DRUMS

The Hazardous Materials Regulations Board is considering amendment of § 173.148 of the Department's Hazardous Materials Regulations to provide for the transportation of monoethylamine in DOT-5P insulated steel drums.

This proposal is based on a petition by a special permit holder who has reported satisfactory experience with the shipment of monoethylamine packaged in DOT-5P drums. The regulations presently authorize use of DOT-5 and DOT-5A steel drums for this commodity. It is the Board's opinion that the DOT-5P proposed packaging is equivalent to or better than DOT-5 and DOT-5A packagings. The properties of monoethylamine are similar to the flammable liquid commodities covered by § 173.119 (f) which permits use of DOT-5P drums.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

I. In § 173.148, paragraph (a) (1) would be amended to read as follows:

§ 173.148 Monoethylamine.

(a) \* \* \*  
(1) Specification 5, 5A, or 5P (§§ 173.80, 173.81, 173.92 of this chapter). Metal barrel or drum equipped with openings not exceeding 2.3 inches in diameter. Bung labels must be applied and must meet the requirements prescribed in § 173.119(i).

PROPOSAL E—ORGANIC PEROXIDES IN FIBERBOARD BOXES AND FIBER DRUMS

The Hazardous Materials Regulations Board is considering amendment of § 173.157 of the Department's Hazardous Materials Regulations to provide for the shipment of benzoyl peroxide, wet with at least 20 percent of water by weight, in specifications 12B and 21C packagings, and to clarify weight limitations in these packagings.

This proposal is based on several petitions from special permit holders who have reported satisfactory shipping experiences with these packagings for over 7 years. In addition, another petition was received from a manufacturer and shipper of benzoyl peroxide requesting clarification of the quantity limitations for the various packagings authorized in § 173.157.

In response to these petitions, the Board proposes to add paragraph (b) in § 173.157 to provide for benzoyl peroxide, wet with at least 20 percent of water by weight, in specification 12B fiberboard boxes and 21C fiber drums.

With respect to the petition requesting clarification of quantity limitations in § 173.157, the Board proposes to make editorial changes to improve the clarity of the text and to eliminate ambiguities relating to commodity weight provisions. Since substantial quantities of certain peroxides have been shipped by manufacturers on a dry weight basis, the Board proposes to amend § 173.157 to accurately reflect authorization for this practice. The terms "dry weight" and "wet weight" are used only to clarify weight provisions in this section and are not intended to affect other sections of the Hazardous Materials Regulations.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

I. In § 173.157, paragraph (a) and subparagraphs (1), (3), (4), and (5) of paragraph (a) would be amended; paragraph (b) would be added to read as follows:

§ 173.157 Benzoyl peroxide, chlorobenzoyl peroxide (para), cyclohexanone peroxide, dimethylhexane dihydroperoxide, lauroyl peroxide, or succinic acid peroxide, wet.

(a) Benzoyl peroxide, chlorobenzoyl peroxide (para), dimethylhexane dihydroperoxide, lauroyl peroxide, and succinic acid peroxide, each wet with at least 30 percent of water by weight, and cyclohexanone peroxide over 50 percent concentration but not exceeding 85 per-

cent concentration, wet, must be packed in specification packagings as follows:

(1) Specification 15A, 15B, or 15C (§§ 173.168, 173.169, 173.170 of this chapter). Wooden box with inside metal containers or lining, specification 2F (§ 173.25 of this chapter), or with securely closed inside paper bags lined with polyethylene at least 0.002 inch thick, or with inside aluminum drums of at least 16-gauge metal throughout. Net weight (dry weight) in each inside DOT-2F metal container or in each paper bag may not exceed 1 pound. Gross weight may not exceed 200 pounds.

(3) Specification 12B (§ 173.205 of this chapter). Fiberboard box with inside fiber containers securely closed by taping or gluing, or with securely closed inside paper bags lined with polyethylene at least 0.002 inch thick. Net weight (dry weight) in each inside container may not exceed 1 pound. Except for lauroyl peroxide, wet, each inside container must be surrounded by asbestos or an equivalent fire-resistant cushioning material. Gross weight in specification 12B65 fiberboard box may exceed 65 pounds, but may not exceed 80 pounds, provided the net weight (dry weight) of the contents does not exceed 50 pounds.

(4) Specification 21C § 173.224 of this chapter). Fiber drum with securely closed inside plastic container made of polyethylene film at least 0.002 inch thick for cyclohexanone peroxide over 50 percent concentration but not exceeding 85 percent concentration and for dimethylhexane dihydroperoxide; with securely closed inside plastic container made of polyethylene film at least 0.004 inch thick for benzoyl peroxide wet with at least 30 percent of water by weight. Authorized net weight (wet weight) in one outside drum may not exceed 50 pounds for cyclohexanone peroxide, 100 pounds for dimethylhexane dihydroperoxide, or 225 pounds for benzoyl peroxide.

(5) Specification 12B (§ 173.205 of this chapter). Fiberboard box with securely closed inside plastic container made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each inside container may not exceed 10 pounds. Each inside container must be surrounded by asbestos or an equivalent fire-resistant cushioning material. Authorized only for benzoyl peroxide.

(b) Benzoyl peroxide, wet with at least 20 percent of water by weight, must be packed in specification packagings as follows:

(1) Specification 12B (§ 173.205 of this chapter). Fiberboard box with securely closed inside paper bag lined with polyethylene at least 0.002 inch thick. Net weight (dry weight) in each bag may not exceed 1 pound. Each bag must be surrounded by asbestos or an equivalent fire-resistant cushioning material.

(2) Specification 21C (§ 173.224 of this chapter). Fiber drum with securely closed inside plastic container made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each outside drum may not exceed 25 pounds.

(3) Specification 12B (§ 173.205 of this chapter). Fiberboard box with securely closed inside plastic container made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each inside container may not exceed 10 pounds. Each inside container must be surrounded by asbestos or an equivalent fire-resistant cushioning material. Net weight (dry weight) in each outside box may not exceed 25 pounds.

**PROPOSAL F—PHOSPHORUS TRICHLORIDE IN MILD STEEL CARGO TANKS**

The Hazardous Materials Regulations Board is considering amendment of § 173.271 to authorize the shipment of phosphorus trichloride in unlined, mild steel, specifications MC 310, MC 311, and MC 312 cargo tanks.

The Manufacturing Chemists Association has petitioned the Board to amend the regulations to provide this authorization. The petition is based on a report that mild steel is widely used in process equipment for producing phosphorus trichloride. Also, the Association states that there is considerable shipping experience covering a period in excess of 10 years in the transportation of this commodity in unlined mild steel tank cars under the terms of § 173.271(a) (11) thus confirming the suitability of mild steel with transportation equipment. Corrosion data have also been supplied covering dry and wet phosphorus trichloride with a mild steel. The Board believes the petition has merit.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

I. In § 173.271, paragraph (a) (8) (iii) would be amended as follows:

§ 173.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) \* \* \*

(8) \* \* \*

(iii) Tanks made from mild steel or austenitic stainless steel, without lining or cladding. Authorized only for phosphorus trichloride.

**PROPOSAL G—CARBON DIOXIDE**

The Hazardous Materials Regulations Board is considering amendment of § 173.304 of the Department's Hazardous Materials Regulations to authorize the shipment of carbon dioxide in cylinders filled to a maximum density of 68 percent of the water capacity regardless of cylinder capacity.

This proposal is based on petitions to authorize application of the 68 percent maximum filling density requirement to cylinders of all sizes, in place of the present restriction that shipments of more than 50 pounds of carbon dioxide must be made only in cylinders with a rated capacity of either 75 pounds or 100 pounds. The petitions are supported by 7 years of satisfactory shipping experience data reported to the Board by special permit holders.

The Board is of the opinion that carbon dioxide may be charged to a 68 percent maximum filling density and safely transported in any cylinder authorized by the regulations for the shipment of this commodity.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table).
(Change) Carbon dioxide, liquefied (see Notes 4 and 7).	68	DOT-3A1800; DOT-3AA1800; DOT-3; DOT-3E1800; DOT-3HT2000; DOT-39.

\* \* \* \* \*

NOTE 3: [Canceled]

\* \* \* \* \*

**PROPOSAL H—HYDROGEN SULFIDE IN CYLINDERS AND MULTIUNIT TANK CAR TANKS**

The Hazardous Materials Regulations Board is considering amendment of §§ 173.304, 173.314, and 179.302 of the Department's Hazardous Materials Regulations to authorize transportation of hydrogen sulfide in cylinders and multiunit tank car tanks equipped with gas-tight caps or plugs applied to valve outlets. In addition, this proposal provides for the use of metal covers over the valves of these multiunit tank car tanks in place of gas-tight valve protective covers now required under § 179.302(a). Cylinders are required to have their valves protected by any one of the various methods prescribed in § 173.301(g).

This proposal is based in part on a petition from the Compressed Gas Association, Inc., requesting amendment of §§ 173.314(c) and 179.302(a). The rule would require hydrogen sulfide to be shipped in multiunit tank car tanks with gas-tight caps or plugs applied to the valve outlets. Present requirements covering the shipment of hydrogen sulfide in these tanks specify that a gas-tight valve protective cover must be used; the valve outlets are not required

I. In § 173.304, paragraph (a) (2) table would be amended; Note 3 would be canceled as follows:

**§ 173.304 Charging of cylinders with liquefied compressed gas.**

(a) \* \* \*

(2) \* \* \*

to be capped or plugged. The use of gas-tight caps or plugs applied to the valve outlets of a tank would eliminate the need for gas-tight valve protective covers. However, metal covers are proposed to be used on these tanks to safeguard the valves against mechanical damage.

In addition, the Board proposes that cylinders used in hydrogen sulfide service be upgraded with similar gas-tight caps or plugs applied to the valve outlets. The use of these gas-tight caps or plugs would prevent leakage from improperly closed or damaged valves. This leakage could result in injury or death, particularly when the cylinder is shipped in a closed vehicle. Therefore, the Board proposes to amend § 173.304(a) (2) to require that cylinders in hydrogen sulfide service incorporate gas-tight caps or plugs to the valve outlets. Valve protection for cylinders is maintained under the provisions of § 173.301(g).

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 173 and 179 as follows:

I. (A) In § 173.304 paragraph (a) (2), the table would be amended; Note 10 would be added to read as follows:

**§ 173.304 Charging of cylinders with liquefied compressed gas.**

(a) \* \* \*

(2) \* \* \*

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table).
(Change) Hydrogen sulfide (see Note 10)	62.5	DOT-3A480; DOT-3AA480; DOT-3B480; DOT-4A480; DOT-4BA480; DOT-4BA480; DOT-4BW480; DOT-26480; DOT-3E1800.

\* \* \* \* \*

NOTE 10: Valve outlets must have gas-tight caps or plugs applied.

\* \* \* \* \*

(B) In § 173.314 paragraph (c) Table, Note 8 would be amended to read as follows:

**§ 173.314 Requirements for compressed gases in tank cars.**

\* \* \* \* \*

(c) \* \* \*

NOTE 8: Tanks may not be equipped with safety-relief devices of any description. Valve outlets must have gas-tight caps or plugs applied. In addition, the valves must be protected by a metal cover.

\* \* \* \* \*

II. In § 179.302 paragraph (a), the table and footnote 5 would be amended; footnote 6 would be added to read as follows:

§ 179.302 Special commodity requirements for multi-unit tank car tanks.

(a) \* \* \*

Commodity	Safety relief device	Valve protective housing	Miscellaneous
(Change) Hydrogen sulfide.	Prohibited <sup>1</sup>	Required <sup>2</sup>	(3).

<sup>1</sup> Valve outlets must have gas-tight caps or plugs applied.  
<sup>2</sup> Valves must be protected by a metal cover.

PROPOSAL I—NITRIC OXIDE IN SPECIFICATION 106A500X TANKS

The Hazardous Materials Regulations Board is considering amendment of §§ 173.337 and 179.302 of the Department's Hazardous Materials Regulations to permit shipment of nitric oxide in DOT Specification 106A500X tanks.

This proposal is based on a petition for the rule change and is supported by over 2 years of reported satisfactory shipping experience under special permit. Increased safety is provided in that this tank having a test pressure capability of 500 p.s.i.g. will be restricted to a maximum nitric oxide charge of 200 p.s.i.g. at 70° F. At 130° F. the pressure in the tank would be about 230 p.s.i.g. The Board believes the proposal has merit.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 173 and 179 as follows:

I. In § 173.337, paragraph (a)(4) would be added to read as follows:

§ 173.337 Nitric oxide.

(a) \* \* \*

(4) Specification 106A500X (§§ 179.300, 179.301 of this chapter) tanks. Nitric oxide charge in each tank may not exceed 200 p.s.i.g. at 70° F. Each tank must be equipped with gas-tight valve protection caps (see § 179.302 of this chapter). Each valve outlet opening must be made gas-tight by use of a solid screw plug or a screw cap with inert luting or gasket material. Valves must be of stainless steel and the caps, screw plugs, or valve seats must be of material that will not be deteriorated by contact with nitric oxide or nitrogen dioxide. The tank may not be equipped with any safety device.

II. In § 179.302 paragraph (a), the table would be amended as follows:

§ 179.302 Special commodity requirements for multiunit tank car tanks.

(a) \* \* \*

Commodity	Safety relief device	Valve protective housing	Miscellaneous
*** (Add) Nitric oxide.	Prohibited <sup>1</sup>	Gas tight <sup>2</sup>	***

PROPOSAL J—CARTRIDGES, PRACTICE AMMUNITION

The Hazardous Materials Regulations Board is considering amendment of §§ 174.538 and 177.848 of the Hazardous Materials Regulations by the addition of loading and storage restrictions for cartridges, practice ammunition. Packaging requirements for these cartridges were prescribed in Docket No. HM-3; Amendment No. 173-6 (34 F.R. 7161), however, the loading and storage restrictions were omitted.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 174 and 177 as follows:

I. In § 174.538 paragraph (a), the column numbered 4 of the loading and storage chart would be amended in both the vertical and horizontal columns to read as follows:

§ 174.538 Loading and storage chart of hazardous materials.

(a) \* \* \*

4—Small arms ammunition, or cartridges, practice ammunition.

II. In § 177.848 paragraph (a), the column numbered 4 of the loading and storage chart would be amended in both the vertical and horizontal columns to read as follows:

§ 177.848 Loading and storage chart of hazardous materials.

(a) \* \* \*

4—Small arms ammunition, or cartridges, practice ammunition.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and the proposal and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400

Sixth Street SW., Washington, DC 20590. Communications received on or before May 31, 1972, will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

These proposals are made under the authority of sections 831-835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on February 22, 1972.

W J. BURNS,  
Chairman, Hazardous  
Materials Regulations Board.

[FR Doc.72-2952 Filed 2-29-72;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[ 40 CFR Part 164 ]

### RULES GOVERNING ADVISORY COMMITTEES AND RULES OF PRACTICE GOVERNING HEARINGS UNDER FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

#### Extension of Time for Filing Comments

Notice is hereby given that, in response to requests for additional time, the Environmental Protection Agency has extended the deadline from February 21, 1972, to March 22, 1972, for the submission of comments on Parts A and B and § 164.31(c) of Part C of the proposal, published in the FEDERAL REGISTER of January 22, 1972, at 37 F.R. 1059 and corrected in the FEDERAL REGISTER of February 11, 1972, at 37 F.R. 3060, to revise Part 164 of Chapter I of Title 40 of the Code of Federal Regulations.

Dated: February 23, 1972.

DAVID D. DOMINICK,  
Assistant Administrator  
for Categorical Programs.

[FR Doc.72-3090 Filed 2-29-72;8:53 am]

# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

[T.D. 72-69]

#### REIMBURSABLE SERVICES

#### Excess Cost of Preclearance Operations

FEBRUARY 23, 1972.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning March 5, 1972.

Installation:	Biweekly excess cost
Montreal, Canada	3,528
Toronto, Canada	5,375
Kindley Field, Bermuda	1,931
Nassau, Bahama Islands	4,891
Vancouver, Canada	1,576
Winnipeg, Canada	740

[SEAL] EDWIN F. RAINS,  
Acting Commissioner of Customs.

[FR Doc.72-3075 Filed 2-29-72; 8:53 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[A 6592]

#### ARIZONA

#### Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, Serial No. A 6592, for the withdrawal of the lands described below from all forms of appropriation, under the public land laws, including mining but not the mineral leasing laws. The withdrawal would be made subject to valid existing rights.

The Bureau of Land Management desires these lands for protection of the Aravaipa Canyon Primitive Area for recreational purposes.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

#### GILA AND SALT RIVER MERIDIAN

T. 8 S., R. 18 E.,  
Sec. 15, S½S½;  
Sec. 24, S½SE¼;  
Sec. 25, W½E½ and W½.  
T. 6 S., R. 19 E.,  
Sec. 19, lot 4;  
Sec. 30, lots 2 to 6, inclusive, SW¼NE¼ and W½SE¼.

The areas described above aggregate approximately 1,062.70 acres.

Dated: February 22, 1972.

EDWARD J. HOFFMANN,  
Acting State Director.

[FR Doc.72-3044 Filed 2-29-72; 8:49 am]

[OR 5020 (Wash)]

#### WASHINGTON

#### Notice of Termination of Proposed Withdrawal and Reservation of Land

FEBRUARY 22, 1972.

Notice of an application, Serial No. OR 5020 (Wash), for withdrawal and reservation of land was published as FEDERAL REGISTER Document No. 69-7532 on page 9878 of the issue for June 26, 1969. The applicant agency has canceled its application insofar as it involved the land described below. Therefore, pursuant to the regulations contained in 43 CFR Group 2300, such land will be at 10 a.m. on March 29, 1972, relieved of the segregative effect of the above-mentioned application.

The land involved in this notice of termination is:

#### OLYMPIC NATIONAL FOREST WILLAMETTE MERIDIAN

Louella Work Center Administrative Site

T. 29 N., R. 3 W.,  
Sec. 20, SE¼NE¼.

The area described contains approximately 40 acres.

IRVING W. ANDERSON,  
Chief, Branch of  
Lands and Minerals Operations.

[FR Doc.72-3063 Filed 2-29-72; 8:51 am]

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. C-361]

#### JON D. KINSEY

#### Notice of Loan Application

FEBRUARY 23, 1972.

Jon D. Kinsey, 2534 Mesa School Lane, Santa Barbara, Calif. 93109, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new

wood vessel, about 30-foot in length, to engage in the fishery for salmon, bonito, and white sea bass.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JOSEPH W. SLAVIN,  
Acting Director.

[FR Doc.72-3029 Filed 2-29-72; 8:49 am]

#### YELLOWFIN TUNA

#### Procedural Announcement

The National Marine Fisheries Service hereby gives notice that any vessel operating under the current U.S. yellowfin tuna regulations (36 F.R. 8515-8519, May 7, 1971) which desires to land a portion of its catch in Puntarenas, Costa Rica, and the remaining amount in Puerto Rico, the Canal Zone, or California, will be allowed the last unrestricted voyage provided by § 280.6(b); *Provided*, That such vessel requests and obtains inspection services from the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA, area code 213, telephone number 831-9281, extension 575, while in Puntarenas; *And provided, further*, That (1) at the time the closure took effect such vessel was in Puntarenas awaiting inspection or had been inspected and was enroute to Puerto Rico, the Canal Zone or California for final unloading, and (ii) after final unloading, such vessel departs from Puerto Rico, the Canal Zone, or California, on its last unrestricted voyage, within 30 days of the closure date.

Each vessel requesting inspection will be inspected by a designated agent of the National Marine Fisheries Service and official seals will be affixed to wells containing fish. Any vessel landing fish in excess of the amount determined at the time of inspection, or tampering with or

removing official seals, will be denied the additional unrestricted voyage.

Issued at Washington, D.C., and dated February 28, 1972.

PHILIP M. ROEDEL,  
Director,  
National Marine Fisheries Service.

[FR Doc.72-3146 Filed 2-29-72;8:53 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-153]

### ACTING ASSISTANT SECRETARY FOR ADMINISTRATION

#### Designation

SECTION A. Harry T. Morley is designated to serve as Acting Assistant Secretary for Administration with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Administration.

SEC. B. Supersedeure: This designation supersedes designation at 37 F.R. 1256, 1/27/72.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

*Effective date.* This designation shall be effective February 22, 1972.

RICHARD C. VAN DUSEN,  
Under Secretary of Housing  
and Urban Development.

[FR Doc.72-3079 Filed 2-29-72;8:53 am]

[Docket No. D-72-152]

### DIRECTOR OF HELENA, MONT., INSURING OFFICE

#### Designation and Delegation of Authority

SECTION A. Orvin B. Fjare is designated Director of the Helena, Mont., Insuring Office and is authorized to exercise the power and authority of the Secretary delegated to that position.

SEC. B. The unpublished Designation and Delegation of Authority providing for a Montana HUD State Director, effective November 12, 1971, is superseded.

(Sec. 7(d), 79 Stat. 670, 42 U.S.C. 3535(d))

*Effective date.* This designation is effective as of February 6, 1972.

GEORGE ROMNEY,  
Secretary of Housing  
and Urban Development.

[FR Doc.72-3045 Filed 2-29-72;8:51 am]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-280]

### VIRGINIA ELECTRIC AND POWER CO.

#### Order of the Board Scheduling Evidentiary Hearing

On February 22, 1972, the Board issued an order scheduling a prehearing con-

ference in the above matter (Surry Power Station Unit 1) to be held on March 10, 1972, at 10 a.m., local time, in the North Ballroom, Williamsburg Conference Center, Williamsburg, Va. 23185. The order stated that the prehearing conference and the evidentiary hearing which it anticipates would be held in accordance with a Commission memorandum and order dated November 18, 1971. It was further stated that the time and place for the evidentiary hearing would be announced at a later date.

The purpose of this order is to establish the time and place for the evidentiary hearing. The evidentiary hearing will be held on March 20, 1972, at 10 a.m., local time, in the North Ballroom, Williamsburg Conference Center, Williamsburg, Va. 23185.

Dated at Washington, D.C., this 28th day of February 1972.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,  
Chairman.

[FR Doc.72-3181 Filed 2-29-72;8:53 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 22700; Order 72-2-86]

### AIR WISCONSIN, INC., AND VIKING INTERNATIONAL AIRFREIGHT, INC.

#### Order Denying Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of February 1972. Applications of Air Wisconsin, Inc., and Viking International Airfreight, Inc., for termination of exemption, Docket 22700.

By Order 71-10-1, dated October 1, 1971, the Board denied the applications of Air Wisconsin, Inc. (Air Wisconsin), and Viking International Airfreight, Inc., in the above-captioned proceeding. On October 21, 1971, Air Wisconsin filed a petition for reconsideration of that order insofar as it related to Air Wisconsin. No answers to the petition were filed.

Upon consideration of the pleadings, the Board finds that the petition does not establish error in the Board's decision or present any matters that would otherwise warrant grant of the relief sought.

*Accordingly, it is ordered, That:*

1. The petition for reconsideration of Order 71-10-1, filed by Air Wisconsin, Inc., be and is hereby denied.

2. Copies of this order will be served upon Air Wisconsin Inc., Viking International Airfreight, Inc., and National Air Transportation Conferences, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.72-3078 Filed 2-29-72;8:53 am]

[Docket No. 24130, etc.]

## TEXAS INTERNATIONAL AIRLINES, INC.

### Notice of Postponement of Hearing Regarding Acquisition of Control by Jet Capital Corp.

Notice is hereby given that the hearing in the above-entitled proceeding has been postponed from March 2, 1972 (37 F.R. 3784, February 19, 1972), to March 16, 1972, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., February 25, 1972.

[SEAL] HYMAN GOLDBERG,  
Hearing Examiner.

[FR Doc.72-3076 Filed 2-29-72;8:53 am]

[Docket No. 23991]

## VOYAGER 1000 ET AL.

### Notice of Hearing

Voyager 1000, Adam Rueckert, individually, Robert J. Fink, individually, A. Lee Clifford, individually: Enforcement proceeding, Docket 23931.

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended that a hearing in the above-entitled proceeding is assigned to be held on March 28, 1972, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner William J. Madden.

Dated at Washington, D.C., February 24, 1972.

[SEAL] RALPH L. WISER,  
Chief Examiner.

[FR Doc.72-3077 Filed 2-29-72;8:53 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

#### Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality February 14-February 18, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

#### DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) 388-7803.

#### ANIMAL AND PLANT HEALTH SERVICES

Draft, February 11  
Rangeland Grasshopper Cooperative Control Program. Malathion treatment on approximately 2 million acres in Colorado, Idaho, and Oregon with the possibility of some treatment in other states. (ELR Order No. 1870, 20 pages) (NTIS Order No. PB-206 557-D)

## FOREST SERVICE

*Draft*, February 11

Clarkdale - Williams Highway Proposal State 279: Coconino, Prescott, and Kalb National Forests, Yavapai and Coconino Counties, Ariz. The extension of S.H. 279 from Clarkdale to Williams. This includes the new construction of approximately 21 miles of paved highway and the eventual reconstruction of 23 miles of existing paved road. (ELR Order No. 1884, 60 pages) (NTIS Order No. PB-206 580-D)

*Final*, February 10

Waterville Valley Management Plan, New Hampshire. A multiple use plan for management of timber, water, wildlife, and recreation on National Forest lands in the Waterville Valley area. Comments made by USDA, EPA, DOI, New Hampshire Department of Resources and Economic Development, numerous private corporations and concerned citizens. (ELR Order No. 1858, 377 pages) (NTIS Order No. PB-202 715-F)

## RURAL ELECTRIFICATION ADMINISTRATION

*Final*, February 10

Transmission Line from Hayden to Wolcott to Vall, Routt, and Eagle Counties, Colo. A loan of \$9,016,000 to Colorado-Ute Electric Association, Inc., together with funds from other sources for approximately seventy (70) miles of 230-kv. transmission line between Hayden substation and Wolcott, Colo., and approximately twenty (20) miles of 115-kv. transmission line between Wolcott and Vall. Comments made by FPC, DOI, USDA, EPA, State of Colorado. (ELR Order No. 1859, 58 pages) (NTIS Order No. PB-203 796-F)

*Final*, February 11

Wells Township, Jefferson County, Ohio. Construction of unit No. 3, a 615,000-kw. coal-fired steam electric generating station. Approximately 5,000 tons of coal per day will be consumed; some oxide of sulphur and nitrogen will be released, and some Ohio River water will be used. Comments made by USDA, Army, COE, FPC, DOI, and State agencies of Ohio and West Virginia. (ELR Order No. 1896, 420 pages) (NTIS Order No. PB-199 923-F)

## ATOMIC ENERGY COMMISSION

Contact: For Nonregulatory Matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 29545, (202) 973-5391.

For Regulatory Matters: Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545, (202) 973-7531.

*Draft*, February 15

Plymouth, Mass. Proposed issuance of an operating license to the Boston Edison Co. (Docket 50-293) for the operation of the Plymouth Nuclear Power Station. This station employs a boiling water reactor with a designed thermal rating of 1,998 mw. to produce 655 mw. net electrical power. It is cooled with salt water obtained from and discharged to Cape Cod Bay. Condenser cooling water heated to 29° F. above inlet temperature will enter the bay at a rate of 710 c.f.s.; a small percentage of a nearby lobster fishery, and also of an Irish moss harvesting area will be damaged; radioactive gaseous and liquid effluents will be released into the environment. (ELR Order No. 1903, 96 pages) (NTIS Order No. PB-206 605-D)

*Draft*, February 14

Manitowoc County, Wis. Proposed issuance of an operating license to the Wisconsin Electric Power Co. and the Wisconsin Michigan Power Co. for the operation of Point Beach Nuclear Power Plant Unit 2 and the continued operation of Unit 1. Unit 2 is a pressurized water reactor rated at 455 mw. using 1,518 mw. of heat. This, with Unit 1 will use a maximum 700,000 g.p.m. of Lake Michigan water for cooling. Approximately 104 acres of land will be removed from agricultural use; there will be an impact upon aquatic resources due to cooling water intake and discharge; and a small increase in radiation will result. (ELR Order No. 1904, 87 pages) (NTIS Order No. PB-206 606-D)

Turkey Point Nuclear Power Station, Units 3 and 4, Dade County, Fla. The proposed issuance of an operating license to the Florida Power and Light Co. for the operation of Turkey Point Nuclear Power Station. Each unit is to be of 760 mw., employs pressurized water reactors and will be cooled by salt water recirculated in a multichannel cooling system. About 7,000 acres of salt marsh wildlife habitat will be destroyed by construction of the cooling system; seepage of saline water from the cooling canal system may affect mangroves and benthic organisms along several miles of shoreline, loss of plankton by entrainment in the cooling system will have an impact upon the productivity of Card Sound Canal; interim cooling system operation may cause damage to marine life near the mouths of the canals in Biscayne Bay and Card Sound, particularly when temperature restrictions are relaxed under emergency conditions, and also through impingement and killing of fish on intake screens; there will be a routine release of radioactive materials to the environs. (ELR Order No. 1913, 124 pages) (NTIS Order No. PB-206 607-D)

## DEPARTMENT OF DEFENSE

## DEPARTMENT OF ARMY

## Corps of Engineers

Contact: Francis X. Kelley, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314 (202) 693-6346.

*Draft*, February 9

Raritan River, N.J. Maintenance dredging of existing channel to its authorized project dimensions. Spoil will be deposited in the Atlantic Ocean; spoil from the South channel will be deposited in an upland site. (ELR Order No. 1864, 10 pages) (NTIS Order No. PB-206 576-D)

*Draft*, February 4

Alternate disposal method for Detroit and Rouge Rivers, Wayne County, Mich. Construct a contained disposal facility at Pointe Mouillee for polluted dredge spoil from the lower Detroit and Rouge Rivers. The facility, including access channel, turning basin, mooring area and pump-out station, will be used to replace the previous procedure of open lake dumping of dredge spoil. (ELR Order No. 1868, 23 pages) (NTIS Order No. PB-206 559-D)

*Draft*, February 10

Kent Creek, Rockford, Ill. The project is divided into Unit A and Unit B, two separable units of protection. Unit A consists of construction of a reservoir and downstream channel cleanout and straightening on the North Branch of Kent Creek. Unit B involves construction of a diversion channel to divert drainage of a portion of the South Branch into

the proposed reservoir on the North Branch, raising the existing dam and replacing spillway at Levings Lake. Approximately 1,270 acres of land will be required for total project development. Fifty acres of timber and wildlife habitat will be destroyed within Page Park. (ELR Order No. 1875, 41 pages) (NTIS Order No. PB-206 554-D)

*Draft*, February 14

Tesoro Tank Farm and Barge Slip, Juneau, Alaska. Construction of a petroleum storage area, access road, pipelines, a barge slip, and docking area. Also involves dredging the Mendenhall River. Will result in a loss of 5 acres of wetland habitat and modification of at least another 5 acres of river habitat. (ELR Order No. 1881, 52 pages) (NTIS Order No. PB-206 579-D)

*Draft*, February 11

Newton Creek, N.Y. Maintenance dredging of the existing Federal channel and its tributaries to the authorized project dimensions. The spoil will be deposited in the approved dumping area in the New York Bight in the Atlantic Ocean. (ELR Order No. 1885, 7 pages) (NTIS Order No. PB-206 578-D)

Great South Bay and Patchogue River, N.Y. Maintenance dredging of the existing Federal channel to its authorized project dimensions. Spoil will be placed in an upland disposal site. (ELR Order No. 1886, 7 pages) (NTIS Order No. PB-206 577-D)

*Final*, February 10

Everett Harbor, Snohomish River, Wash. Raising the southerly 4,100 feet of the existing training dike and extending the structure an additional 1,500 feet in a southwesterly direction. Project will permanently cover about 13 acres of estuary bottom. Comments made by EPA, DOI, Washington Department of Game. (ELR Order No. 1846, 29 pages) (NTIS Order No. PB-200 374-F)

Bear Lake Creek, Colo. Construction of a lake on creek for the purpose of flood control, general recreation and fish and wildlife enhancement. Comments made by USDA, DOT, DOI, EPA, Colorado Water Conservation Board, concerned citizens. (ELR Order No. 1856, 59 pages) (NTIS Order No. PB-202 293-F)

*Final*, February 15

Applegate Lake: Rogue River Basin, Jackson County, Oreg., and Siskiyou County, Calif. Construction and operation of a multiple-purpose dam and reservoir. Features include 2,720,000 cubic yard rock-fill embankment dam about 232 feet in height and 1,200 feet long and a 4.6-mile reservoir with a surface area of 988 acres of maximum pool. Comments made by DOI, DOT, DOC, USDA, EPA, various State agencies. (ELR Order No. 1887, 75 pages) (NTIS Order No. PB-200 792-F)

Sugar and Briar Creeks Project, Catawba River Basin, N.C. and S.C. Channelization of Little Sugar Creek by dredging in order to control flood waters. Comments made by USDA, EPA, HUD, and DOI. (ELR Order No. 1891, 28 pages) (NTIS Order No. PB-203 232-F)

Mad Creek, Muscatine, Iowa. Improvement of existing levees and construction of new levees, concrete floodwalls, closure structures, ponding areas, with a partial realignment of Mad Creek. Approximately 5,500 feet of existing creek shoreline will be altered. Comments made by EPA, DOI, the State of Iowa Office for Planning and Programming, and the city of Muscatine. (ELR Order No. 1892, 12 pages) (NTIS Order No. PB-204 500-F)

Jacksonville Harbor, Fla. An 11-mile reach of the existing 34 feet deep Jacksonville Harbor project will be deepened to 38 feet with widths of 400 feet to 1,200 feet for commercial navigation. About 6,700,000 cu. yds. of dredged material will be deposited in 10 upland diked areas and one beach nourishment area. Fish and shrimp populations could be adversely affected, and wildlife displacement will occur in disposal area. (ELR Order No. 1899, 92 pages) (NTIS Order No. PB-199 880-F)

Sugar Creek, Stark County, Brewster, Ohio. Modification of levees, installation of pumping facilities and improvement of stream channels for flood control at and adjacent to Brewster, Ohio. Some farmland and parkland will be required, there will be a change in terrestrial and aquatic habitat, and erosion will temporarily increase. Comments made by EPA, DOI, and Ohio State agencies. (ELR Order No. 1909, 14 pages) (NTIS Order No. PB-200 340-F)

#### ENVIRONMENTAL PROTECTION AGENCY

Contact: Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, (202) 755-0940.

#### Final, February 8

Angelina County, Lufkin, Tex. Construction of sanitary sewer interceptors, pumping stations, force mains, waste treatment facilities, and apertures. Comments made by USDA, Army COE, HEW, State of Texas agencies, local agencies, and concerned citizens. (ELR Order No. 1898, 178 pages) (NTIS Order No. PB-204 907-F)

#### FEDERAL POWER COMMISSION

Contact: Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, (202) 386-6084.

#### Draft, November 26

Algonquin SNG, Inc., proposes to construct and operate at Freetown, Mass., a naphtha reforming plant and 6.8 miles of pipeline. Purpose is to transport and sell synthesized natural gas in quantities up to a maximum of 120,000 Mcf per day to Algonquin Gas Transmission Co. (Algonquin Gas). (ELR Order No. 1773, 20 pages) (NTIS Order No. PB-206 384-D)

#### GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Acting Administrator, GSA-AD, Washington, D.C. 20405, (202) 343-6077.

Alternate contact: Aaron Woloshin, Director, Office of Environmental Affairs, GSA-AD, Washington, D.C. 20405, (202) 343-4161.

#### Final, February 11

Disposal of former Condon Air Force Station, Gilliam County, Oreg. Transfer of 6.5 acres of land to the Federal Aviation agency and 59.76 acres of land will be sold by competitive bid sale. The land is zoned for exclusive farm use. Comments made by Local Government Relations Division, Department of Environmental Quality, and Office of the Governor. (ELR Order No. 1843, 15 pages) (NTIS Order No. PB-203 885-F)

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, (202) 755-6186.

#### Final, February 11

Soul City, Warren County, N.C. Proposed construction of a new community, assisted by a HUD guaranteed \$14 million loan. Approximately 5,180 acres of agricultural land will be utilized during 20- to 25-year development period, at the end of which a population of 44,000 is expected. Comments made by AEC, USDA, Army COE, EPA, HUD, DOI, and State and local agencies. (ELR Order No. 1889, 120 pages) (NTIS Order No. PB-203 088-F)

#### DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240, (202) 343-6416.

#### BUREAU OF RECLAMATION

#### Final, February 14

Canyon Ferry Lake, Broadwater and Lewis and Clark Counties, Mont. Construction of dikes to form subimpoundments, dredging of fine material from lakeside into subimpoundments, and flooding of subimpoundments for development of wildlife habitat, in order to abate dust formation in dry weather. Comments made by USDA, Army COE, EPA, HEW, DOI, State, and local agencies. (ELR Order No. 1893, 36 pages) (NTIS Order No. PB-203 097-F)

#### BUREAU OF SPORT FISHERIES AND WILDLIFE

#### Draft, February 3

Designation as wilderness 17,740 acres of the 64,000-acre St. Marks National Wildlife Refuge in Jefferson, Wakulla, and Taylor Counties, Fla. (ELR Order No. 1804, 26 pages) (NTIS Order No. PB-206 381-D)

#### Draft, February 8

Proposed Animal Damage Control Act of 1972. Repeal of the Act of March 2, 1931. Restrict the use of poisons for killing predatory animals on Federal lands. The proposal is national in scope but largely affects range lands in the west. (ELR Order No. 1853, 68 pages) (NTIS Order No. PB-206 564-D)

#### NATIONAL PARK SERVICE

#### Draft, February 8

Padre Island National Seashore, Kelberg, Kenedy and Willacy Counties, Tex. A 5-year conceptual Master Plan for Padre Island. Proposal calls for expansion of existing Malaquite Beach development, provisions for access to the Laguna Madre and extension of the road system south for additional 15 miles. (ELR Order No. 1852, 38 pages) (NTIS Order No. PB-206 572-D)

#### NEW ENGLAND RIVER BASINS COMMISSION

Contact: Connecticut River Basin Coordinating Commission, 424 Trapelo Road, Waltham, MA 02154.

#### Draft, February 3

Connecticut River Basin, Connecticut, Massachusetts, Vermont, and New Hampshire. Involves water quality and supply, wastewater treatment, power, recreation, navigation, flood control, upstream water and related land resource potential, multipurpose reservoirs, etc. Will result in loss of free-flowing sections of streams and associated wildlife habitat because of inundation. (ELR Order No. 1842, 801 pages) (NTIS Order No. PB-199 738-D)

#### TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, (615) 755-2002.

#### Final, February 10

Tellico Project, Tenn. Construction of a dam and 16,500-acre reservoir on the Little Tennessee River in east Tennessee. The project will include related industrial, commercial, residential and recreational development. Comments made by FPC, DOI, HUD, HEW, DOD, Army, USDA, EPA, Tennessee State Planning Commission, and various State offices. (ELR Order No. 1850, 520 pages) (NTIS Order No. PB-200 025-F)

#### DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser, Director, Office of Program Coordination, 400 Seventh Street SW., Washington, DC 20590, (202) 462-4357.

#### FEDERAL AVIATION AGENCY

#### Draft, February 14

Langdon Municipal Airport, Langdon, N. Dak. Extending, widening, and strengthening runway to 4,200 feet by 75 feet; relocating runway lighting; widening taxiway; constructing E/W turf landing strip and relocating powerlines. (ELR Order No. 1861, 39 pages) (NTIS Order No. PB-206 553-D)

Ashe County Airport, Jefferson, Ashe County, N.C. Construction of a general utility airport facility to accommodate propeller driven aircraft of less than 12,500 pounds. Approximately 27 acres of pastureland will be required for the project. (ELR Order No. 1863, 12 pages) (NTIS Order No. PB-206 552-D)

Greene County Airport, Greensboro-Union Point, Ga. Construction of a basic utility airport adequate for 95 percent of propeller driven aircraft weighing less than 12,500 pounds. This includes 30 acres of clearing, construction of a runway, installation of runway edge lighting, etc. (ELR Order No. 1866, 37 pages) (NTIS Order No. PB-206 575-D)

Ponca City Municipal Airport, Ponca City, Okla. Acquire 138 acres for airport development and clear zones, extend and mark existing runway, reconstruct 25 feet each side of existing runway; install medium intensity lighting and remove obstructions at north end of runway extension. (ELR Order No. 1867, 21 pages) (NTIS Order No. PB-206 558-D)

Pryor Airport, Pryor Creek, Mayes County, Okla. Extend and mark existing runway, install medium intensity runway lighting system and install VASI at both ends of runway. (ELR Order No. 1869, 17 pages) (NTIS Order No. PB-206 560-D)

#### FEDERAL HIGHWAY ADMINISTRATION

#### Draft, February 11

U.S. 6: Chase, Hayes, and Hitchcock Counties, Nebr. Improvements of a 14.5-mile segment of U.S. Highway 6 between Wauwata and Palsade, and construction of a spur road on new alignment into Hamlet. Project F-243 (9) and F-243-A. (ELR Order No. 1844, 14 pages) (NTIS Order No. PB-206 569-D)

U.S. Highway 95: Nez Perce County, Idaho. Relocation of U.S. 95 over Lewiston Hill, to improve safety. Termini vary being 7.1, 7.6, and 7.5 miles. Project F-4114 (18). (ELR Order No. 1845, 55 pages) (NTIS Order No. PB-206 551-D)

<sup>1</sup> Mr. Convisser's office will refer you to the regional office from which the statement originated.

Draft, February 10

Oregon Coast Highway.—Waterline Drive Section (Newport) Naterlin Drive: Lincoln County, Ore. Revision to part of the access road leading to the main entrance to Yaquina Bay State Park and to the water-front street system of Newport, (500 feet in length) TOPICS Project T-5021(3). (ELR Order No. 1847, 7 pages) (NTIS Order No. PB-206 570-D)

Draft, February 11

County Road 104A: Marion County, Ohio. Reconstruction of 0.504 miles of road by raising the roadway above the flood level and replacing a bridge over the Little Scioto River. Project S-1612(1). (ELR Order No. 1848, 9 pages) (NTIS Order No. PB-206 571-D)

Draft, February 7

Federal Aid Route 33 (Illinois 121): Mason County, Ill. Reconstruction of approximately 3.6 miles of roadway, involves building of four lanes of new pavement. 4(f) determination required for a small quantity from Decatur Park District. (ELR Order No. 1854, 55 pages) (NTIS Order No. PB-206 563-D)

Draft, February 9

I-435 Extension (KCI Route): Johnson and Wyandotte Counties, Kans. Addition of 20.5 miles to Interstate 435 loop around greater Kansas City. A minimum six-lane limited access facility, including interchanges and bridge crossings of Kansas and Missouri Rivers. Project 435-46 I-435-3(124), 435-105 I-435-3(125), 435-52 I-435-3(127). (ELR Order No. 1855, 100 pages) (NTIS Order No. PB-206 581-D)

Draft, February 4

FA Route 2, section 77-2: Winnebago County, Ill. Construction of a four-lane expressway. Begins 5.5 miles south of Illinois-Wisconsin border and follows Route 2 approximately 5.8 miles. (ELR Order No. 1857, 103 pages) (NTIS Order No. PB-206 568-D)

Draft, February 11

U.S. 220: Guilford-Randolph Counties, N.C. Building of a new highway to connect I-40 in Greensboro and the new U.S. 220 highway near Level Cross. (10.8 miles) (ELR Order No. 1871, 14 pages) (NTIS Order No. PB-206 566-D)

Draft, February 9

Heckle Bypass: York County, Rock Hill, S.C. Construction of the Heckle Bypass from South Carolina Route 322 to South Carolina Route 161, a distance of approximately 4.5 miles. (ELR Order No. 1872, 10 pages) (NTIS Order No. PB-206 555-D)

Rosewood Drive: Richland County, Columbia, S.C. Widening and extending of Rosewood Drive, from Assembly Street to Garners Ferry Road (U.S. 378), (2.95 miles). Also Wildcat Road would be widened for multilane travel. Project U-07-1( ). (ELR Order No. 1873, 11 pages) (NTIS Order No. PB-206 567-D)

Draft, February 10

Geist Road and University Access Road: Fairbanks, Alaska. Reconstruction and extension of Geist Road from the intersection of University Avenue west to the intersection of the Chena Pump and Chena Ridge Roads and the proposed Fairbanks-Anchorage Highway (1.6 miles). Project No. S-0649(1). (ELR Order No. 1874, 20 pages) (NTIS Order No. PB-206 583-D)

Route 27: Suffolk County, N.Y. Improvement and reconstruction of a portion of Route 27 as a six-lane express facility with parallel service roads. The overall project covered in this statement is comprised of four design contracts: Contract 5, P.I.N. 0059.00; Contract 6, P.I.N. 0113.00; Contract 7, P.I.N. 0188.00; Con-

tract 8, P.I.N. 0114.00. 4(f) required for land from the future Connetquot River State Park. (ELR Order No. 1876, 105 pages) (NTIS Order No. PB-206 582-D)

Draft, February 14

Oregon Forest Highway Project Route 46: Deschutes County, Ore. Construction to current standards a section of the Oregon Forest Highway 46 beginning approximately 1.5 miles northerly of Davis Lake and extending 5.8 miles southerly to a point near the south end of Davis Lake in Klamath County. (ELR Order No. 1877, 27 pages) (NTIS Order No. PB-206 574-D)

Draft, February 9

Route 262: City of Waterbury and town of Plymouth, Conn. Reconstruction of Connecticut Route 262 beginning 0.3 mile east of S.R. 847 extending northerly and terminating 0.1 mile north of Waterbury Road (0.7 mile). 4(f) required for 4 acres in Mattatuck State Forest. (ELR Order No. 1880, 49 pages) (NTIS Order No. PB-206 565-D)

Draft, February 14

U.S. Highway 19E Bypass: Spruce Pine, Mitchell County, N.C. Relocation of U.S. 19E from about 0.5 mile west of the town limits to 0.1 mile east of the town (3 miles). Also existing North Carolina 226 will be relocated to the west for a length of 0.9 mile. Several connectors will be constructed to tie into the existing street system. (ELR Order No. 1883, 22 pages) (NTIS Order No. PB-206 566-D)

#### DEPARTMENT OF TREASURY

Contact: Richard E. Sittor, Assistant Director, Office of Tax Analysis, Washington, D.C. 20220, (202) 964-2797.

Draft, February 14

The proposed action would approve polyvinyl chloride (PVC) for the manufacture of liquor bottles. A partial replacement of glass liquor bottles by the lighter PVC bottles would result. When incinerated the PVC material produces hydrochloric acid, a corrosive agent and pollutant. (ELR Order No. 1865, 86 pages) (NTIS Order No. PB-206 561-D)

Draft, February 15

Proposed tax on sulphur emissions. Proposal to improve a tax of 15 cents a pound on sulphur oxide emissions beginning with the calendar year 1976. Reduction in the tax rate or exemption from tax would apply in qualified regions depending upon the degree of regional compliance with sulphur oxide air quality standards for the preceding year. (ELR Order No. 1878, 19 pages) (NTIS Order No. PB-206 573-D)

E. PHILIP SOPER,  
Acting General Counsel.

[FR Doc. 72-3055 Filed 2-29-72; 8:51 am]

## FEDERAL COMMUNICATIONS COMMISSION

### CERTAIN CANADIAN TELEVISION STATIONS

#### List of Additions, Changes and Deletions

#### Correction

In F.R. Doc. 72-1897, inadvertently cited as F.R. Doc. 72-1987, appearing at page 3035 in the issue of Thursday, February 10, 1972, the height above ground figure for the Okanagan Valley

Television Co., Ltd. (CHBC-TV-4), appearing on page 3037, reading "120" should read "110".

[Dockets Nos. 19445-19447; FCC 72-161]

CHARLES W. HOLT ET AL.

### Memorandum Opinion and Order Designating Applications for Con- solidated Hearing on Stated Issues

In regard applications of Charles W. Holt, Tallahassee, Fla., Docket No. 19445, File No. BP-18189, Requests: 1070 kc., 10 kw., Day; Talquin Broadcasting Co., Quincy, Fla., Docket No. 19446, File No. BP-18464, Requests: 1070 kc., 10 kw., Day; B.F.J. Timm, Tallahassee, Fla., Docket No. 19447, File No. BP-18487, Requests: 1070 kc., 10 kw., Day; for construction permits.

1. The Commission has before it for consideration the above-captioned mutually exclusive applications, and the request for waiver of § 73.24(g) of the Commission's rules (blanketing) as to B.F.J. Timm.

2. A Suburban<sup>1</sup> issue is required with respect to Charles W. Holt. In response to a Commission letter requesting additional material relating to the applicant's community survey, Holt amended his application to show the demographic makeup of the proposed listening area, as well as a more extensive community leader and general public survey. However, his survey remains defective in light of the Primer's<sup>2</sup> requirements. The choice of community leaders interviewed does not reflect the groups shown to comprise the community as detailed in his demographic description of his proposed listening area. Therefore, an opportunity will be afforded the applicant to show he has sought out and contacted leaders from the groups known to exist in his proposed listening area.

3. A community survey issue is also required as to Talquin Broadcasting Co. The applicant has not identified the anticipated time segment, duration, and frequency of the programs it intends to broadcast in response to the community needs. Thus, the applicant has not fulfilled the Primer's requirements.

4. A full comparison of the programming proposals is warranted when one applicant proposes predominantly specialized programming and the others general market programming. Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, B.F.J. Timm proposes predominantly Black-oriented programming, and Charles W. Holt and Talquin Broadcasting Co., general market programming. Therefore, the programming proposal of the applicants may be compared under the comparative issue.

5. B.F.J. Timm estimates 1,101 persons reside within the proposed 1 v/m contour. Since that number is greater than

<sup>1</sup> Suburban Broadcasters, 20 RR 951 (1961).

<sup>2</sup> Primer on Ascertainment of Community Problems by Broadcast Applicants, 36 F.R. 4092, 27 FCC 2d 650 (1970).

300 or 1 percent of the population within the proposed 25 mv/m contour, the applicant is in violation of § 73.24(g) of the rules. The applicant has requested a waiver of this section but the Commission is unable, on the basis of data submitted, to conclude that a waiver would serve the public interest. Accordingly, this matter will be explored in hearing.

6. The respective proposals would serve substantial areas in common. Thus, a contingent comparative issue has been specified. In the event it is determined pursuant to section 307(b) that one of the proposals for Tallahassee is to be preferred, it will be necessary to conduct a full comparison between the two applicants for that community to determine which one is the better qualified. If Quincy is found preferable from a 307(b) standpoint, it will be granted. If, however, a choice between the Quincy and Tallahassee proposals cannot be made under 307(b) criteria, it will be necessary to determine, on a comparative basis, which of the three applicants is best qualified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the applicants and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(2) To determine the efforts made by Charles W. Holt and Talquin Broadcasting Co. to ascertain the community needs and interests of the areas to be served and the means by which the applicant proposes to meet those needs and interests.

(3) To determine whether the proposal of B. F. J. Timm is in compliance with § 73.24(g) of the Commission's rules concerning population within the 1000 mv/m contour, and, if not, whether circumstances exist which would warrant a waiver of said section.

(4) To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(5) To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would, on a comparative basis, best serve the public interests.

(6) To determine, in light of the evidence adduced pursuant to the forego-

ing issues which, if any, of the applications should be granted.

(9) *It is further ordered*, That, in the event of a grant of the application of Charles W. Holt, the construction permit shall contain the following conditions:

The proposed antenna system shall be excited with a folded unipole feed, utilizing a minimum of four (4) folds; and

The permittee shall submit with the application for license, measurement data to show that the radiation is essentially omnidirectional and that the inverse distance fields at one mile are essentially 580 mv/m/10 kw as proposed.

10. *It is further ordered*, That, in the event of a grant of the application of Talquin Broadcasting Co., the construction permit shall contain the following condition:

The proposed antenna shall be excited with a symmetrical folded unipole feed, utilizing a minimum of four (4) folds.

11. *It is further ordered*, That in the event of a grant of the application of B.F.J. Timm, the construction permit shall contain the following conditions:

The permittee shall install an approved frequency monitor.

Before program tests are authorized, sufficient field intensity measurement data shall be submitted to establish that the radiation pattern is essentially omnidirectional, and that the inverse distance fields at one mile are essentially 670 mv/m/10kw, as proposed.

The proposed antenna shall be excited with a folded unipole feed, utilizing a minimum of four (4) folds.

12. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

13. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: February 16, 1972.

Released: February 24, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>  
BEN F. WAPLE,  
Secretary.

[FR Doc.72-3068 Filed 2-29-72;8:52 am]

<sup>2</sup>Commissioners Johnson and H. Rex Lee absent.

[Dockets Nos. 18906, 18907; FCC 72-147]

**SOUTHERN BROADCASTING CO. AND  
FURNITURE CITY TELEVISION CO.,  
INC.**

**Redesignation Order Redesignating  
Applications for Hearing on Stated  
Issues**

In regard applications of Southern Broadcasting Co. (WGHP-TV) High Point, N.C., Docket No. 18906, File No. BRCT-574, for renewal of broadcast license; Furniture City Television Co., Inc., High Point, N.C., Docket No. 18907, File No. BPCT-4302, for construction permit for new television broadcast station.

1. The Commission has under consideration: (1) An order of the U.S. Court of Appeals for the District of Columbia Circuit (adopted January 21, 1972, in Case Nos. 24,471 and 24,491) directing the Commission to comply with the mandate of that court in Citizens Communications Center, et al v. F.C.C., 447 F 2d 1201 (1971), " \* \* \* forthwith by redesignating the Hampton Roads case for hearing," and (2) our order, adopted this date, complying with the Court of Appeals' mandate by redesignating for hearing the Hampton Roads proceeding.

2. The above captioned applications were originally designated for hearing by our order (FCC 70-706, 35 F.R. 11277, released July 8, 1970) as subsequently amended (FCC 71-821, 36 F.R. 16709, released August 20, 1971). The issues upon which the applications are to be heard, the reasons for their designation, and the matters of fact and law involved have been adequately set forth in prior orders and are hereby incorporated by reference. In conformity with our action in the Hampton Roads proceeding, we shall redesignate the above applications for hearing on the issues heretofore specified for determination in this proceeding.

3. Since the existing participants in this case have already filed with the Commission written notices of appearance, pursuant to § 1.221 of the rules, we deem the filing of additional notices to be unnecessary. Moreover, to insure fair and equitable treatment of all parties, we believe that each applicant herein should be allowed a period of thirty (30) days from the date of release of this order within which to amend its application as a matter of right subject to the limitations of § 1.522(a) of the rules.<sup>1</sup>

<sup>1</sup>In view of our action herein, we believe that it would be appropriate for each of the parties to give earnest consideration to the question of the acceptability of those aspects of the record already completed in this proceeding. Thus, the parties will be accorded 45 days following the release of this order within which to attempt to reach a stipulation concerning the validity of those portions of the existing record which may be admitted into evidence in the ensuing proceeding in this case.

4. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above captioned applications of Southern Broadcasting Co. and Furniture City Television Co., Inc. are redesignated for hearing in a consolidated proceeding upon the issues heretofore specified for determination and hereby incorporated by reference.

5. It is further ordered, That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

6. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

7. It is further ordered, That the above-captioned applicants may amend their applications as a matter of right subject to the limitations of § 1.522(a) of the rules within a period of time ending thirty (30) days from the release date of this order.

Adopted: February 16, 1972.

Released: February 24, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc.72-3069 Filed 2-29-72;8:52 am]

[Dockets Nos. 19122-19125; FCC 72-148]

#### STAR STATIONS OF INDIANA, INC., ET AL.

#### Redesignation Order Redesignating Applications for Hearing on Stated Issues

In regard applications of Star Stations of Indiana, Inc., Docket No. 19122, File Nos. BR-1144, BRH-1276, for renewal of license of WIFE and WIFE-FM, Indianapolis, Ind.; Indianapolis Broadcasting, Inc., Docket No. 19123, File No. BP-18706, for a construction permit for a standard broadcast station, Indianapolis, Ind.; Central States Broadcasting, Inc., Docket No. 19124, File Nos. BR-516, BRH-992, for renewal of license of KOIL and KOIL-FM, Omaha, Nebr.; Star Broadcasting, Inc., Docket No. 19125, File No. BR-1027, for renewal of license of KISN, Vancouver, Wash.

1. The Commission has under consideration: (1) An order of the U.S. Court of Appeals for the District of Columbia Circuit (adopted January 21, 1972, in Cases Nos. 24,471 and 24,491) directing the Commission to comply with the mandate of that court in Citizens Communications Center, et al. v. F.C.C., 447 F. 2d

<sup>2</sup> Commissioners Johnson and H. Rex Lee absent.

1201 (1971), " \* \* \* forthwith by redesignating the Hampton Roads case for hearing," and (2) our order, adopted this date, complying with the Court of Appeals' mandate by redesignating for hearing the Hampton Roads proceeding.

2. The above captioned applications were originally designated for hearing by our order (FCC 70-1256, 35 F.R. 18694, released as corrected December 15, 1970) as subsequently amended (FCC 71-822, 36 F.R. 16709, released August 20, 1971). The issues upon which the applications are to be heard, the reasons for their designation, and the matters of fact and law involved have been adequately set forth in prior orders and are hereby incorporated by reference. In conformity with our action in the Hampton Roads proceeding, we shall redesignate the above applications for hearing on the issues heretofore specified for determination in this proceeding.

3. Since the existing participants in this case have already filed with the Commission written notices of appearance, pursuant to § 1.221 of the rules, we deem the filing of additional notices to be unnecessary. Moreover, to insure fair and equitable treatment of all parties, we believe that each applicant herein should be allowed a period of thirty (30) days from the date of release of this order within which to amend its application as a matter of right subject to the limitations of § 1.522(a) of the rules.

4. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Star Stations of Indiana, Inc., Indianapolis Broadcasting, Inc., Central States Broadcasting, Inc., and Star Broadcasting, Inc. are redesignated for hearing in a consolidated proceeding upon the issues heretofore specified for determination and hereby incorporated by reference.

5. It is further ordered, That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

6. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

7. It is further ordered, That the above-captioned applicants may amend

<sup>1</sup> In view of our action herein, we believe that it would be appropriate for each of the parties to give earnest consideration to the question of the acceptability of those aspects of the record already completed in this proceeding. Thus, the parties will be accorded 45 days following the release of this order within which to attempt to reach a stipulation concerning the validity of those portions of the existing record which may be admitted into evidence in the ensuing proceeding in this case.

their applications as a matter of right subject to the limitations of § 1.522(a) of the rules within a period of time ending thirty (30) days from the release date of this order.

Adopted: February 16, 1972.

Released: February 24, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc.72-3070 Filed 2-29-72;8:52 am]

[Dockets Nos. 18805, 18806; FCC 72-146]

#### WHCN, INC. (WHCN(FM)), ET AL.

#### Redesignation Order Redesignating Applications for Hearing on Stated Issues

In regard applications of WHCN, Inc. (WHCN(FM)), Hartford, Conn.; Docket No. 18805, File No. BRH-24, for renewal of license; Kenneth W. Sasso, W. Francis Pingree, and Lawrence H. Buck, doing business as Communico Media, Berlin, Conn., Docket No. 18806, File No. BPH-6806, requests: 105.9 mcs, No. 290, 7 kw.; 758 feet, for construction permit.

1. The Commission has under consideration: (1) An order of the U.S. Court of Appeals for the District of Columbia Circuit (adopted January 21, 1972, in Cases Nos. 24,471 and 24,491) directing the Commission to comply with the mandate of that Court in Citizens Communications Center, et al. v. F.C.C., 447 F. 2d 1201 (1971), " \* \* \* forthwith by redesignating the Hampton Roads case for hearing," and (2) our order, adopted this date, complying with the Court of Appeals' mandate by redesignating for hearing the Hampton Roads proceeding.

2. The above captioned applications were originally designated for hearing by our order (FCC 70-211, 35 F.R. 4272, released March 4, 1970) as subsequently amended (FCC 71-820, 36 F.R. 16710, released August 20, 1971). The issues upon which the applications are to be heard, the reasons for their designation, and the matters of fact and law involved have been adequately set forth in prior orders and are hereby incorporated by reference. In conformity with our action in the Hampton Roads proceeding, we shall redesignate the above applications for hearing on the issues heretofore specified for determination in this proceeding.

3. Since the existing participants in this case have already filed with the Commission written notices of appearance, pursuant to § 1.221 of the rules, we deem the filing of additional notices to be unnecessary. Moreover, to insure fair and equitable treatment of all parties, we believe that each applicant herein should be allowed a period of thirty (30) days from the date of release of this order within which to amend its application as

<sup>2</sup> Commissioners Johnson and H. Rex Lee absent.

a matter of right subject to the limitations of § 1.522(a) of the rules.<sup>1</sup>

4. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of WHCN, Inc. and Kenneth W. Sasso, W. Francis Pingree, and Lawrence H. Buck, doing business as Communicom Media are redesignated for hearing in a consolidated proceeding upon the issues heretofore specified for determination and hereby incorporated by reference.

5. *It is further ordered*, That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

6. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

7. *It is further ordered*, That the above-captioned applicants may amend their applications as a matter of right subject to the limitations of § 1.522(a) of the rules within a period of time ending thirty (30) days from the release date of this order.

Adopted: February 16, 1972.

Released: February 24, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc. 72-3071 Filed 2-29-72; 8:52 am]

[Docket Nos. 18711, 18712; FCC 72-144]

### WPIX, INC. AND FORUM COMMUNICATIONS, INC.

#### Redesignation Order Redesignating Applications for Hearing on Stated Issues

In regard applications of WPIX, Inc. (WPIX), New York, N.Y., Docket No. 18711, File No. BRCT-98, for renewal of broadcast license; Forum Communications, Inc., New York, N.Y., Docket No. 18712, File No. BPCT-4249, for construction permit for new television broadcast station.

<sup>1</sup>In view of our action herein, we believe that it would be appropriate for each of the parties to give earnest consideration to the question of the acceptability of those aspects of the record already completed in this proceeding. Thus, the parties will be accorded 45 days following the release of this order within which to attempt to reach a stipulation concerning the validity of those portions of the existing record which may be admitted into evidence in the ensuing proceeding in this case.

<sup>2</sup>Commissioners Johnson and H. Rex Lee absent.

1. The Commission has under consideration: (1) An order of the U.S. Court of Appeals for the District of Columbia Circuit (adopted January 21, 1972, in Cases Nos. 24,471 and 24,491) directing the Commission to comply with the mandate of that court in *Citizens Communications Center et al. v. F.C.C.*, 447 F.2d 1201 (1971), " \* \* \* forthwith by redesignating the Hampton Roads case for hearing," and (2) our order, adopted this date, complying with the Court of Appeals' mandate by redesignating for hearing the Hampton Roads proceeding.

2. The above captioned applications were originally designated for hearing by our order (FCC 69-1162, 20 FCC 2d 298, released October 28, 1969) as subsequently amended (FCC 71-817, 36 F.R. 16710, released August 20, 1971). The issues upon which the applications are to be heard, the reasons for their designation, and the matters of fact and law involved have been adequately set forth in prior orders and are hereby incorporated by reference. In conformity with our action in the Hampton Roads proceeding, we shall redesignate the above applications for hearing on the issues heretofore specified for determination in this proceeding.

3. Since the existing participants in this case have already filed with the Commission written notices of appearance, pursuant to § 1.221 of the rules, we deem the filing of additional notices to be unnecessary. Moreover, to insure fair and equitable treatment of all parties, we believe that each applicant herein should be allowed a period of thirty (30) days from the date of release of this order within which to amend its application as a matter of right subject to the limitations of § 1.522(a) of the rules.<sup>1</sup>

4. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of WPIX, Inc. and Forum Communications, Inc. are redesignated for hearing in a consolidated proceeding upon the issues heretofore specified for determination and hereby incorporated by reference.

5. *It is further ordered*, That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

6. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the man-

<sup>1</sup>In view of our action herein, we believe that it would be appropriate for each of the parties to give earnest consideration to the question of the acceptability of those aspects of the record already completed in this proceeding. Thus, the parties will be accorded 45 days following the release of this order within which to attempt to reach a stipulation concerning the validity of those portions of the existing record which may be admitted into evidence in the ensuing proceeding in this case.

ner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

7. *It is further ordered*, That the above-captioned applicants may amend their applications as a matter of right subject to the limitations of § 1.522(a) of the rules within a period of time ending thirty (30) days from the release date of this order.

Adopted: February 16, 1972.

Released: February 24, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc. 72-3072 Filed 2-29-72; 8:52 am]

[Dockets Nos. 18791, 18792; FCC 72-142]

### WTAR RADIO-TV CORP. AND HAMP- TON ROADS TELEVISION CORP.

#### Redesignation Order Redesignating Applications for Hearing on Stated Issues

In regard applications of WTAR Radio-TV Corp. (WTAR-TV), Norfolk, Va., Docket No. 18791, File No. BRCT-54, for renewal of broadcast license; Hampton Roads Television Corp., Norfolk, Va., Docket No. 18792, File No. BPCT-4281, for construction permit for new television broadcast station.

1. The Commission has under consideration an order of the U.S. Court of Appeals for the District of Columbia Circuit (adopted January 21, 1972, in Cases Nos. 24,471 and 24,491) directing the Commission to comply with the mandate of that court in *Citizens Communications Center, et al. v. F.C.C.*, 447 F.2d 1201 (1971), " \* \* \* forthwith by redesignating the Hampton Roads case for hearing."

2. This matter was originally designated for hearing by our order (FCC 70-97, 21 FCC 2d 234, 35 F.R. 1256, released January 27, 1970) as subsequently amended (FCC 71-819, 36 F.R. 16711, released August 20, 1971). The issues upon which the applications are to be heard, the reasons for their designation, and the matters of fact and law involved have been adequately set forth in prior orders and are hereby incorporated by reference. Accordingly, pursuant to the mandate of the Court of Appeals for the District of Columbia Circuit, the above applications will be redesignated for hearing on the issues heretofore specified for determination in this proceeding.

3. Since the existing participants in this case have already filed with the Commission written notices of appearance, pursuant to § 1.221 of the rules, we deem the filing of additional notices to be unnecessary. Moreover, to insure fair and equitable treatment of all parties, we believe that each applicant herein

<sup>2</sup>Commissioners Johnson and H. Rex Lee absent.

should be allowed a period of thirty (30) days from the date of release of this order within which to amend its application as a matter of right subject to the limitations of § 1.522(a) of the rules.<sup>1</sup>

4. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of WTAR

<sup>1</sup>In view of our action herein, we believe that it would be appropriate for each of the parties to give earnest consideration to the question of the acceptability of those aspects of the record already completed in this proceeding. Thus, the parties will be accorded 45 days following the release of this order within which to attempt to reach a stipulation concerning the validity of those portions of the existing record which may be admitted into evidence in the ensuing proceeding in this case.

Radio-TV Corp. and Hampton Roads Television Corporation are redesignated for hearing in a consolidated proceeding upon the issues heretofore specified for determination and hereby incorporated by reference.

5. It is further ordered, That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

6. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the pub-

lication of such notice as required by § 1.594(g) of the rules.

7. It is further ordered, That the above-captioned applicants may amend their applications as a matter of right subject to the limitations of § 1.522(a) of the rules within a period of time ending thirty (30) days from the release date of this order.

Adopted: February 16, 1972.

Released: February 24, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc. 72-3073 Filed 2-29-72; 8:52 am]

<sup>2</sup>Commissioners Johnson and H. Rex Lee absent.

## MEXICAN TELEVISION STATIONS

### List of Notified Assignments

List of notified Mexican television station assignments (listed by channel), recapitulative to February 1, 1972.

Call sign	Location	Video effective radiated power (kw.)	Directivity	Antenna			Off-set
				Height above ground (feet)	Height above M.S.L. (feet)	Height above terrain (feet)	
CHANNEL 2 (54-60 MHz)							
XHCH-TV	Chihuahua, Chihuahua, W. 106° 04' 42", N. 28° 38' 12"	5.435	DA	165	4856	14	(-)
XEPM-TV	Juarez, Chihuahua, W. 106° 28' 40.5", N. 31° 42' 21.3"	0.676	DA	266	3960	223	No.
XEPN-TV	Piedras Negras, Coahuila, W. 100° 30' 57", N. 28° 42' 27"	5.0					
XHLA-TV	Torreón, Coahuila, W. 103° 28' 20", N. 25° 32' 00"	55.26	DA	197	4462	615	(+)
XHFA-TV	Nogales, Sonora, W. 110° 59' 10", N. 31° 19' 30"	4.5	DA	258	5240	935	No.
XHCR-TV	Matamoros, Tamaulipas, W. 97° 31' 09", N. 25° 52' 45"	3.6	Om.	320	354	328	(+)
XEFE-TV	Nuevo Laredo, Tamaulipas, W. 99° 30' 03", N. 27° 29' 49"	21.4	DA	187	597	187	
CHANNEL 3 (60-66 MHz)							
XHBC-TV	Mexicali, Baja Calif., W. 115° 31' 07", N. 32° 34' 53"	13.48	Om.	460	460	454	No.
XHJMA-TV	Hidalgo del Parral, Chihuahua, W. 105° 39' 50", N. 26° 51' 40"	0.8	Om.	197	5647	98	(-)
XEFB-TV	Monterrey, Nuevo Leon, W. 100° 19' 00", N. 25° 41' 00"	13.4	Om.	429	2187	-320	(+)
XELN-TV	Nuevo Laredo, Tamaulipas, W. 99° 30' 03", N. 27° 29' 47"	5.0					
CHANNEL 4 (66-72 MHz)							
XHIT-TV	Chihuahua, Chihuahua, W. 106° 04' 42", N. 28° 38' 12"	42.751	DA	89	6947	1902	(+)
CHANNEL 5 (76-82 MHz)							
XHFI-TV	Chihuahua, Chihuahua, W. 106° 04' 30", N. 28° 38' 00"	23.37	DA	141	4054	254	(-)
XEF-TV	Juarez, Chihuahua, W. 106° 28' 40.5", N. 31° 42' 21.3"	0.512	Om.	213	3960	171	No.
XHAE-TV	Saltillo, Coahuila, W. 100° 58' 50", N. 25° 25' 06"	3.6	Om.	312	4016	279	(+)
CHANNEL 6 (82-88 MHz)							
XETV	Tijuana, Baja Calif., W. 117° 01' 46", N. 32° 30' 33"	100.00	Om.	417	1360	1160	No.
XET-TV	Monterrey, Nuevo Leon, W. 100° 18' 49.4", N. 25° 41' 14.7"	6.14	DA	493	2250	159	No.
XEWB-TV	Hermosillo, Sonora, W. 110° 58' 56", N. 29° 04' 19"	1.015	Om.	187	965	170	(-)
CHANNEL 9 (186-192 MHz)							
XERO-TV	Reynosa, Tamaulipas, W. 98° 17' 11", N. 26° 05' 45"	5.0					
CHANNEL 10 (192-198 MHz)							
XHX-TV	Monterrey, Nuevo Leon, W. 100° 18' 26", N. 25° 40' 11"	2.57	DA	361	2120	39	(+)
CHANNEL 11 (198-204 MHz)							
XERA-TV	Chihuahua, Chihuahua, W. 106° 04' 30", N. 28° 38' 00"	0.028	DA	144	3900	72	(-)
XEDI-TV	Juarez, Chihuahua, W. 106° 28' 41.5", N. 31° 44' 24"	5.0					
XEFE-TV	Nuevo Laredo, Tamaulipas, W. 99° 30' 03", N. 27° 29' 46"	0.426	DA	185	596	105	No.
CHANNEL 12 (204-210 MHz)							
XEWT-TV	Tijuana, Baja Calif., W. 117° 01' 46", N. 32° 30' 33"	31.6	Om.	197	986	970	No.
XERA-TV	Reynosa, Tamaulipas, W. 98° 17' 11", N. 26° 05' 46"	5.0					

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc. 72-3067 Filed 2-29-72; 8:53 am]

## FEDERAL POWER COMMISSION

[Dockets Nos. RP71-18, RP72-76]

### COLUMBIA GAS TRANSMISSION CORP.

#### Order Suspending Proposed Tariff Sheets and Consolidating Proceedings

DECEMBER 29, 1971.

Columbia Gas Transmission Corp. (Columbia) on December 1, 1971, tendered for filing revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1<sup>1</sup> to become effective on December 1, 1971. The filing provides for deliveries by Columbia under its WS (winter service) rate schedule in excess of a customer's maximum daily quantity. Specifically, the new section provides that a customer may request Columbia to deliver volumes in excess of the customer's maximum daily quantity out of the customer's reserved gas balance and that Columbia may make such excess deliveries if in its sole judgment such deliveries can be made without adverse effect on its operations agreed upon and contained in the winter service deliveries are identical to those agreed upon and contained in the stipulation and agreement, which is pending before the Commission in Columbia's general rate proceedings in Docket No. RP71-18 et al.

Columbia requests waiver of any and all provisions of the Commission's rules and regulations necessary to permit the tendered tariff sheets to become effective December 1, 1971, without suspension, and requests the utilization of rate levels for the proposed service, as agreed to in Docket No. RP71-18 et al.

In support of its filing Columbia states that: (1) The FPC gas tariffs of its predecessor companies provided for excess winter service deliveries from the inception of such service until April 16, 1971, and that on that date, those companies placed into effect in Docket No. RP71-18 et al., tariff sheets reflecting increased rates subject to refund and deleting the provision for excess winter service deliveries; (2) the stipulation and agreement, which resulted from the settlement conferences in Docket No. RP71-18 et al., provides for an excess WS rate and it was the understanding of the parties that such service would be reinstated, and moreover it is reasonable to assume that the parties believed that such service would be available for the then forthcoming winter period; (3) in view of the fact that the Commission has not yet acted upon the settlement proposal in Docket No. RP71-18 et al., the service cannot be rendered without the acceptance of Columbia's filing and (4) absent the availability of the service proposed herein, Columbia's customers may be exposed to daily overrun penalties, even though a customer may have a reserved gas balance which could otherwise be utilized to meet its daily requirements.

<sup>1</sup>The tariff sheets are 2d Revised Sheet No. 16 and 1st Revised Sheet No. 34.

In our opinion, Columbia has not shown sufficient reasons for waiver of the regulations to permit a December 1, 1971, effective date and we will, therefore, consider the proposed effective date of the filing to be January 1, 1972, which allows for the full 30 days' notice under our regulations. However, we believe that Columbia has shown adequate reasons for making available the proposed excess winter service to its customers during the current winter period and we shall therefore accept the proposed revised tariff sheets. But in view of the fact that the rates proposed for excess winter service deliveries are identical to the rates for this service which are included in the stipulation and agreement in Docket No. RP71-18 et al., and since the Staff and other parties have objected to the level of the total cost of service included in that agreement, we will suspend Columbia's filing for 1 day until January 2, 1972, and consolidate Docket No. RP72-76 with Docket No. RP71-18 et al.

The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

In view of the fact that we are ordering a 1-day suspension herein, we will waive the provisions of § 154.67(a) of our regulations under the Natural Gas Act insofar as they provide that a rate under suspension shall become effective as of a date not earlier than the date of receipt by the Commission of the company's motion under section 4(e) of the Natural Gas Act or the expiration of the suspension period, whichever is later. Upon the filing of Columbia's motion, the increased rates shall become effective as of January 2, 1972. We shall provide for the filing of the required undertaking, as set forth in § 154.67(d), within 15 days from the date of this order.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that:

(a) The proposed tariff sheets listed in footnote 1 above be suspended and the use thereof be deferred as herein provided, and

(b) Docket No. RP72-76 be consolidated with Docket No. RP71-18 et al.

(2) In view of all the facts and circumstances in this case, the Commission's action herein of permitting the subject rate increase to become effective subject to refund, at the expiration of the suspension period ordered herein pending Commission determination of the justness and reasonableness of such increased rates is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

The Commission orders:

(A) Columbia's request for waiver of the Commission's regulations under the Natural Gas Act in order to permit the revised tariff sheets tendered on December 1, 1971, to become effective on that date, without suspension, is denied.

(B) Columbia's revised tariff sheets listed in footnote 1 above are hereby suspended, and the use thereof is deferred until January 2, 1972.

(C) The provisions of § 154.67(a) of the regulations under the Natural Gas Act are waived as hereinabove indicated in order to allow Columbia's proposed rates to become effective on January 2, 1972, upon the filing by Columbia of the appropriate motion under section 4(e) of the Natural Gas Act.

(D) Columbia shall file the agreement and undertaking required by § 154.67(d) of the regulations under the Natural Gas Act within 15 days from the date of issuance of this order.

(E) Docket No. RP72-76 is consolidated with Docket No. RP71-18 et al.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 72-3210 Filed 2-29-72; 10:39 am]

[Docket No. RP72-75]

### UNITED GAS PIPE LINE CO.

#### Order Providing for Hearing, Rejecting Proposed Revised Tariff Sheets, and Accepting and Suspending Alternative Revised Tariff Sheets

DECEMBER 29, 1971.

On November 30, 1971, United Gas Pipe Line Co. (United) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, to become effective on January 1, 1972. The proposed rate changes would increase charges for jurisdictional sales and services by about \$27,236,000 based on sales for the 12 months ended August 31, 1971, as adjusted.

United also request a waiver of § 154.38(d) (3) of the Commission's regulations with respect to United's proposal to include a purchased gas adjustment clause in its rate schedules. If the waiver of § 154.38(d) (3) (which prohibits the inclusion of such clauses in rate schedules) is not granted United proposes that its alternative tariff sheets,<sup>1</sup> which eliminate all references to the purchased gas adjustment clause, be considered in lieu of and in substitution for the proposed revised tariff sheets which contain such clause.

In addition to changes in rate levels, United proposes (1) modification of the billing demand provisions in Rate Schedules DG-N, DG-NW and DG-S, (2) changing the G-NW availability section to provide that this rate may not be used when maximum daily quantity exceeds 7,000 Mcf (the present limiting volume is 5,000 Mcf), (3) modification of the annual minimum bill provision in the PL rates, (4) elimination of the demand charge adjustment provisions from the DG-N, DG-NW, DG-S, PL-C and PL-J rate schedules, (5) inclusion of a provision in the DG-N, DG-NW, DG-S, G-N, G-NW, G-S, PL-C and PL-J schedules

<sup>1</sup>See Appendix A hereto, which is filed as part of the original document.

for waiver of any excess payment for overrun gas when such overrun was caused by an emergency beyond the control of buyer, and (6) other tariff modifications in the General Terms and Condition as outlined in the application.

United states that the main reasons for the proposed increase are (1) a 9½ percent rate of return in order to properly finance its pipeline operations, (2) increased cost of maintaining gas supplies, (3) increased operation and maintenance expenses, (4) increased cost of labor and supplies, and (5) increased taxes. United also proposes to continue its composite depreciation rate of 5 percent which is currently subject to the outcome of hearings at Docket No. RP71-41.

The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before rates and charges to United's customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d) (3) of the Commission's regulations under the Natural Gas Act to permit the filing of United's proposed tariff sheets containing a purchased gas adjustment provision. During the pendency of this proceeding, and prior to the determination of this issue, however, United will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas costs filed for by United in this proceeding.

Review of the rate filing indicates that the issues raised therein require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in United's FPC Gas Tariff, as proposed to be amended herein, and that the proposed tariff sheets listed in Appendix A hereto be suspended, and the use thereof deferred as herein provided.

(2) In view of all the facts and circumstances in this case, the Commission's action herein of permitting the subject rate increase to become effective, subject to refund, at the expiration of the suspension period ordered herein pending Commission determination of the justness and reasonableness of such increased rates is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing commencing

with a prehearing conference shall be held on June 1, 1972, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426 concerning the lawfulness of the rates, charges, classifications and services contained in United's FPC Gas Tariff, as proposed to be revised herein. Following the admission of all filed evidence, parties shall proceed to effectuate the intent and purposes of § 2.59 of the Commission's rules of practice and procedure.

(B) On or before April 21, 1972, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before May 5, 1972. Any rebuttal evidence by United shall be served on or before May 19, 1972. Cross-examination of the evidence shall commence on June 6, 1972.

(C) The Presiding Examiner to be designated by the Chief Examiner for that purpose [See Delegation of Authority, 18 CFR 3.5(d)] shall preside at and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

(D) Pending hearing and decision thereon, United's alternative set of revised tariff sheets (those not containing a purchased gas adjustment provision) described in Appendix A are hereby suspended and the use thereof is deferred until June 1, 1972, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) United's revised tariff sheets proposing a purchased gas adjustment provision are hereby rejected for filing. These proposed tariff sheets shall be made a part of the record herein, to be considered, along with any modifications thereof or alternate provisions submitted by the parties or the Commission Staff, as a proposed gas adjustment provision to be included in United's tariff.

(F) United shall refund at such times and in such manner as may be required by final order of the Commission, the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest at the rate of 7 percent per annum, from the date of payment of United until refunded; shall bear all costs of any refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates and charges effective as of June 1, 1972, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, by customer, the billing determinants of natural gas sold and transported, under the above described substitute tariff sheets, and the revenue immediately prior to June 1, 1972, and under the rates and charges declared by this order to have become effective, together with the differences in the revenues so computed.

(G) As a condition of this order, United shall execute and file in triplicate with the Secretary of this Commission within 20 days of the date of this order, its written agreement and undertaking

to comply with the terms of paragraph (F) hereof, signed by a responsible officer of the corporation evidenced by proper authority from its Board of Directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the First Revised Volume No. 1 tariff and upon all parties of recording in this proceeding as follows:

Agreement and undertaking of United Gas Pipe Line Co. to comply with the terms and conditions of paragraph (F) of the Federal Power Commission's order issued -----, 1971, at Docket No. RP72-75.

In conformity with the requirements of the order issued -----, 1971, at Docket No. RP72-75, United Gas Pipe Line Co. hereby agrees and undertakes to comply with the terms and conditions of paragraph (F) of said order and has caused this agreement and undertaking to be executed and sealed in its name by its officer, thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors, a certified copy of which is appended hereto this ----- day of -----, 1972.

UNITED GAS PIPE LINE CO.

By -----

Attest:

Secretary

By the Commission.

[SEAL]

KENNETH F. PLUMB,  
Secretary.

[FR Doc.72-3211 Filed 2-29-72; 10:39 am]

[Docket No. E-7705]

OHIO EDISON CO.

### Notice of Proposed Changes in Electric Rate Schedules

FEBRUARY 23, 1972.

Take notice that on January 27, 1972, Ohio Edison Co. (Edison) tendered for filing proposed changes in its rate schedules applicable to wholesale sales and transmission of electric energy. The rate schedule changes proposed to become effective on April 1, 1972, are applicable to Municipal Resale Service, both primary voltage and transmission.

Edison's filing indicates that the proposed changes would: (i) increase rates and charges approximately \$1,140,000, based upon sales and operations for the twelve months ended December 31, 1970; (ii) add a fuel adjustment clause; (iii) add a provision for load shedding during underfrequency system conditions; and (iv) delete provisions relating to service in certain areas by either Edison or the municipality.

Copies of the filing have been served on customers and interested State regulatory agencies.

Any person desiring to be heard or make protest with reference to said application should on or before March 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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 serve

to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate in any hearing therein, must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.72-3049 Filed 2-29-72; 8:49 am]

[Project 184]

## PACIFIC GAS AND ELECTRIC CO.

### Notice of Issuance of Annual License

FEBRUARY 11, 1972.

On February 27, 1970, Pacific Gas and Electric Co., licensee for El Dorado Project No. 184 located in El Dorado, Alpine, and Amador Counties, Calif., on the South Fork of the American River partially within the boundaries of El Dorado National Forest, filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made supplemental filings on June 22, 1970, and January 22, 1971.

The license for Project No. 184 was issued effective February 23, 1972, for a period ending February 22, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Co. for continued operation and maintenance of Project No. 184.

Take notice that an annual license is issued to Pacific Gas and Electric Co. (licensee) under section 15 of the Federal Power Act for the period February 23, 1972, to February 22, 1973, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the El Dorado Project No. 184, subject to the terms and conditions of its license.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.72-2442 Filed 2-29-72; 8:49 am]

[CI 71-555; CI 72-511]

## PROGRESS PETROLEUM, INC., ET AL.

### Order Granting Petition for an Order To Show Cause, Instituting Proceeding, Requiring Continuance of Deliveries of Natural Gas, Setting Date for Formal Hearing, Prescribing Procedures, and Consolidating Proceedings

FEBRUARY 23, 1972.

Progress Petroleum, Inc., Complainant, CI 71-555, versus M. O. Rife, Jr., M. O. Rife III, North Central Oil Corp., Strawn Drilling Co., Respondents, North Central Oil Corp., CI 72-511.

On January 25, 1971, Progress Petroleum, Inc. (Progress) petitioned the Commission in Docket No. CI 71-555 to issue an order requiring M. O. Rife, Jr., M. O. Rife III, and North Central Oil Corp. (North Central), hereinafter collectively referred to as Rife et al., to show cause why they, and each of them, should not be required to comply with section 7(b) of the Natural Gas Act, and the Commission's regulations thereunder. Progress advises that Rife et al. "have threatened and are presently threatening to terminate their gas sales contract with Progress and discontinue their sale of casinghead gas to Progress, although the facilities and acreage dedicated to public service by them under such contract are not depleted, are continuing to produce natural gas and remain capable of producing considerable quantities of natural gas for sale in interstate commerce."<sup>1</sup>

In support of its petition, Progress alleges that it owns and operates a natural gas processing plant from which it sells residue gas in interstate commerce to Lone Star Gas Co.<sup>2</sup> Progress states that the residue gas sold by Progress to Lone Star is derived, in part, from casinghead gas purchased by Progress from Rife et al. pursuant to a "percentage type gas sales contract", within the meaning of § 154.91(e) of the Commission's regulations.<sup>3</sup> Progress therefore asserts that Rife et al. are producers engaged in the production and sale of natural gas in interstate commerce, and subject to section 7(b) of the Natural Gas Act, and the Commission's regulations thereunder.

On March 12, 1971, M. O. Rife, Jr., and North Central filed an answer to Progress' petition for show cause order.<sup>4</sup>

<sup>1</sup> Progress describes the acreage alleged to be owned by Rife et al. and presently producing and delivering casinghead gas to Progress as that part of the "Halsell Farm" consisting of the south half of the Ed Brooks Survey and part of the John Rogers Survey, both in Clay County, Tex. (Texas Railroad District No. 9). By letter filed on Feb. 4, 1969 (dated Sept. 1, 1967), Progress advised the Commission that it had on July 29, 1966, begun purchases of casinghead gas from this acreage.

<sup>2</sup> By order issued Jan. 21, 1963, at Docket No. CI63-2, the Commission issued a certificate of public convenience and necessity to L. J. Onstott doing business as Progress Petroleum Products, Operator, authorizing the sale of natural gas to Lone Star. Progress Petroleum, Inc., is the successor in interest to Progress Petroleum Products.

<sup>3</sup> By letter dated Apr. 7, 1971, the Secretary requested Progress to forward copies of the alleged percentage gas sales contract referred to by Progress in its petition. Copies of a contract entitled "Casinghead Gas Purchase Contract and Agreement" entered into on Jan. 13, 1966, by and between M. O. Rife, Jr., and Progress (signatories include Strawn Drilling but not M. O. Rife III) were received by the Commission on Oct. 22, 1971. This contract contains a stated fixed price per Mcf and, therefore, is not a percentage sales contract.

<sup>4</sup> A copy of Progress' petition was forwarded to M. O. Rife, Jr., M. O. Rife III, and North Central Oil Corp. on Feb. 10, 1971. No answer has been filed by M. O. Rife III. He will be considered a party to this proceeding. Progress filed a rebuttal to the answer of M. O. Rife, Jr., and North Central on Oct. 26, 1971.

Therein, M. O. Rife, Jr., states that he and others sold and assigned to North Central an undivided three-fourths interest in the lease described in Progress' petition effective as of July 1, 1970, and that Strawn Drilling Co. of Wichita Falls, Tex. (Strawn Drilling) presently owns and did own prior to July 1, 1970, the other one-fourth interest in said lease. Consequently, M. O. Rife, Jr., asserts that he has no interest in the aforementioned lease and requests that the Commission delete him as a party to this proceeding. Thus, the Commission is confronted with an allegation by Progress that it is purchasing gas from M. O. Rife, Jr., M. O. Rife III, and North Central Oil Corp. and a contrary assertion by M. O. Rife, Jr. We deny the request of M. O. Rife, Jr., that he be deleted as a party to these proceedings for two reasons: (1) The Commission has no documentary evidence before it which would clearly establish whether M. O. Rife, Jr., has any present interest in the lease in question; and, (2) it appears that M. O. Rife, Jr., may have in the past made jurisdictional sales of gas to Progress without Commission authorization. We also include Strawn Drilling as a respondent herein as it appears that it may also have an interest in the lease in question.

M. O. Rife, Jr., and North Central deny that they or either of them have in the past sold casinghead gas to Progress pursuant to any percentage type gas sales contract within the meaning of § 154.91(e) of the Commission's regulations. They do not deny, however, that they have made jurisdictional sales of gas to Progress pursuant to a contract with a stated fixed price. Nevertheless, none of the respondents have filed with the Commission any schedule showing rates and charges for jurisdictional sales of gas to Progress as required by section 4(c) of the Natural Gas Act and §§ 154.91 through 154.102 of the Commission's regulations nor did any of them seek a certificate of public convenience and necessity authorizing jurisdictional sales of gas to Progress pursuant to section 7 of the Act and §§ 157.23 through 157.29 of the regulations.<sup>5</sup> Accordingly, we are hereinafter directing respondents to show cause why they or each of them should not be found to be in violation of the Natural Gas Act for not having filed with the Commission a rate schedule before commencing jurisdictional sales of gas to Progress, if in fact they or any of them made such sales, and for not having sought a certificate of public convenience and necessity authorizing those sales. Considering the given allegations,

<sup>5</sup> Under our new provisions for small producers issued on Mar. 18, 1971, in Order No. 428, Docket No. R-393, small producers may apply for a blanket certificate to cover all existing and all future jurisdictional sales. North Central has received a blanket certificate effective May 2, 1971. Those receiving such certificates are authorized to make small producer sales pursuant to existing and future contracts at the price specified in each such contract. Nevertheless, a blanket certificate does not approve non-pro tunc sales which were unauthorized prior to the effective date of the blanket certificate.

the culpability, if any, of Progress in these jurisdictional transactions is also in issue under this order.

Assuming respondents or any of them, are selling natural gas to Progress subject to the Commission's jurisdiction, they are fully subject to section 7(b) of the Natural Gas Act, regardless of whether the price received is a fixed price or a percentage of the proceeds from the resale of residue gas. Therefore, we are also directing respondents to show cause why they or each of them should not seek abandonment authorization pursuant to section 7(b) of the Natural Gas Act and § 157.30 of the Commission's regulations before terminating jurisdictional sales of natural gas to Progress.<sup>6</sup>

M. O. Rife, Jr., and North Central further state that it is Progress that has abandoned the alleged contract because it has forced them to unnecessarily flare gas and has consistently failed and refused to make payments for the gas which it has taken from the lease in question. Although these may be factors which enter into a public interest determination, such allegations do not excuse a natural gas company from complying with section 7(b) of the Natural Gas Act.

M. O. Rife, Jr., and North Central also state that Progress has already filed suit in a district court of Dallas County, Tex., in which it proposes to litigate the rights and obligations between itself, M. O. Rife, Jr., and North Central, and Lone Star Gas Co., directly arising out of and involving the sale of casinghead gas from the same property described in Progress' petition. M. O. Rife, Jr., and North Central therefore urge the Commission to refuse to take any action until the courts have ruled on the pending litigation instituted by Progress. We do not agree. Whether or not a natural gas company has complied or must comply with section 7 of the Natural Gas Act is a question which must be decided by this Commission subject to review pursuant to section 19(b) of the Act.

It also appears that Progress may have been purchasing from M. O. Rife, Jr., gas produced from the north half of the Ed Brooks Survey, Clay County, Tex. (Texas Railroad District No. 9).<sup>7</sup> However, on March 8, 1971, North Central filed in Docket No. CI71-655 an application for a certificate of public convenience and necessity authorizing a sale of gas to Lone Star Gas Co. The gas would be produced from what appears to be, in part, the same acreage which may already have been dedicated to Progress. Simultaneously, North Central requested tem-

porary authorization to commence deliveries because of financial hardship.<sup>8</sup> North Central had further alleged in its application for a permanent certificate that no predecessor in interest was engaged in the transportation or sale of natural gas from this acreage. Based upon these allegations, we granted a temporary certificate by letter order of March 19, 1971. On March 18, 1971, the Commission had issued Order No. 428 in Docket No. R-393 making provision for a blanket certificate covering all future jurisdictional sales of qualifying small producers. With respect to those producers who had small producer certificates within the meaning of § 157.40 of the regulations prior to issuance of Order No. 428, the existing certificate, without further order of the Commission, is deemed to cover as of May 2, 1971, all small producer sales which are exempt under Order No. 428. North Central had such a small producer certificate.<sup>9</sup> Therefore, North Central's blanket certificate now covers the sale authorized temporarily in CI71-655. In view of these circumstances, we shall institute a proceeding at Docket No. CI72-511 directing North Central to show cause why its blanket certificate should not be rescinded with respect to any acreage included in the application filed in Docket No. CI71-655 which may have previously been dedicated to Progress and for which no abandonment authorization pursuant to section 7(b) of the Act has been granted. We shall consolidate the proceeding which we are instituting at Docket No. CI72-511 with the proceeding pending at Docket No. CI71-555.

The Commission finds:

(1) It is necessary and appropriate in the public interest and for the purpose of carrying out the provisions of the Natural Gas Act, particularly sections 4, 7, 14, 15, and 16 thereof, and of §§ 1.6 and 154.9 through 154.102 and 157.23 through 157.29 of the Commission's rules and regulations under that Act, that an order should issue directing respondents to show cause, if any there be, why they, or each of them, should not be found to be in violation of the Natural Gas Act for not having filed with the Commission a rate schedule before commencing jurisdictional sales of gas to Progress Petroleum, Inc., if in fact they or any of them made such sales, and for not having sought a certificate of public convenience and necessity authorizing those sales; and directing respondents to show cause why they, or each of them, should not be required to seek abandonment authorization before terminating jurisdictional sales of natural gas to Progress Petroleum, Inc.; and, directing North Central

Oil Corp. to show cause why its blanket certificate should not be rescinded with respect to any acreage included in the application filed in Docket No. CI71-655 which may have been previously dedicated to Progress Petroleum, Inc., and for which no abandonment authorization has been granted.

(2) It is appropriate in carrying out the provisions of the Natural Gas Act that, pending the hearing directed by paragraph (E), and decision in this proceeding, respondents be directed to continue, or resume if discontinued, the sale and delivery to Progress Petroleum, Inc., of natural gas volumes derived from the acreage described in Progress' petition in Docket No. CI71-555.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings as set forth in paragraphs (A) and (B) ordered hereinafter.

(4) It is desirable and in the public interest to consolidate the proceeding we are instituting at Docket CI72-511 with the proceeding pending in Docket No. CI71-555 for hearing and decision.

(5) Good cause has been shown for granting the petition for an order to show cause filed January 25, 1971, by Progress Petroleum, Inc.

The Commission orders:

(A) Respondents shall show cause, if any there be, at the hearing directed in paragraph (E) hereof, why they or each of them should not be held in violation of the Natural Gas Act for not having filed with the Commission, pursuant to section 4(c) of the Natural Gas Act and §§ 154.91 through 154.102 of the Commission's regulations, a rate schedule before commencing jurisdictional sales of gas to Progress Petroleum, Inc., and for not having sought a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act and §§ 157.23 through 157.29 of the regulations, authorizing such sales to Progress Petroleum, Inc. Respondents shall further show cause, if any there be, at the hearing directed in paragraph (E) why they, or each of them should not be required to seek abandonment authorization pursuant to section 7(b) of the Natural Gas Act and § 157.30 of the Commission's regulations before terminating jurisdictional sales of natural gas to Progress Petroleum, Inc.

(B) North Central Oil Corp. shall further show cause, if any there be, why its blanket certificate should not be rescinded with respect to any acreage included in the application filed in Docket No. CI71-555 which may have been previously dedicated to Progress Petroleum, Inc., and for which no abandonment authorization pursuant to section 7(b) of the Natural Gas Act has been granted.

(C) Pending the hearing set by paragraph (E) below, and decision in this proceeding, respondents shall continue, or shall resume if discontinued, the sale and delivery to Progress Petroleum, Inc., of natural gas volumes derived from the

<sup>6</sup> Small producers who receive blanket certificate authorization are still required, pursuant to § 157.40(c), to obtain abandonment authorization under section 7(b) of the Natural Gas Act for any sale made pursuant to § 157.40.

<sup>7</sup> The petition in Docket No. CI71-555 is concerned in part with the South half of the Ed Brooks Survey, Clay County, Tex.

<sup>8</sup> In order to produce oil from the aforementioned acreage North Central alleged it must sell or flare gas. Since no flare order of the Texas Railroad Commission had been issued, North Central asserted that the wells are and must remain shut in unless we would allow deliveries of gas to commence.

<sup>9</sup> This certificate was issued in Docket No. CS67-8 on Dec. 20, 1966.

acreage described in Progress' petition in Docket No. CI71-555.

(D) The proceedings in Dockets Nos. CI71-555 and CI72-511 are hereby consolidated for purposes of hearing and decision.

(E) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 7, 14, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing concerning the matters involved and the issues presented in these proceedings as set forth in paragraphs (A) and (B) hereof will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, commencing at 10 a.m., e.s.t., on April 18, 1972. All respondents shall file with the Secretary of the Commission and serve on the Commission Staff and all other parties all testimony and exhibits which they propose to offer at the hearing provided for above on or before March 22, 1972. Similarly, the complainant shall file and serve on the same date its testimony and exhibits which it proposes to offer at the hearing hereinbefore provided.

(F) A Presiding Examiner to be designated by the Chief Examiner for the purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(G) The petition for a show cause order filed by Progress Petroleum on January 25, 1971, is hereby granted.

(H) Petitions to intervene or protests may be filed with the Commission in accordance with §§ 1.8 and 1.10 of the rules of practice and procedure on or before March 8, 1972.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.72-3048 Filed 2-29-72;8:49 am]

[Docket No. E-7688]

### RIO GRANDE ELECTRIC COOPERATIVE, INC.

#### Notice of Application

FEBRUARY 23, 1972.

Take notice that Rio Grande Electric Cooperative, Inc. (Cooperative), incorporated under the laws of the State of Texas and qualified to do business as a foreign corporation in the State of New Mexico with its principal place of business at Brackettville, Tex., filed an application on December 1, 1971, as amended and supplemented on December 14, 1971 and January 3, 1972, in Docket No. E-7688, for an order, pursuant to section 202(e) of the Federal Power Act, authorizing the transmission of electric energy from the United States to Mexico. The energy proposed to be exported will be sold by Cooperative to Comision Federal de Electricidad (CFE), an agency of the Republic of Mexico, in

accordance with certain proposed agreements between Cooperative and CFE, copies of which were filed as part of the application. CFE will utilize the energy purchased from Cooperative to provide electric service in the communities of Manuel Benavides, Santa Elena, and San Antonio El Bravo, all located within the State of Chihuahua, Mexico. Cooperative proposes to export a total amount not to exceed 620,000 kw.-hr. of energy annually at an aggregate rate of transmission not to exceed 120 kw. from three points on the United States side of the Rio Grande for distribution by CFE in Mexico as follows:

1. A maximum amount of 300,000 kw.-hr. per year at a maximum transmission rate of 60 kw. from the vicinity of Lajitas, Brewster County, Tex., for Manuel Benavides;

2. A maximum amount of 160,000 kw.-hr. per year at a maximum transmission rate of 30 kw. from the vicinity of Castolon, Brewster County, Tex., for Santa Elena; and

3. A maximum amount of 160,000 kw.-hr. per year at a maximum transmission rate of 30 kw. from the vicinity of Candelaria, Presidio County, Tex., for San Antonio El Bravo.

According to the above-mentioned application, Cooperative will deliver the electric energy to be sold to CFE by means of certain proposed 14,400 volt transmission facilities which will extend across the Rio Grande and interconnect with CFE's facilities at the international border between the United States and Mexico in the vicinity of Lajitas, Castolon, and Candelaria, Tex., referred to above. In its application Cooperative also requests a permit, pursuant to Executive Order No. 10485, dated September 3, 1953, to construct and operate such proposed facilities at the United States-Mexican Border for the transmission of electric energy between the United States and Mexico.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.72-3050 Filed 2-29-72;8:49 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### AMERICAN SOCIETY FOR TESTING AND MATERIALS

##### Petition Concerning National Consensus Standards

Pursuant to § 1910.3 of Title 29, Code of Federal Regulations (36 F.R. 10468, May 29, 1971), notice is hereby given that the American Society for Testing and Materials (ASTM) has requested acceptance as a nationally recognized standard-producing organization within the meaning of section 3(9) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 652). Section 1910.3 provides that any organization which deems itself a producer of national consensus standards, within the meaning of section 3(9) of the Act, is invited to submit to the Assistant Secretary of Labor for Occupational Safety and Health all relevant information which may enable the Assistant Secretary to determine whether any of its standards satisfy the requirements of the definition of "national consensus standard" in section 3(9). Whereupon the Assistant Secretary shall publish, or cause to be published, in the FEDERAL REGISTER a notice of such submission.

Interested persons are invited to submit within 30 days following the publication of this notice in the FEDERAL REGISTER written comments on whether the standards of the American Society for Testing and Materials are those of a "nationally recognized standards-producing organization", and whether the standards have: (1) Been adopted and promulgated under procedures whereby it can be determined that persons interested and affected by the scope of the provisions of the standards have reached substantial agreement on their adoption; and (2) have been formulated in a manner which afforded an opportunity for diverse views to be considered. The comments should be addressed to the Office of Standards, Room 305, Occupational Safety and Health Administration, U.S. Department of Labor, 400 First Street NW., Washington, DC 20210.

Copies of the petition of the American Society for Testing and Materials and the regulations governing the ASTM technical committees are available for inspection at the aforementioned address and at the offices of the Regional Administrators of the Occupational Safety and Health Administration. Information concerning the standards of the organization may be obtained from the aforementioned national Office of Standards and also from the petitioner at the following address: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

Signed at Washington, D.C., this 25th day of February, 1972.

G. C. GUENTHER,  
Assistant Secretary of Labor.

[FR Doc.72-3080 Filed 2-29-72;8:53 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 7]

### MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 25, 1972.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

#### MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 609), GREYHOUND LINES, INC. (Western Division), 371 Market Street, San Francisco, CA 94106, filed February 17, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Ogden, Utah, and Hot Springs, Utah, over Interstate Highway 15, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Ogden, Utah, over Utah Highway 204 to junction U.S. Highway 30S, thence over U.S. Highway 30S to junction Interstate Highway 15 (Hot Springs), thence over Interstate Highway 15 to junction Alternate U.S. Highway 30S (Brigham City Junction), and return over the same route.

No. MC-13300 (Deviation No. 26), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, NC 27602, filed February 17, 1972. Carrier's representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Carrier proposes

to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Benns Church, Va., over U.S. Highway 258 to Bartlett, Va., thence over U.S. Highway 17 to Portsmouth, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Benns Church, Va., over combined Virginia Highways 10 and 32 to Chuckatuck, Va., thence over Virginia Highway 125 to Driver, Va., thence over Virginia Highway 337 to Portsmouth, Va., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.72-3085 Filed 2-29-72;8:53 am]

[Notice 7]

### MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 25, 1972.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

#### MOTOR CARRIERS OF PROPERTY

No. MC-69833 (Deviation No. 24), ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502, filed February 14, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From South Bend, Ind., over Indiana Highway 23 to the Indiana-Michigan State line, thence over Michigan Highway 62 to junction U.S. Highway 12, at Edwardsburg, 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 pertinent service routes as follows: (1) From Goshen, Ind., over U.S. Highway 33 via Elkhart and South Bend,

Ind., to St. Joseph, Mich., and (2) from Toledo, Ohio, over U.S. Highway 25 to Detroit, Mich., thence over U.S. Highway 12 to Niles, Mich., and return over the same routes.

No. MC-69833 (Deviation No. 25), ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502, filed February 14, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Columbia City, Ind., over Indiana Highway 9 to the Indiana-Michigan State line, thence over Michigan Highway 66 to Sturgis, 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 pertinent service routes as follows: (1) From Columbus, Ohio, over Ohio Highway 31 to Kenton, Ohio, thence over U.S. Highway 30S to Delphos, Ohio, thence over U.S. Highway 30 to junction Illinois Highway 42A, thence over Illinois Highway 42A to Chicago, Ill., (2) from South Bend, Ind., over U.S. Highway 20 to Elkhart, Ind., thence over U.S. Highway 33 to Goshen, Ind., thence over Indiana Highway 15 to Marion, Ind., thence over Indiana Highway 9 to Anderson, Ind., thence over Indiana Highway 67 to Muncie, Ind., (3) from Elkhart, Ind., over Indiana Highway 19 to the Indiana-Michigan State line, thence over Michigan Highway 205 to junction U.S. Highway 12, and (4) from Toledo, Ohio, over U.S. Highway 25 to Detroit, Mich., thence over U.S. Highway 12 to Niles, Mich., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.72-3086 Filed 2-29-72;8:53 am]

[Notice 15]

### MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 25, 1972.

The following publications are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission, Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

#### APPLICATIONS ASSIGNED FOR ORAL HEARING

##### MOTOR CARRIERS OF PROPERTY

No. MC 5623 (Sub-No. 12), filed February 18, 1972. Applicant: ARROW

TRUCKING CO., a corporation, 3131 North Lewis, Tulsa, OK 74110. Applicant's representative: G. Michael Lewis, 1200 Atlas Life Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) between points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, and (2) between points in Oklahoma and Texas on the one hand, and, on the other, points in Colorado, Wyoming, Utah, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: March 13, 1972, in Room 8212 Federal Building, 515 Rusk Street, Houston, TX.

#### NOTICE OF FILING OF PETITIONS

No. MC 124908 (Sub-No. 5) (Notice of Filing of Petition to Modify Permit by Adding Additional Contract), filed February 9, 1972. Petitioner: IRON & METAL TRUCKING SERVICE, INC., 9101 St. Stephens Avenue, Detroit, MI 48210. Petitioner states that it holds Permit No. MC 124908 Sub 5 authorizing it to engage in operations as a motor contract carrier, over irregular routes, in the transportation of scrap iron, between Detroit, Mich., and points in that part of Michigan bounded by a line beginning at junction Interstate Highways 75 and 94 extending along Interstate Highway 75 to junction U.S. Highway 10 northwest of Pontiac, Mich., thence south along U.S. Highway 10 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Michigan Highway 14, thence along Michigan Highway 14 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Interstate Highway 94, and thence along Interstate Highway 94 to points of beginning, including points on the highways specified, on the one hand, and, on the other, points in Ohio and Indiana, under a continuing contract or contracts with William Wolok, doing business as Benlee Industrial Salvage Co., of Oak Park, Mich., Superior Scrap Products Co., Detroit, and Sam Allen & Son, Inc., of Pontiac, Mich., and Grant Southern Iron & Steel Co. of Detroit, Mich. By the instant petition, petitioner requests that such permit be modified so as to authorize service under a continuing contract or contracts with Framet Products and Universal Processing, Inc., in addition to the shippers which it can now serve in connection with such permit. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 125201 (Notice of Filing of Petition To Modify Contract Carrier Permit), filed February 4, 1972. Petitioner: L. SMITH CARTAGE CO., a corporation, Franklin Park, Ill. Petitioner's representative: Brenda P. Murray, 530 Grant Building, Pittsburgh, PA 15219.

Petitioner holds a permit in No. MC 125201 authorizing the transportation of dolomite, dead, burned, and roasted, high temperature bonding mortar, and magnesite, from McCook, Ill., to points in Indiana, Iowa, Missouri, Wisconsin, and the Lower Peninsula of Michigan, with no transportation for compensation on return, except as otherwise authorized, under a continuing contract, or contracts, with Standard Lime and Refractories Co., Division of Martin Marietta Corp. of Baltimore, Md. By the instant petition, petitioner seeks to add the name of Vulcan Materials, Inc., of Birmingham, Ala., as a second shipper. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

#### APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 1872 (Sub-No. 78), filed January 24, 1972. Applicant: ASHWORTH TRANSFER, INC., 1526 South Sixth West, Salt Lake City, UT. Applicant's representative: Keith E. Taylor, 520 Kearns Building, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Property* necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipelines, refineries, and cracking or casinghead plants, equipment and material used in the construction, and equipment used in farming, between any and all points located on and within 50 miles laterally of the following highways: (a) U.S. Highway 101 and U.S. Highway 101 Bypass between Oregon-California State line and California-Mexico line; (b) U.S. Highways 99, 99E, and 99W between Oregon-California State line and the Mexican border; (c) U.S. Highway 299 between Redding and Alturas, Calif.; (d) U.S. Highway 395 between the Oregon-California State line and the California-Nevada State line, via Alturas and Johnstonville; (e) California Highway 36 between junction 99E near Red Bluff, Calif., and junction U.S. Highway 395 at Johnstonville; (f) California Highway 20 between Marysville, Calif., and junction U.S. Highway 40; (g) U.S. Highway 40 between San Francisco and California-Nevada State line; (h) U.S. Highway 50 between Sacramento, Calif., and California-Nevada State line; (i) U.S. Highway 395 between California-Nevada State line at Topaz Lake and junction U.S. 66; (j) U.S. Highway 68 between Los Angeles and Needles, Calif.; (k) U.S. Highway 60 between Los Angeles, Calif., and California-Arizona State line; (l) U.S. Highways 91 and 466 between Barstow and Nevada-California State line; (m) U.S. Highway 80 between San Diego and California-Arizona State line; (n) California Highway 127 between Baker and Nevada-California State line. NOTE: The instant application is directly re-

lated to MC-F-11445, published in the FEDERAL REGISTER issue of February 2, 1972. If a hearing is deemed necessary, applicant requests it be held at Long Beach, Los Angeles, or San Francisco, Calif., or Salt Lake City, Utah.

No. MC 13235 (Sub-No. 19), filed January 21, 1972. Applicant: CENTRALIA CARTAGE CO., a corporation, 650 West Noleman Street, Centralia, IL 62801. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment); (a) serving Vandalia, Ill., as an intermediate point on U.S. Highway 51 in connection with applicant's presently authorized regular route between Chicago, Ill., and Sandoval, Ill.; (b) serving all intermediate points on U.S. Highway 40 between Highland, Ill., and Greenville, Ill., including Highland but not including Greenville (presently authorized), in connection with the presently authorized regular-route authority of Marie Morris, doing business as Vandalia Transfer Co., between St. Elmo, Ill., and St. Louis, Mo., being acquired by applicant; and (c) between St. Elmo and Greenup, Ill., over U.S. Highway 40, serving all intermediate points and the off-route points of Toledo and Herrick, Ill., and restricted against any service to St. Louis, Mo. and points in its commercial zone. NOTE: Applicant states instant application is directly related to application filed under section 5 of the Interstate Commerce Act, under MC-F-11440, published in the FEDERAL REGISTER issue of February 2, 1972, filed simultaneously, seeking approval of purchase of certain operating rights of Marie Morris (married named Marie Bristow) doing business as Vandalia Transfer Co. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

#### MOTOR CARRIERS OF PROPERTY

No. MC-F-11464. Authority sought for purchase by SILVER LINE, INC., 196 Stanton Street, New York, NY 10002, of the operating rights and property of B&H TRANSFER, INC., 227 Coal Street, Lehigh, PA 18235, and for acquisition by SAM YOUDELMAN, 1650 West 10th Street, Brooklyn, NY 11223, and MORTON VIDERS, 6 Woodland Place, East Great Neck, NY 11020, of control of such rights and property through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *Drugs, shoes,*

textile products, and materials, supplies, machinery, and equipment, used or useful in the manufacture and distribution of textile products, as a common carrier over regular routes, between Hazleton, Easton, Bath, and Bethlehem, Pa., serving all intermediate points and the off-route points of Shepton, Summit Hill, Freeland, and Weatherly, Pa., between Easton, Pa., and New York, N.Y., serving all intermediate points. Vendee is authorized to operate as a common carrier in New Jersey, New York, and Pennsylvania. Application has been filed for temporary authority under section 210a(b). Note: Applicant in MC-C-7284 requested that the sections 5 and 210a(b) applications be consolidated with the complaint proceeding.

No. MC-F-11465. Authority sought for merger into COOPER TRANSFER CO., INC., Post Office Box 2207, Dothan, AL 36301, of the operating rights of AAA MOTOR LINES, INC., Post Office Box 1328, Dothan, AL 36301, and for acquisition by AAA MOTOR LINES, INC., of Dothan Ala., of control of such rights through the transaction. Applicants' attorney: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Operating rights sought to be merged: *General commodities*, excepting among others, classes A and B explosives, and commodities in bulk, as a common carrier over regular routes, between a defined area in Alabama, serving all intermediate points, between Abbeville, Ala., and Fort Gaines, Ga., serving all intermediate points, and the off-route points within 8 miles of Shorterville, Ala., between junction U.S. Highways 231 and 82 and Eufaula, Ala., serving no intermediate points except the plantsite of Welsh Co. of the South, Inc., near Union Springs, Ala., over three alternate routes for operating convenience only. COOPER TRANSFER CO., INC., is authorized to operate as a common carrier in Alabama, Florida, Louisiana, Georgia, Mississippi, South Carolina, and Tennessee. Application has not been filed for temporary authority under section 210a(b). Note: Pursuant to order served March 12, 1971, in MC-F-10513 transferor acquired control of transferee.

No. MC-F-11466. Authority sought for purchase by STELLA TRUCKING, INC., 618 Route 9W, Newburgh, NY 12550, of a portion of the operating rights and certain property of NORTHERN MOTOR CARRIERS, INC., Route 9, Saratoga Road, Fort Edward, N.Y., and for acquisition by C & T HAULAGE, INC., also of Newburgh, N.Y., of control of such rights and property through the purchase. Applicants' attorney: Herbert Burstein, 30 Church Street, New York, NY 10007. Operating rights sought to be transferred: *Limestone*, as a common carrier over irregular routes, from the town of Dover (Dutchess County), N.Y., to points in Rhode Island, Massachusetts, New Hampshire, Vermont, Maine (except points in Aroostook County), Connecticut, Pennsylvania, New York, and points in New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, At-

lantic, Camden, and Burlington Counties, N.J.) STELLA TRUCKING, INC., holds no authority from this Commission. However, it is affiliated with (1) C & T HAULAGE, INC., 618 Route 9W, Newburgh, NY 12550; and (2) STANDARD TRUCK CO., 587 Fayette Street, Perth Amboy, NJ 08861; (1) which is authorized to operate as a common carrier in New York, Vermont, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Ohio, Maryland, Delaware, Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia; and (2) which is authorized to operate as a contract carrier in New Jersey, Connecticut, Delaware, New York, Pennsylvania, Maryland, Virginia, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11467. Authority sought for purchase by THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, Post Office Box 969, of a portion of the operating rights of E. J. SCANNELL, INC., 151 Linwood Street, Somerville, MA 02143, and for acquisition by E. WILLIAM KING, 1315 Belmeade Drive, Kingsport, TN 37660, JOHN R. KING, 4504 Hickory Hill Road, Kingsport, TN 37660, and MARGARET K. NORRIS, 1400 Belmeade Place, Kingsport, TN 37660, of control of such rights through the purchase. Applicants' attorneys: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004, and Maxwell A. Howell, 1511 K Street NW, Washington, DC 20005. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, livestock, commodities requiring special equipment, and those injurious or contaminating to other lading, as a common carrier over regular routes, between Baltimore, Md., and Washington, D.C.; *general commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, between Boston and Worcester, Mass., and Baltimore, Md., over alternate routes for operating convenience only between Sturbridge, Mass., and New Haven, Conn., and between a point near Milltown, N.J., and New Castle, Del., via Camden, N.J. Vendee is authorized to operate as a common carrier in Tennessee, North Carolina, Georgia, Virginia, South Carolina, New York, New Jersey, Maryland, Delaware, Pennsylvania, Illinois, Kentucky, Ohio, Indiana, Alabama, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11468. Authority sought for purchase by FROSTY TRANSPORTATION, INC., 519 Walnut Street, Reading, PA 19603, of a portion of the operating rights of J. ROLLMAN & SON, INC., Post Office Box 147, Lititz, PA 17543, and for acquisition by JAY S. RHOADS and

WILLIAM J. KLEIN, of Rural Delivery No. 2, Douglassville, Pa. 19518, and BARTON F. HENLY, Rural Delivery No. 1, Ephrata, Pa. 17522, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *Frozen bakery products*, in mechanically refrigerated vehicles, as a common carrier over irregular routes, from Morgantown and Pottstown, Pa., to points in New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, West Virginia (except points in Berkeley and Jefferson Counties, W. Va.), Virginia (except Alexandria and points in Loudoun, Fairfax, Stafford, Prince William, Arlington, and Fauquier Counties, Va.), Michigan, Kentucky (except Louisville, Ky.), and New York (except points in Long Island, N.Y.), from Morgantown, Pa., to points in New Jersey, from Pottstown, Pa., to Jersey City, N.J., from Morgantown, Pa., to points in Maryland, to Alexandria, Va., and to points in Loudoun, Fairfax, Stafford, Prince William, Arlington, and Fauquier Counties, Va.; *frozen bakery products*, in vehicles equipped with mechanical refrigeration, from Morgantown, Pa., to points in Ohio and Long Island, N.Y., from Pottstown, Pa., to points in Ohio, New Jersey (except Jersey City), and Long Island, N.Y.; *frozen fruits*, in mechanically refrigerated vehicles, from points in Massachusetts (except Boston, Mass.), Virginia, and Jersey City, N.J., to Morgantown and Pottstown, Pa., with restrictions. Vendee holds no authority from this Commission. However, it is affiliated with JAY RHOADS, Rural Delivery No. 2, Douglassville, Pa. 19518 (MC-118125), which is authorized to operate as a common carrier in Maryland, New Jersey, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11469. Authority sought for purchase by ESTES EXPRESS LINES, 1405 Gordon Avenue, Richmond, VA 23224, of the operating rights and property of A C EXPRESS, INC., Post Office Box 21134, Charlotte, NC 28206, and for acquisition by ROBEY W. ESTES, also of Richmond, Va. 23224, of control of such rights and property through the purchase. Applicants' attorney: Francis W. McInerney, Suite 502, Solar Building, 1000 16th Street NW, Washington, DC 20036. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-99791 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of North Carolina. Vendee is authorized to operate as a common carrier in North Carolina and Virginia. Application has been filed for temporary authority under section 210a(b). Note: MC-97275 Sub-26, is a directly related matter.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.72-3087 Filed 2-29-72;8:53 am]

[Notice 19-A]

**MOTOR CARRIER TRANSFER PROCEEDINGS**

FEBRUARY 18, 1972.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132.

No. MC-FC-73847. By application filed February 15, 1972, E. J. PERSONS TRANSPORT LTD., 785 Main Street, Sweetsburg, Cowansville, PQ Canada, seeks temporary authority to lease the operating rights of LEO BOUCHER, Coaticook, PQ Canada, under section 210a(b). The transfer to E. J. PERSONS TRANSPORT LTD., of the operating rights of LEO BOUCHER, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 72-3088 Filed 2-29-72; 8:53 am]

**NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS**

FEBRUARY 25, 1972.

The following applications 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, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, 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, 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.

Texas Docket No. 2184, filed December 14, 1971. Applicant: CHARLES HERDER, JR., doing business as HERDER TRUCK LINES, joined by HERDER TRUCK LINES, INC., Weimar, Tex. 78962. Applicant's representative: Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, over the following alternate routes, for operating convenience only: Between San Antonio, Tex., and Houston, Tex., as follows: From San Antonio to Houston, Tex., over Interstate Highway 10 and return over the same route, serving only intermediate points to which service is presently authorized and coordinating such service with that rendered under existing authority. Restriction: Neither the whole nor any portion of such additional operating rights

may be transferred apart from corresponding existing authority contained in Common Carrier Certificate No. 2184. Both intrastate and interstate authority sought.

**HEARING:** Approximately 30 days after publication in the FEDERAL REGISTER, time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Texas Railroad Commission, Drawer 12967, Capitol Station, Austin, Tex. 78711, and should not be directed to the Interstate Commerce Commission.

Arkansas Docket No. M-6657, filed February 7, 1972. Applicant: BATESVILLE TRUCK LINE, INC., Post Office Box 710, Batesville, AR 72501. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Certificate of public convenience and necessity sought to operate as a motor carrier of *General commodities* as follows: (1) Between Junction Arkansas Highway 115 and U.S. Highway 167, over Arkansas Highway 115, to Imboden, Ark.; (2) between Batesville, Ark., and Black Rock, Ark., over Arkansas Highway 25; (3) between Hardy, Ark., and Portia, Ark., over U.S. Highway 63; (4) between Junction U.S. Highway 63 and Arkansas Highway 58 to Junction U.S. Highway 167 and Arkansas Highway 58, over Arkansas Highway 58; (5) between Cave City, Ark., and Strawberry, Ark., over Arkansas Highway 230; (6) between Newark, Ark., and Junction Arkansas Highways 25 and 122, over State Highway 122; (7) between Strawberry, Ark., and Black Rock, Ark., over Arkansas Highway 117; (8) between Ash Flat, Ark., and Smithville, Ark., over Arkansas Highway 354; (9) between Franklin, Ark., and Glenco, Ark., over Arkansas Highway 289; (10) between Calico Rock, Ark., and Viola, Ark., over Arkansas Highway 223; (11) between Salem, Ark., and Viola, Ark., over U.S. Highway 62, and (12) between Cord, Ark., and Concord, Ark., over Arkansas Highway 87, serving all intermediate points upon described routes and return over the same route. Applicant proposes to tack all of foregoing routes with presently existing authority, subject to existing restrictions, if any. Both intrastate and interstate authority sought.

**HEARING:** April 3, 1972 at 10:30 a.m., in Batesville, Ark. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Arkansas Commerce Commission, Justice Building, Little Rock, Ark. 72201, and should not be directed to the Interstate Commerce Commission.

Alaska Docket No. 71-434-MP/A, filed November 26, 1971. Applicant: INSIDE ALASKA TOURS, INC., doing business as AMERICAN SIGHTSEEING OF ALASKA, 1001 Southwest Fifth Avenue, Portland, OR 97204. Applicant's representative: Andrew E. Hoge, 921 West Sixth Avenue, Anchorage, AK 99501. Certificate of public convenience and necessity sought to conduct motor common carrier operations as follows: (a)

Sightseeing and tour services commencing or ending at any point along any highway, road or street East of 154° longitude, except that portion of the regular highway system which lies East of 141° longitude from Demarcation Point, Alaska on the north to Mahispena Glacier, Alaska on the south; (b) Limousine service to transport passengers and their baggage between terminal facilities of any air carrier or railroad within a 10-mile radius of Mount McKinley National Park, including Mount McKinley National Park, Kantishna, Mount McKinley Village, and Camp Denali, and points of passenger origin or departure, all such points being within a 10-mile radius of Mount McKinley National Park, including Mount McKinley National Park, Kantishna, Mount McKinley Village and Camp Denali, and (c) Sightseeing, tour, and charter services, commencing or ending at any point on Highway Routes No. 1 and No. 3 between Anchorage, Alaska and Fairbanks, Alaska, including all off route points within a 40-mile radius of Highways No. 1 and No. 3, and including Kantishna, Camp Denali, and Mount McKinley National Park. Both intrastate and interstate authority sought.

**HEARING:** Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of Alaska Department of Commerce, Alaska Transportation Commission, 750 Mackay Building, 338 Denali Street, Anchorage, AK 99501, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 72-3084 Filed 2-29-72; 8:53 am]

**SECURITIES AND EXCHANGE COMMISSION**

[812-3107]

**FIFTH AVENUE COACH LINES, INC., AND GRAY LINE CORP.****Notice of Filing of Application for Order Exempting Transactions**

FEBRUARY 29, 1972.

Notice is hereby given that Fifth Avenue Coach Lines, Inc., c/o S. Hazard Gillespie, Esq., 1 Chase Manhattan Plaza, New York, NY 10005, (Fifth) and Gray Line Corp., c/o Morton J. Schlossberg, Esq., 45 Rockefeller Plaza, New York, NY 10020 (Gray Line), referred to collectively as "applicants" each a New York corporation registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (the "Act"), have filed an application pursuant to section 6(c) of the Act. Applicants seek an order (i) exempting from sections 17(a) and 17(d) of the Act and Rule 17d-1 thereunder

and from section 23(c) of the Act certain transactions incident to an agreement dated January 3, 1972, between Fifth and Gray Line and (ii) exempting from the stockholder voting requirements of section 13(a)(4) of the Act certain proposed steps to accomplish the liquidation and dissolution of Gray Line thereby causing it to cease to be an investment company. The agreement is designed to settle certain claims of Fifth and Gray Line referred to below. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

S. Hazard Gillespie, Esq., was appointed Trustee-Receiver (Trustee) of Fifth by order of the U.S. District Court for the Southern District of New York dated August 12, 1968, per Honorable Edward C. McLean, entered in Securities and Exchange Commission v. Fifth Avenue Coach Lines, Inc. et al., 67 Civ. 4182; and Arnold Bauman, Esq., was appointed Trustee-Receiver (Trustee) of Gray Line by order of such court dated December 23, 1970, per Honorable Walter R. Mansfield, entered in Securities and Exchange Commission v. Gray Line Corp., 70 Civ. 2504.

By order dated January 14, 1972, Arnold Bauman, Esq., was relieved of his duties as Trustee of Gray Line upon his appointment as a U.S. District Judge; and Morton J. Schlossberg, Esq., who had actively participated on behalf of Gray Line in the negotiations leading to the agreement was appointed Trustee-Receiver (Trustee) of Gray Line.

The agreement was executed on behalf of Fifth by its Trustee-Receiver, S. Hazard Gillespie, Esq. (Trustee), and on behalf of Gray Line by its then Trustee-Receiver (Trustee), Arnold Bauman, Esq.

*Relationships of parties.* Fifth and Gray Line are affiliated persons of each other within the meaning of section 2(a)(3) of the Act because of the ownership by Gray Line of 24.41 percent of the outstanding common stock of Fifth and the ownership by Surface Transit, Inc. (Surface) (all of whose outstanding common stock is owned by Fifth), of 37.24 percent of the outstanding common stock of Gray Line.

With respect to Fifth's claim arising out of the purported sale of Gateway stock to Gray Line in 1967, it should be noted that in 1971 Fifth and Gray Line sold such stock to other parties and that the \$351,710 claimed by Fifth in connection with the purported sale of Gateway stock in 1967 as shown in item (c) above represents the principal of such claimed sales price after applying towards the payment thereof the sum of \$299,090 representing the portion of the proceeds of the 1971 sale of such stock received by Fifth. In addition to such amount, Fifth has been holding in escrow \$100,000 of the proceeds of the 1971 sale of Gateway stock pending determination of the claims between Fifth and Gray Line relating to such stock. Although Fifth and Gray Line sold the Gateway stock in 1971, they agreed at that time, among other things, that Fifth did not waive its

right to demand from Gray Line payment of the sales price of the Gateway stock and that Gray Line did not waive its right to obtain rescission of such purported sale.

By its order dated July 26, 1971, the Commission granted the application filed by Fifth and Gray Line pursuant to section 17(d) of the Act and Rule 17d-1 thereunder with respect to the 1971 sale of the Gateway stock (Investment Company Act Release No. 6648; File No. 812-2974). In such order the Commission reserved jurisdiction over the disposition of the proceeds of the sale as between Fifth and Gray Line.

*Gray Line's contentions.* Gray Line has contended that it is not liable for the claimed open account indebtedness or for any interest thereon. Gray Line has claimed that an oral agreement existed between Fifth and Gray Line to the effect that the open account indebtedness was to be paid by Gray Line only upon the latter's receipt of a partial liquidating dividend from Fifth; and Gray Line has further disputed its liability to pay certain items of the open account indebtedness aggregating \$260,682, representing payments purportedly made on its behalf, but found by the court in Securities and Exchange Commission v. Fifth Avenue Coach Lines, Inc. et al., 289 F. Supp. 3, to have been made improperly for the benefit of certain defendants in the action. In addition Gray Line has disputed the existence of an agreement to pay interest on any portion of the open account indebtedness.

B.S.F. Co., a Delaware corporation which is registered as a closed-end, non-diversified management investment company under the Act, is an affiliated person of both Gray Line and Fifth because of its ownership of about 27 percent and 9 percent of the outstanding common stock of Gray Line and Fifth, respectively. El-Tronics, Inc., a Pennsylvania corporation which owns or controls about 32 percent of the outstanding common stock of B.S.F. Co., is an affiliated person of an affiliated person (B.S.F. Co.) of registered investment companies (Fifth and Gray Line).

*The conflicting claims—Fifth's contentions.* On September 26, 1969, Fifth commenced an action against Gray Line in the U.S. District Court for the Southern District of New York (69 Civ. 4251) seeking a judgment with respect to various matters in an amount which, based on Fifth's books, totaled \$3,205,729 as of December 31, 1971. Of such claimed amount (a) an aggregate of \$2,033,400 represents the principal amount of claimed open account advances by Fifth to or on behalf of Gray Line; (b) an aggregate of \$629,228 represents a claim for accrued and unpaid interest upon the foregoing principal amount; (c) an amount of \$351,710 represents the balance of the principal of the sales price which Fifth claims is due to it with respect to the purported sale by Fifth and the purported purchase by Gray Line of common stock of Gateway National Bank of Chicago (Gateway) in January, 1967; (d) an aggregate of \$191,391 represents interest claimed

upon the balance of the sales price of the Gateway shares claimed to be due from Gray to Fifth.

Gray Line has also claimed that it is not obligated to pay any part of the sales price of the Gateway stock and that it is entitled to rescission of such sale and to the return of \$71,000 it paid to Fifth as a down payment thereon, together with interest.

The Trustee of Fifth moved for summary judgment in its action against Gray Line, and on September 3, 1970, the court, per Honorable Dudley B. Bonsal, denied such motion.

*Settlement of the claims.* The Agreement provides in pertinent part as follows:

1. Gray Line will deliver to Fifth and Surface all of Gray Line's holdings of capital stock of Fifth consisting of 212,803 shares of such capital stock.

2. Fifth and Surface will deliver to Gray Line all of their holdings of capital stock of Gray Line aggregating 133,270.44 shares of such capital stock.

3. Fifth will assume Gray Line's Workmen's compensation obligations estimated at approximately \$9,000 and will receive from Gray Line an assignment of all deposits in the face amount of about \$86,000 held by the Workmen's Compensation Board of the State of New York as security for the payment of Gray Line's obligations under the Workmen's Compensation Law.

4. Gray Line will assign to Fifth its interest in the portion of the proceeds of the sale by Fifth and Gray Line of Gateway stock represented by the \$100,000 now held in escrow by Fifth.

5. Fifth will pay to Gray Line the sum of \$1,850,000.

6. Fifth and Surface will exchange general releases with Gray Line and all pending litigation among Fifth, Surface, and Gray Line will be discontinued with prejudice.

7. The agreement provides that consummation of the transactions contemplated therein are conditioned, among other things, upon the entry of an order by the U.S. District Court in cases No. 67 Civ. 4182 and No. 70 Civ. 2504 authorizing the Trustees of Fifth and Gray Line to consummate the agreement.

In addition to the transactions proposed under the terms of the agreement the Trustee of Gray Line, subject to approval of the Gray Line receivership court proposes to adopt a plan of liquidation of Gray Line providing for the payment by Gray Line of all of its liabilities following consummation of the agreement and, thereafter, the distribution to Gray Line's stockholders of all of Gray Line's assets (which will consist of cash), except amounts reasonably required to meet disputed items and taxes. Thereafter, Gray Line will be dissolved. The Trustee of Gray Line does not propose to submit the plan of liquidation of Gray Line to its stockholders for approval; and such Trustee has petitioned the Gray Line receivership court for authority to adopt such plan of liquidation.

Simultaneously with the closing under the agreement, Gray Line will pay to

Guaranty Bank and Trust Co. (Guaranty) the balance due to Guaranty on a loan from Guaranty to Gray Line, and Guaranty will deliver to Gray Line 23,000 shares of Fifth stock which Gray Line had pledged as collateral. These shares will be delivered to Fifth and Surface as part of the 212,803 shares of Fifth to be delivered under the terms of the agreement. The aforesaid loan to Gray Line appears to have been made by Guaranty on April 8, 1967 in the original amount of \$80,000 (plus \$1,300 of pre-paid interest), for a total of \$81,300. Guaranty is controlled by El-Tronics because of El-Tronics' ownership of about 51 percent of the outstanding common stock of Guaranty.

**Applicable provisions of Act.** The proposed transfers of assets between Fifth and Gray Line are prohibited by the provisions of section 17(b) of the Act which, as here pertinent, make it unlawful for an affiliated person of a registered investment company knowingly to purchase from such registered company any security or other property.

The proposed disposition of the proceeds of the 1971 sale of Gateway stock is the final step in a transaction previously passed upon by the Commission under section 17(d) of the Act and Rule 17d-1 thereunder, and over which final step the Commission previously reserved jurisdiction. Moreover, in view of the relationships between Fifth, Gray Line, B.S.F. Co., El-Tronics and Guaranty previously described other proposed transactions appear to be subject to section 17(d) of the Act and Rule 17d-1 which, taken together provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, to participate in, or to effect any transaction in which such registered company or a company controlled by such registered company is a joint or joint and several participant, unless prior thereto, an application regarding such arrangement has been filed with and granted by the Commission.

Section 23(c) of the Act provides, generally speaking, that no registered closed-end investment company shall purchase any class of securities of which it is the issuer except on a securities exchange or

such other open market as the Commission may designate by rules or regulations; or pursuant to tenders; or under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors in order to assure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

With respect to the proposed liquidation and dissolution of Gray Line, section 13(a)(4) of the Act provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, change the nature of its business so as to cease to be an investment company.

Section 6(c) of the Act, pursuant to which the instant application has been filed, authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

**Supporting statements.** The application shows that the items of the settlement which are reflected in the agreement were negotiated between the Trustee of Fifth and the Trustee of Gray Line.

The Trustee of Fifth has petitioned the Fifth receivership court (Honorable Edward C. McLean) for an order authorizing such Trustee to consummate the transactions set forth in the agreement; and the Trustee of Gray Line has petitioned the Gray Line receivership court (Honorable Walter R. Mansfield) for an order authorizing such Trustee to consummate the transactions set forth in the agreement. The Fifth receivership court has ordered Fifth's Trustee to mail notice to the stockholders of Fifth of the time, place, and subject matter of the hearings to take place on such Trustee's petition.

The Gray Line receivership court has directed that a hearing on the petition for approval of the plan of liquidation of Gray Line be held at the time of the hearing to be held on the petition for au-

thority to consummate the agreement and that the Gray Line Trustee mail to the Gray Line stockholders notice of the time, place, and subject matter of the hearing to be held on both such petitions.

The application indicates that the quotations for Fifth common stock in the over-the-counter market during 1971 ranged as follows: bid: low—15½, high—18¾; asked: low—16, high—19½. The application also indicates that the quotations for Gray Line common stock in the over-the-counter market during 1971 ranged as follows: bid: low—2, high—3½; asked: low—2½, high—4¼.

Notice is further given that any interested person may, not later than March 21, 1972 at 12:30 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 of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered), and any postponements thereof.

By the Commission.

[SEAL]

RONALD F. HUNT,  
Secretary.

[FR Dec.72-3089 Filed 2-29-72;3:00 pm]

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