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PART I

(Part II begins on page 1103)

NOTICE TO AGENCIES

Agencies preparing documents for publication in the FEDERAL REGISTER are reminded that the revised rules of the Administrative Committee of the Federal Register are in effect as of January 3, 1973. (1 CFR Chapter I, 37 F.R. 23602, November 4, 1972.)

These revised rules include the following significant changes:

1. Requirement for a preamble in each proposed rule making and final rule making document that describes the contents of the document in a manner sufficient to apprise a reader who is not an expert in the subject area of the general subject matter of the document.

2. Requirement for setting forth specific effective dates and action dates.

3. Change in publication dates of the daily FEDERAL REGISTER (Monday through Friday instead of Tuesday through Saturday). See 1 CFR 17.2, 18.12, and 18.17.

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PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that the position of Director of Congressional Affairs is no longer excepted under Schedule C.

Effective January 8, 1973, § 213.3337 (a) (9) is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-318 Filed 1-5-73;8:45 am]

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Schedules; Excluded Nonnarcotic Substances; Exempt Chemical Preparations; Excepted Stimulant or Depressant Compounds

The Comprehensive Drug Abuse Prevention and Control Act of 1970, in section 202(a) (21 U.S.C. 812(a)), requires that the schedules of controlled substances established by that Act be updated and republished on a semiannual basis during the 2-year period beginning 1 year after the effective date of that Act. The effective date of that Act was October 27, 1970. Pursuant to the mandate of section 202(a), therefore, the Director hereby orders the publication of the schedules of controlled substances as of October 27, 1972.

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

SCHEDULES

§ 308.11 Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Bureau Controlled Substances Code Number set forth opposite it.

(b) *Opiates.* Unless specifically excepted or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1)	Acetylmethadol	9601
(2)	Allylprodine	9602
(3)	Alphacetylmethadol	9603
(4)	Alphameprodine	9604
(5)	Alphamethadol	9605
(6)	Benzethidine	9606
(7)	Betacetylmethadol	9607
(8)	Betameprodine	9608
(9)	Betamethadol	9609
(10)	Betaprodine	9611
(11)	Clonitazene	9612
(12)	Dextromoramide	9613
(13)	Dextrorphan	9614
(14)	Diampromide	9615
(15)	Diethylthiambutene	9616
(16)	Dimenoxadol	9617
(17)	Dimepheptanol	9618
(18)	Dimethylthiambutene	9619
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(22)	Etonitazene	9624
(23)	Etoxeridine	9625
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(26)	Ketobemidone	9628
(27)	Levomoramide	9629
(28)	Levophenacylmorphan	9631
(29)	Morpheridine	9632
(30)	Noracymethadol	9633
(31)	Norlevorphanol	9634
(32)	Normethadone	9635
(33)	Norpipanone	9636
(34)	Phenadoxone	9637
(35)	Phenampromide	9638
(36)	Phenomorphan	9647
(37)	Phenoperidine	9641
(38)	Piritramide	9642
(39)	Proheptazine	9643
(40)	Properidine	9644
(41)	Propiram	9649
(42)	Racemoramide	9645
(43)	Trimeperidine	9646

(c) *Opium derivatives.* Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1)	Acetorphine	9319
(2)	Acetyldihydrocodeine	9051
(3)	Benzylmorphine	9052
(4)	Codeine methylbromide	9070
(5)	Codeine-N-Oxide	9053
(6)	Cyprenorphine	9054
(7)	Desomorphine	9055
(8)	Dihydromorphine	9145
(9)	Etorphine	9056
(10)	Heroin	9200
(11)	Hydromorphinol	9301
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(13)	Methyldihydromorphine	9304
(14)	Morphine methylbromide	9305
(15)	Morphine methylsulfonate	9306
(16)	Morphine-N-Oxide	9307
(17)	Myrophine	9308
(18)	Nicocodeine	9309
(19)	Nicomorphine	9312
(20)	Normorphine	9313
(21)	Pholcodine	9314
(22)	Thebacon	9315

(d) *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):

(1)	3,4-methylenedioxy amphetamine	7400
(2)	5-methoxy-3,4-methylenedioxy amphetamine	7401
(3)	3,4,5-trimethoxy amphetamine	7390
(4)	Bufotenine Some trade and other names: 3-(β-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; *N,N*-dimethylserotonin; 5-hydroxy-*N*-dimethyltryptamine; mappine.	7433
(5)	Diethyltryptamine Some trade and other names: *N,N*-Diethyltryptamine; DET.	7434
(6)	Dimethyltryptamine Some trade or other names: DMT	7435
(7)	4-methyl-2,5-dimethoxyamphetamine Some trade and other names: 4-methyl-2,5-dimethoxy-α-methylphenethylamine; "DOM"; and "STP".	7395
(8)	Ibogaine Some trade and other names: 7-Ethyl-6,6α,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1′,2′:1,2 azepino 4,5-b) indole; tabernanthe iboga.	7260
(9)	Lysergic acid diethylamide	7315
(10)	Marihuana	7360
(11)	Mescaline	7381
(12)	Peyote	7415
(13)	N-ethyl-3-piperidyl benzilate	7482
(14)	N-methyl-3-piperidyl benzilate	7484
(15)	Psilocybin	7437
(16)	Psilocyn	7438

(17) Tetrahydrocannabinols 7370
Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers.
Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.
$\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers.
(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

§ 308.12 Schedule II.

(a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.

(b) *Substances, vegetable origin or chemical synthesis.* Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone hydrochloride, but including the following:

(i) Raw opium	9600
(ii) Opium extracts	9610
(iii) Opium fluid extracts	9620
(iv) Powered opium	9639
(v) Granulated opium	9640
(vi) Tincture of opium	9630
(vii) Apomorphine	9030
(viii) Codeine	9050
(ix) Ethylmorphine	9190
(x) Hydrocodone	9193
(xi) Hydromorphone	9194
(xii) Metopon	9260
(xii) Morphine	9300
(xiv) Oxycodone	9143
(xv) Oxymorphone	9652
(xvi) Thebaine	9333

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (1) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine (9041) or ecgonine (9180).

(c) *Opiates.* Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine	9010
(2) Anileridine	9020
(3) Bezitramide	9800
(4) Dihydrocodeine	9120
(5) Diphenoxylate	9170
(6) Fentanyl	9801
(7) Isomethadone	9226
(8) Levomethorphan	9210
(9) Levorphanol	9220
(10) Metazocine	9240
(11) Methadone	9250
(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane	9254
(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid	9802
(14) Pethidine	9230
(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	9232
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	9233
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid	9234
(18) Phenazocine	9715
(19) Piminodine	9730
(20) Racemethorphan	9732
(21) Racemorphan	9733

(d) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers	1100
(2) Methamphetamine, its salts, isomers, and salts of its isomers	1105
(3) Phenmetrazine and its salts	1630
(4) Methylphenidate	1724

§ 308.13 Schedule III.

(a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Bureau Controlled Substances Code Number set forth opposite it.

(b) *Stimulants.* Unless specifically excepted or unless listed in another schedule any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under § 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid	2100
(2) Chlorhexadol	2510
(3) Glutethimide	2550
(4) Lysergic acid	7300
(5) Lysergic acid amide	7310
(6) Methyprylon	2575
(7) Phencyclidine	7471
(8) Sulfondiethylmethane	2600
(9) Sulfonethylmethane	2605
(10) Sulfonmethane	2610
(d) *Nalorphine*	9400

(e) *Narcotics drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium	9803
(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9804
(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium	9805
(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9806
(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9807
(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9808
(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9809
(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9810

§ 308.14 **Schedule IV.**

(a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Bureau Controlled Substances Code Number set forth opposite it.

(b) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Barbital	2145
(2) Chloral betaine	2460
(3) Chloral hydrate	2465
(4) Ethchlorvynol	2540
(5) Ethinamate	2545
(6) Methohexital	2264
(7) Meprobamate	2820
(8) Methylphenobarbital	2250
(9) Paraldehyde	2585
(10) Petrichloral	2591
(11) Phenobarbital	2285

§ 308.15 **Schedule V.**

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) *Narcotic drugs containing noncarcotic active medicinal ingredients.* Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Nor more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

§ 308.22 **Excluded substances.**

The following nonnarcotic substances which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, are excluded from all schedules pursuant to section 201(g)(1) of the Act (21 U.S.C. 811(g)(1)):

EXCLUDED OVER-THE-COUNTER DRUGS

Trade name or other designation	Composition	Manufacturer or supplier
Amodrine	Tablet: Phenobarbital, 8 mg.; aminophylline, 100 mg.; racepbedrine hydrochloride, 25 mg.	G. D. Searle & Co.
Bronkaid	Tablet: Phenobarbital, 8 mg.; ephedrine sulfate, 24 mg.; glyceryl guaiacolate, 100 mg.; theophylline, 100 mg.; thenyldiamine, 10 mg.	Drew Pharmacal Co., Inc.
Bronkolixir	Elixir (5 cc): Phenobarbital, 4 mg.; ephedrine sulfate, 12 mg.; glyceryl guaiacolate, 50 mg.; theophylline, 15 mg.; chlorpheniramine maleate, 1 mg.	Breon Laboratories Inc.
Bronkotabs	Tablet: Phenobarbital, 8 mg.; ephedrine sulfate, 24 mg.; glyceryl guaiacolate, 100 mg.; theophylline, 100 mg.; thenyldiamine, 10 mg.	Do.
Primatene	Tablet: Phenobarbital, ¼ gr.; ephedrine, ¼ gr.	Whitehall Laboratories.
Tedral	Tablet: Phenobarbital, 8 mg.; theophylline, 130 mg.; ephedrine hydrochloride, 24 mg.	Warner-Chilcott Laboratories.
Tedral Anti-H	Tablet: Phenobarbital, 8 mg.; chlorpheniramine maleate, 2 mg.; theophylline, 130 mg.; ephedrine hydrochloride, 24 mg.	Do.
Tedral one-half strength	Tablet: Phenobarbital, 4 mg.; theophylline, 65 mg.; ephedrine hydrochloride, 12 mg.	Do.
Tedral Pediatric Suspension	Suspension (5 cc): Phenobarbital, 4 mg.; ephedrine hydrochloride, 12 mg.; theophylline, 65 mg.	Do.
Tedral suppositories double strength	Suppository: Phenobarbital, 16 mg.; theophylline, 260 mg.; ephedrine hydrochloride, 48 mg.	Do.
Tedral suppositories regular strength	Suppository: Phenobarbital, 8 mg.; theophylline, 130 mg.; ephedrine hydrochloride, 24 mg.	Do.
Verequad	Tablet: Phenobarbital, 8 mg.; theophylline calcium salicylate, 130 mg.; ephedrine hydrochloride, 24 mg.; glyceryl guaiacolate, 100 mg.	Knoll Pharmaceutical Co.
Verequad	Suspension (5 cc): Phenobarbital, 4 mg.; theophylline calcium salicylate, 65 mg.; ephedrine hydrochloride, 12 mg.; glyceryl guaiacolate, 50 mg.	Do.

§ 308.24 **Exempt chemical preparations.**

(a) The chemical preparations and mixtures set forth in paragraph (i) of this section have been exempted by the Director from application of sections 302, 303, 305, 306, 307, 308, 309, 1002, 1003, and 1004 of the Act (21 U.S.C. 822–3, 825–9, 952–4) and § 301.74 of this chapter, to the extent described in paragraphs (b) to (h) of this section.

(b) Registration and security: Any person who manufactures an exempt chemical preparation or mixture must be registered under the Act and comply with all relevant security requirements regarding controlled substances being used in the manufacturing process until the preparation or mixture is in the form described in paragraph (i) of this section. Any other person who handles an exempt chemical preparation after it is in the form described in paragraph (i) of this section is not required to be registered under the Act to handle that preparation, and the preparation is not required to be stored in accordance with security requirements regarding controlled substances.

(c) Labeling: In lieu of the requirements set forth in Part 302 of this chapter, the label and the labeling of an exempt chemical preparation must be prominently marked with its full trade name or other description and the name of the manufacturer or supplier as set forth in paragraph (i) of this section, in such a way that the product can be readily identified as an exempt chemical preparation. The label and labeling must also include in a prominent manner the statement "For industrial use only" or "For chemical use only" or "For in vitro use only—not for human or animal use" or "Diagnostic reagent— for professional use only" or a comparable statement warning the person reading it that human or animal use is not intended. The symbol designating the schedule of the controlled substance is not required on either the label or the labeling of the exempt chemical preparation, nor is it necessary to list all ingredients of the preparation.

(d) Records and reports: Any person who manufactures an exempt chemical preparation or mixture must keep complete and accurate records and file all reports required under Part 304 of this chapter regarding all controlled substances being used in the manufacturing process until the preparation or mixture is in the form described in paragraph (i) of this section. In lieu of records and reports required under Part 304 of this chapter regarding exempt chemical preparations, the manufacturer need only record the name, address, and registration number, if any, of each person to whom the manufacturer distributes any exempt chemical preparation. Each importer or exporter of an exempt narcotic chemical preparation must submit a semiannual report of the total quantity of each substance imported or exported in each calendar half-year within 30 days of the close of the period to the Distribution Audit Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537. Any other person who handles an exempt chemical preparation after it is in the form described in paragraph (i) of this section is not required to maintain records or file reports.

(e) Quotas, order forms, prescriptions, import, export, and transshipment requirements: Once an export chemical preparation is in the form described in paragraph (i) of this section, the requirements regarding quotas, order forms, prescriptions, import permits and declarations, export permit and declarations, and transshipment and intransit permits and declarations do not apply. These requirements do apply, however, to any controlled substances used in manufacturing the exempt chemical preparation before it is in the form described in paragraph (i) of this section.

(f) Criminal penalties: No exemption granted pursuant to § 308.23 affects the criminal liability for illegal manufacture, distribution, or possession of controlled substances contained in the exempt chemical preparation. Distribution, possession, and use of an exempt chemical preparation are lawful for registrants and nonregistrants only as long as such

distribution, possession, or use is intended for laboratory, industrial, or educational purposes and not for immediate or subsequent administration to a human being or other animal.

(g) Bulk materials: For materials exempted in bulk quantities, the Director may prescribe requirements other than those set forth in paragraphs (b) through (e) of this section on a case-by-case basis.

(h) Changes in chemical preparations: Any change in the quantitative or qualitative composition of the preparation or mixture after the date of application, or change in the trade name or other designation of the preparation or mixture, set forth in paragraph (i) of this section, requires a new application for exemption.

(i) The following preparations and mixtures, in the form and quantity listed in the application submitted (indicated as the "date of application") are designated as exempt chemical preparations for the purposes set forth in this section:

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
American Hospital Supply Corp. (Scientific Products Division).	Scientific Products Buffer Salt Mixture B-2, No. 92953.	Vial: 18.18 grams per 10 dram vial.	9-15-71
American Hospital Supply Corp. (Dade Division).	Adsorbed Plasma Reagent No. B4233-1 and No. B4233-2.	Bottle: 1 ml.	8-16-71
Do	Owren's Veronal Buffer No. B4234-25.	Bottle: 15 ml.	8-16-71
Do	Phosphatase Substrate No. B5312-1 and No. B5312-5.	Bottle: 73 mg. dry powder	8-16-71
Do	Serum Reagent No. B4233-1 and No. B4233-2.	Bottle: 1 ml.	8-16-71
Do	Thrombin Reagent (Bovine) No. B4233-15.	Bottle: 1 ml.	8-16-71
Do	Thyroxine Buffer No. B9630-1	Bottle: 5 ml.	8-16-71
American Hospital Supply Corp. (Harleco Division).	Barbital Buffer B-1 No. 96772	Vial: 12.12 grams per 7 dram vial.	9-15-71
Do	Barbiturate Standards Set. No. 64898.	Vial: 9 x 3 ml. of 8 single and 1 mixed at 15 mg per dl.	10-22-71
Do	Barringer & Woodard Buffered Substrate No. 29805.	Vial: 0.73 grams per 15 x 45 mm. vial.	9-15-71
Do	Buchler Instrument Buffer B-2 Double Strength, pH 8.6, 0.075m No. 92834.	Vial: 36.36 grams	9-15-71
Do	Buffer Barbital, pH 8.6, No. 96804	Vial: 1.82 grams per 15 x 45 mm. vial.	9-15-71
Do	Buffer Barbital, pH 8.8, No. 7691	Vial: 11.76 grams per 10 dram vial.	9-15-71
Do	Buffer Salt-Barbital Acetate Mixture, pH 8.6, No. 3787.	Vial: 14.7 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffer Salt Mixture, pH 8.8, No. 7644.	Vial: 17.85 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffer Salt Mixture Spinco B-1, pH 8.6, 0.05 Ionic Strength, No. 3947.	Vial: 12.12 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffer Salt Mixture Spinco B-2, pH 8.6, 0.075 Ionic Strength, No. 3948.	Vial: 18.18 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffered Barbital Sodium Chloride, pH 7.5, No. 64647.	Vial: 14.7 grams per vial	9-15-71
Do	Buffered Substrate Glycerophosphate Bodansky, No. 23681.	Vial: 0.924 grams per 15 x 45 mm. vial.	9-15-71
Do	Buffered Veronal, pH 7.5, No. 64322	Vial: 16.45 grams per vial	9-15-71
Do	Gilereas & Davis Buffered Substrate, No. 23701.	Vial: 1.228 grams per 15 x 45 mm. vial.	9-15-71
Do	King & Armstrong Buffered Substrate, No. 23721.	Vial: 1.14 grams per 15 x 45 mm. vial.	9-15-71
Do	Roe & Whitmore Buffered Substrate, No. 23686.	Vial: 0.854 grams per 15 x 45 mm. vial.	9-15-71
Do	Scientific Products Buffer Salt Mixture B-2, No. 92953.	Vial: 18.18 grams per 10 dram vial.	9-15-71
Do	Shinowara, Jones & Reinhart Buffered Substrate, No. 23738.	Vial: 0.945 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Barbital Buffer, McLagan Modified, pH 7.8, No. 29944.	Vial: 1.256 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Buffer 100 ml 100 mg., Huergs & Popper, No. 29959.	Vial: 0.964 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Buffer, pH 7.8, MacLagan, No. 29949.	Vial: 1.02 grams per vial	9-15-71
Do	Thymol Buffer, pH 7.55 Mateer, No. 29961.	Vial: 0.96 grams per 15 x 45 mm. vial.	9-15-71
Do	Zinc Sulfate, pH 7.5 (Kunkel), No. 64950.	Vial: 0.514 grams per vial	9-15-71
Amersham/Searle	Codeine (N-methyl-C14) Hydrochloride No. CFA-421.	Ampule: 10 cc	3-27-72
Do	Morphine (N-methyl-C14) Hydrochloride No. CFA-363.	do	3-27-72
Beckman Instruments, Inc. (Spinco Division).	Beckman Buffer B-1	Packet: 12.14 Gm	4-24-71
Do	Beckman Buffer B-2	Packet: 18.16 Gm	4-24-71
Buchler Instruments, Inc	Buchler Instrument Buffer B-2 Double Strength, pH 8.6, 0.075m No. 92834.	Vial: 36.36 grams	9-15-71
Chemed Corp. (Dearborn Chemical Division).	Zinc Reagent No. 2, No. 704	Pillow: 10 mg. each	6-23-71
Gelman Instruments Co	Drug Standard Set No. 51910	Set: 3 vials of 2 ml. each	4- 6-72
Do	Drug Control Set No. 51911	Set: 3 vials of 50 ml. each	4- 6-72
Do	High Resolution Buffer-Tris Barbital Buffer No. 51104.	Vial: 10 drum	12-23-71
Gugol Science Corp	Gugol Concentrate No. 10109	Vials: 20 ml., 90 ml., and 450 ml.	3-23-72
Hach Chemical Co	pH 8.5 Buffer Powder Pillows, No. 920-85.	Pillow: 0.5 Gm. each	11-30-71
Do	pH 8.3 Buffer Powder Pillows, No. 808-98.	Pillow: 1 gram each	11-30-71
Do	Zincover II Powder Pillows, No. 2017.	do	11-30-71
Do	Buffered Substrate, Glycerophosphate, Roe & Whitmore, pH 9.6, No. 20060.	Vial: 0.855 grams per 100 ml. + +	11-30-71
Do	Buffered Substrate, Glycerophosphate, Shinowara, Jones & Reinhart, pH 10.9, No. 20063.	Vial: 0.925 grams per 100 ml.	11-30-71
Do	Buffered Substrate, Glycerophosphate, Shinowara, Jones & Reinhart—Stock, No. 20061.	Vial: 1.85 grams per 100 ml.	11-30-71
Do	Buffered Substrate, Glycerophosphate, Shinowara, Jones & Reinhart, pH 5.0, No. 20062.	Vial: 0.925 grams per 100 ml.	11-30-71
Hoffman-La Roche Inc	Radioimmunoassay for Detection of Morphinans.	Tubes: 4 ml., and vials: 5 ml.	3-29-72
Hyland Division Travenol Laboratories, Inc.	Agar Gel Plates No. 3003	Package: 8 plates—25 ml. per plate.	8-31-71
Do	Agar Gel Plates No. 3013	Package: 10 plates—25 ml. per plate.	8-31-71
Do	Agar Gel Plates No. 3058	do	8-31-71
Do	Buffer No. 3017	Vial: 250 ml.	8-31-71
Do	Buffer No. 3059	do	8-31-71
Do	Diluting Fluid No. 3400	Vial: 10 ml.	8-31-71
Do	Partial Thromboplastin Liquid, No. 3481.	Vial: 0.1 ml.	8-31-71
Do	PTC Reagent Dried, No. 3497	Vial: 1 ml.	8-31-71
Do	Supplemental Urine Clinical Chemistry Control, Dried, No. 0402 and No. 0521.	Vial: 25 ml.	8-31-71
Industrial Biological Laboratories, Inc.	DGV Solution	Vial: 100 cc	12-28-71
Lederle Laboratories Division of American Cyanamid Co.	DGV Buffer, 5x No. 2606-37	Vial: 20 ml.	11-19-71
Do	Serum Toxicology Control Drugs A, No. 2940-69.	Vial: 10 ml.	11-19-71
Do	Abnormal Urine Control, No. 2930-80.	Vial: 25 ml.	11-19-71
Do	Urine Toxicology Control Drugs I, No. 2950-61.	do	11-19-71
Do	Urine Toxicology Drugs I Screening Proficiency, No. 2951-61.	do	3-13-72
Do	Urine Toxicology Control Drugs 2—Barbiturates, No. 2962-61.	do	3-13-72
Do	Urine Toxicology Control Drugs 2—Barbiturates, Proficiency No. 2963-61.	do	3-13-72

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
Lederle Laboratory Division of American Cyanamid Co.	Urine Toxicology Control Drugs 3—Amphetamines No. 2664-61.	do	3-13-72
Do	Urine Toxicology Control Drugs 3—Amphetamines, Proficiency No. 2665-61.	do	3-13-72
Do	Urine Toxicology Control, Drugs 4—Alkaloid No. 2666-61.	do	3-13-72
Do	Urine Toxicology Control, Drugs 4—Alkaloid, Proficiency No. 2667-61.	do	3-13-72
Mallard, Inc	High Resolution Buffer-Tris Barbital Buffer No. 8104.	Vial: 1½ dram	12-22-71
Mallinckrodt Chemical Works	Res-O-Mat ETE Solution	Vial: 1½ dram	2-17-72
Do	Res-O-Mat T4 Solution	do	2-17-72
Meloy Laboratories	Agar Gel Plate Kit No. F-101, F-211, F-212, F-213, G-203, G-303, and G-304.	Package: 6 plates and 2 vials (90 x 70 mm) per kit.	11-30-71
Do	Barbital Buffer (or Electrophoresis Buffer).	Vial: 12.12 grams per 29.5 x 80 mm. vial.	9-15-71
Miles Laboratories Inc	Tetralute	Bottle: 4.9 gram	7-29-70
Nalco Chemical Co	Zn-1P No 723	Pillow: 10 mg. each	11-30-71
Do	Zn-2P No. 725	do	11-30-71
Parex Laboratories, Inc	Cannabis Sativa, Allergenic Extract 1000 pnu/cc.	Vial: 2 cc	9-29-71
Do	Cannabis Sativa, Allergenic Extract, 20,000 pnu/cc.	Vial: 50 cc	9-29-71
Ortho Diagnostics	Actifaxed ThromboFAX No. 731000.	Bottle: 3.2 ml	9-21-71
Do	Hapindex, Agar Gel Plate, No. 740000.	Plate: 43 ml. per plate	9-21-71
Do	Ortho Abnormal Plasma Coagulation Control.	Packet: 96.5 mg	9-21-71
Do	Ortho HAA Positive Control No. 740100.	Vial: 1 mg	3-27-72
SGA Scientific Corp	Barbital-Acid Buffer Salt, No. 1173	Bottle: 4 oz	11-4-71
Do	Barbital-Sodium Buffer Salt, No. 1172.	do	11-4-71
Do	Barringer & Woodard Buffered Substrate No. 23895.	Vial: 0.73 gram per 15 x 45 mm. vial.	9-15-71
Do	Buchler Instrument Buffer B-2 Double Strength, pH 8.6, 0.075m No. 93834	Vial: 36.36 grams	9-15-71
Do	Buffer Barbital pH 8.8, No. 7691	Vial: 11.76 grams per 10 dram vial.	9-15-71
Do	Buffer Salt—Barbital Acetate, Mixture pH 8.6, No. 3787.	Vial: 14.7 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffer Salt Mixture pH 8.8, No. 7644.	Vial: 17.85 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffer Salt Mixture Spinco B-1, pH 8.6, 0.05 Ionic Strength, No. 8917.	Vial: 12.12 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffer Salt Mixture Spinco B-2, pH 8.6, 0.075 Ionic Strength, No. 8648.	Vial: 18.18 grams per 29.5 x 80 mm. vial.	9-15-71
Do	Buffered Barbital Sodium Chloride, pH 7.5, No. 64667.	Vial: 14.7 grams per vial	9-15-71
Do	Buffered Substrate Glycerophosphate Bodansky, No. 22681.	Vial: 0.924 grams per 15 x 45 mm. vial.	9-15-71
Do	Buffered Veronal, pH 7.5, No. 64322.	Vial: 16.48 grams per vial	9-15-71
Do	Gilcreas & Davis Buffered Substrate, No. 23701.	Vial: 1.225 grams per 15 x 45 mm. vial.	9-15-71
Do	Klag & Armstrong Buffered Substrate, No. 3873.	Vial: 1.14 grams per 15 x 45 mm. vial.	9-15-71
Do	Ros & Wallmore Buffered Substrate, No. 23686.	Vial: 0.854 grams per 15 x 45 mm. vial.	9-15-71
Do	Scientific Products Buffer Salt Mixture B-2, No. 92953.	Vial: 18.18 grams per 10 dram vial.	9-15-71
Do	Shinowara, Jones & Reinhart Buffered Substrate, No. 23738.	Vial: 0.945 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Barbital Buffer, McLagan Modified pH 7.8, No. 29944.	Vial: 1.256 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Buffer 100 ml = 100 mg., Huergs & Popper, No. 29660.	Vial: 0.964 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Buffer pH 7.8, MacLagan, No. 29949.	Vial: 1.02 grams per vial	9-15-71
Do	Thymol Buffer pH 7.55 Mateer, No. 29951.	Vial: 0.96 grams per 15 x 45 mm. vial.	9-15-71
Do	Thymol Turbidity Test Set, No. 3105.	Packet: 1 gram	11-4-71
SGA Scientific Corp	Zinc Sulfate pH 7.5 (Kunkel), No. 64056.	Vial: 0.514 grams per vial	9-15-71
Schwarz/Mann div. Becton Dickinson and Co.	Barbital Buffer Salt Mixture, No. 0733-04 and No. 0733-07.	Vial: 80 cc	11-4-71
E. R. Squibb & Sons, Inc	AuSure Barbital Buffer Powder, No. B79309.	Vial: 1.51 grams	7-28-71
Do	AuSure CEP Plate, No. B78209	Plate: 40cc. per plate	9-16-71
Do	Barbital Buffer Mixture Angiotensin I Immunepe Kit, No. 0650.	Vial: 6.055 grams	7-30-71
SYVA Co	Lyophilized Urine Base Morphine Standard Set.	Vial: 2 ml. (7 vials per set)	2-24-72
Do	Lyophilized Urine Base Amphetamine Standard Set.	Vial: 2 ml. (3 vials per set)	2-24-72
Do	Lyoph lized Urine Base Secobarbital Standard Set.	Vial: 2 ml. (4 vials per set)	2-24-72
Do	Lyophilized Urine Base Methadone Standard Set.	Vial: 2 ml. (5 vials per set)	2-24-72
Warner-Lambert Co. (General Diagnostics Division).	Platelin	Vial: 7.3 ml	3-13-72
Do	Platelin plus Activator	do	3-13-72
Do	Simplastin	Vials: 4.7 ml., 7.3 ml. and 16.5 ml.	3-13-72
Do	Simplastin—A	Vial: 7.3 ml	3-13-72
Do	TGTR Set	Package: 4 tests per set	3-13-72

§ 308.32 Excepted compounds.

(a) Until criteria are adopted by the Bureau by which the Director may determine whether to except any compound, mixture, or preparation containing any depressant or stimulant substance listed in § 308.13 (b) or (c), or in § 308.14, or in § 308.15, from the application of all or any part of the Act pursuant to section 202(d) of the Act (21 U.S.C. 812(d)), the drugs set forth in paragraph (b) of this section have been excepted by the Director from application of the sections 305, 307, 308, 309, 1002, 1003, and 1004 of the Act (21 U.S.C. 825, 827–9, 952–4) and of § 301.74(d) of this chapter for administrative purposes only. The excepting of these drugs by the Director should not be construed as an adoption or rejection of the criteria by which these drugs were originally excepted. Any deviation from the quantitative composition of any of the listed drugs shall require a petition for exception in order for that drug to be excepted.

(b) The following drugs in dosage unit form, and any other drug of the quantitative composition shown below for one of the following drugs or which is the same except that it contains a lesser quantity of controlled substances or other substances which do not have a stimulant, depressant, or hallucinogenic effect, and which are restricted by law to dispensing on prescription, are excepted from the application of sections 305, 307, 308, 309, 1002, 1003, and 1004 of the Act (21 U.S.C. 825, 827–9, 952–4) and of § 301.74(d) of this chapter:

EXCEPTED PRESCRIPTION DRUGS

Trade name or other designation	Composition	Manufacturer or supplier
A.E.A	Tablet: Amobarbital, 25 mg.; aminophylline, 130 mg.; ephedrine hydrochloride, 25 mg.	Haack Laboratories, Inc.
Alased	Tablet: Phenobarbital, 16.2 mg.; homatropine methylbromide, 3.6 mg.; aluminum hydroxide gel, dried, 7½ gr., magnesium trisilicate, 2½ gr.	Norgine Laboratories, Inc.
Alcitex	Tablet: Phenobarbital, ¼ gr.; atropine sulfate, 1/150 gr.; calcium carbonate, 3½ gr.; magnesium carbonate, 2½ gr.; cerium oxalate, ½ gr.	Paul B. Elder Co., Inc.
Algoson	Tablet: Butabarbital sodium, 7.5 mg.; acetaminophen, 300 mg.	McNeil Laboratories Inc.
Alhydrox	Tablet: Phenobarbital, ¼ gr.; aluminum hydroxide, 3 gr.; atropine sulfate, 1/150 gr.	Physicians Supply.
Alkaunts	Tablet: Phenobarbital, 8.9 mg.; atropine sulfate, 0.06 mg.; kaolin-alumina gel, 500 mg.	P. J. Noyes Co.
Alsical	Powder (60 gr.): Phenobarbital, ¼ gr.; belladonna extract, ¼ gr.; calcium carbonate, 24 gr.; magnesium trisilicate, 15 gr.; magnesium oxide, 10 gr.; aluminum hydroxide gel, dried, 10 gr.	Dorsey Laboratories.
Alubelap	Tablet: Phenobarbital, 8 mg.; aluminum hydroxide gel, dried, 300 mg.; belladonna extract, 4 mg.	Haack Laboratories, Inc.
Aludrox SA Suspension	Suspension (5 cc.): Butabarbital, 8 mg.; ambutonium bromide, 2.5 mg.	Wyeth Laboratories.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Abedrox SA Tablets	Tablet: Butabarbital, 8 mg.; ambutonium bromide, 2.5 mg.	Wyeth Laboratories.
Alu-Mag	Tablet: Phenobarbital, ¼ gr.; aluminum hydroxide gel, dried, 2½ gr.; magnesium trisilicate, 2½ gr.; belladonna leaf extract, ⅛ gr.	Norsal Laboratories, Inc.
Alumasen	Tablet: Phenobarbital, 8 mg.; atropine sulfate, 0.06 mg.; magnesium trisilicate, 500 mg.; aluminum hydroxide gel, dried, 250 mg.; saccharin sodium, 0.12 mg.	The Zemmer Co.
Aluminum hydroxide, magnesium trisilicate, and kaolin with phenobarbital and atropine sulfate.	Tablet: Phenobarbital, ¼ gr.; aluminum hydroxide, 2 gr.; magnesium trisilicate, 4 gr.; kaolin, colloidal, 2 gr.; atropine sulfate, 1/400 gr.	Buffalo Pharmaceutica Supply Corp.
Aminodrox with Phenobarbital.	Tablet: Phenobarbital, 15 mg.; aminophylline, 0.1 gm.; aluminum hydroxide gel, dried, 0.12 gm.	The S. E. Massengill Co.
Aminodrox-Forte with Phenobarbital.	Tablet: Phenobarbital, 15 mg.; aminophylline, 200 mg.; aluminum hydroxide gel, dried, 250 mg.	Do.
Aminophylline and Amytal	Capsule: Amobarbital, 32 mg.; aminophylline, 0.1 gm.	Eli Lilly Co.
Aminophylline with pentobarbital.	Suppository: Pentobarbital sodium, 100 mg.; aminophylline, 500 mg.	G. D. Searle & Co.
Aminophylline and phenobarbital.	Tablet: Phenobarbital, 15 mg.; aminophylline, 100 mg.	The Zemmer Co.
Do	Tablet: Phenobarbital, ¾ gr.; aminophylline, 100 mg.	The Blue Line Chemical Co.
Aminophylline with phenobarbital.	Tablet: Phenobarbital, 16 mg.; aminophylline, 100 mg.	H. E. Dubin Laboratories, Inc.
Do	Tablet: Phenobarbital, 15 mg.; aminophylline, 100 mg.	G. D. Searle & Co.
Do	Tablet: Phenobarbital, 15 mg.; aminophylline, 200 mg.	Do.
Aminophylline with phenobarbital.	Tablet: Phenobarbital, 30 mg.; aminophylline, 200 mg.	Do.
Amobarbital and PETN	Capsule: Amobarbital, 50 mg.; pentaerythritol tetranitrate, 30 mg.	Meyer Laboratories, Inc.
Ampyrox with Butabarbital Sodium (AMPYROX).	Tablet: Butabarbital sodium, 15 mg.; scopolamine methylnitrate, 2 mg.	Paul B. Elder Co., Inc.
Ampyrox with Butabarbital Sodium, Elixir.	Elixir (5 cc.): Butabarbital sodium, 10 mg.; scopolamine methylnitrate, 1 mg.	Do.
Amsed (NAF-37)	Tablet: Phenobarbital, ¾ gr.; hyoscine hydrobromide, 0.0072 mg.; atropine sulfate, 0.024 mg.; hyoscyamine hydrobromide, 0.128 mg.	North American Pharmacal, Inc.
Amsodyne	Tablet: Phenobarbital, ¾ gr.; extract belladonna leaves, ¼ gr.; aspirin, 5 gr.; caffeine, ¼ gr.	Paul B. Elder Co., Inc.
Antacia No. 3 with Phenobarbital and Atropine.	Tablet: Phenobarbital, ½ gr.; atropine sulfate, 1/600 gr.; calcium carbonate, 5 gr.; magnesium hydroxide, 5 gr.	Meyers and Co.
Antispasmodic	Tablet (purple): Phenobarbital, 16.2 mg.; hyoscyamine sulfate, 0.1037 mg.; homatropine methylbromide, 0.567 mg.; hyoscine hydrobromide, 0.0065 mg.	Hydrex Co., Inc.
Antispasmodic-Enzyme	Tablet: Phenobarbital, 8.1 mg.; hyoscyamine sulfate, 0.0519 mg.; homatropine methylbromide, 0.2885 mg.; hyoscine hydrobromide, 0.0033 mg.; pancreatin, 100 mg.; pepsin, 150 mg.	Do.
Antrocol	Tablet or capsule: Phenobarbital, 16 mg.; atropine sulfate, 0.324 mg.; colloidal sulfur, 22 mg.	Wm. P. Poythress & Co., Inc.
Aqualin-Plus, Children	Suppository: Pentobarbital sodium, ¾ gr.; theophylline, 1½ gr.	The Wm. A. Webster Co.
Aqualin-Plus No. 1	Suppository: Pentobarbital sodium, ¾ gr.; theophylline, 3½ gr.	Do.
Aqualin-Plus No. 2	Suppository: Pentobarbital sodium, 1½ gr.; theophylline, 7½ gr.	Do.
Aqualin-Plus No. 2A	Suppository: Pentobarbital sodium, ¾ gr.; theophylline, 7½ gr.	Do.
Asmabar	Tablet: Butabarbital, 20 mg.; ephedrine sulfate, 25 mg.; theophylline hydroxide, 130 mg.	The Blue Line Chemical Co.
Asmacol	Tablet: Butabarbital, 15 mg.; aminophylline, 180 mg.; phenylpropanolamine hydrochloride, 25 mg.; chlorpheniramine maleate, 2 mg.; aluminum hydroxide gel, dried, 60 mg.; magnesium trisilicate, 60 mg.	The Vale Chemical Co., Inc.
Asperase, Modified with Phenobarbital.	Tablet: Phenobarbital, 0.008 gm.; acetylsalicylic acid, 0.5 gm.	P. J. Noyes Co.
Atropal	Tablet: Phenobarbital, ½ gr.; atropine sulfate, 1/600 gr.; magnesium trisilicate, 2½ gr.; aluminum hydroxide gel, dried, 2½ gr.	Mallinckrodt Chemical Works.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Atrosilital	Tablet: Phenobarbital, 15 mg.; atropine sulfate, 0.12 mg.; magnesium trisilicate, 0.5 gm.; saccharin sodium, 0.12 mg.	The Zemmer Co.
Banthine with Phenobarbital	Tablet: Phenobarbital, 15 mg.; methantheline bromide, 50 mg.	G. D. Searle & Co.
Butibel	Tablet or elixir (5 cc.): Butabarbital sodium, 15 mg.; belladonna extract, 15 mg. (hyoscyamine sulfate, 0.138 mg.; hyoscine hydrobromide, 0.027 mg.; atropine sulfate, 0.067 mg.).	McNeil Laboratories, Inc.
Butibel R-A	Tablet: Butabarbital sodium, 30 mg.; belladonna extract, 30 mg.	Do.
Butibel-Gel Suspension	Suspension (15 cc.): Butabarbital sodium, 7.5 mg.; belladonna extract, 7.5 mg. (total alkaloids 0.187 mg.); activated attapulgite, 1.5 mg.; pectin, 75 mg.	Do.
Butibel-Gel Tablets	Tablet: Butabarbital sodium, 7.5 mg.; belladonna extract, 7.5 mg. (total alkaloids 0.0935 mg.); activated attapulgite, 300 mg.; pectin, 45 mg.	Do.
Butibel-Zyme	Tablet: Butabarbital sodium, 15 mg.; belladonna extract, 15 mg. (total alkaloids 0.187 mg.); proteolytic enzyme standardized, 10 mg.; amylolytic enzyme standardized, 20 mg.; cellulolytic enzyme standardized, 5 mg.; lipolytic enzyme standardized, 100 mg.; iron ox bile (45% cholic acid), 30 mg.	Do.
Butigetic	Tablet: Butabarbital sodium, 15 mg.; acetaminophen, 200 mg.; phenacetin, 150 mg.; caffeine, 30 mg.	Do.
Cafergot P-B	Tablet: Phenobarbital sodium, 30 mg.; ergotamine tartrate, 1 mg.; caffeine, 100 mg.; levorotatory alkaloids of belladonna, 0.125 mg.	Sandoz Pharmaceuticals.
Do	Suppository: Pentobarbital, 60 mg.; ergotamine tartrate, 2 mg.; caffeine, 100 mg.; levorotatory alkaloids of belladonna, 0.25 mg.	Do.
Cal-Ma-Phen	Tablet: Phenobarbital, ¼ gr.; calcium-carbonate, 5 gr.; magnesium hydroxide, 5 gr.; atropine sulfate, 1/400 gr.	Physicians Supply Co.
Cantil with Phenobarbital	Tablet: Phenobarbital, 16 mg.; mepenzolate bromide, 25 mg.	Lakeside Laboratories, Inc.
Carbonates No. 3 with Phenobarbital and Atropine.	Tablet: Phenobarbital, 8 mg.; atropine sulfate, 0.11 mg.; calcium carbonate, 224 mg.; magnesium carbonate, 160 mg.; bismuth subcarbonate, 32 mg.	P. J. Noyes Co.
Cardalin-Phen	Tablet: Phenobarbital, ¼ gr.; aminophylline, 5 gr.; aluminum hydroxide gel, dried, 2½ gr.; benzocaine, ½ gr.	Mallinckrodt Chemical Works.
Cardilate-P	Tablet: Phenobarbital, 15 mg.; erythrityl tetranitrate, 10 mg.	Burroughs Wellcome & Co. (U.S.A.) Inc.
Cholarsee	Tablet: Pentobarbital, 27.5 mg.; oxtriphylline, 200 mg.; racephedrine, 20 mg.	Warner-Chilcott Laboratories.
Co-Elorine 25	Capsule: Amobarbital, 8 mg.; tricyclamol chloride, 25 mg.	Eli Lilly and Co.
Co-Elorine 100	Capsule: Amobarbital, 16 mg.; tricyclamol chloride, 100 mg.	Do.
Cold Preparation, Special	Tablet: Phenobarbital, 8.1 mg.; chlorpheniramine maleate, 2 mg.; pseudoephedrine hydrochloride, 60 mg.; salicylamide, powder, 300 mg.	Knight Pharmacal Co.
Covadil	Tablet: Butabarbital sodium, 20 mg.; pentaerythritol tetranitrate, 15 mg.	The Blue Line Chemical Co.
Dactil with Phenobarbital	Tablet: Phenobarbital, 16 mg.; piperidolate hydrochloride, 50 mg.	Lakeside Laboratories, Inc.
Dalnite	Tablet: Pentobarbital sodium, ¼ gr. aminophylline, 3 gr.; ephedrine hydrochloride, ¾ gr.; aluminum hydroxide gel, dried, 2½ gr.; benzocaine, ¼ gr.	Mallinckrodt Chemical Works.
Dalnite-KI	Tablet: Phenobarbital, ¼ gr.; aminophylline, 3 gr.; ephedrine hydrochloride, ¾ gr.; potassium iodide, 5 gr.; aluminum hydroxide gel, dried, 2½ gr.; benzocaine, ¼ gr.	Do.
Dalnite Night	Tablet: Phenobarbital, ⅜ gr.; pentobarbital sodium, ⅜ gr.; aminophylline, 4 gr.; aluminum hydroxide gel, dried, 2½ gr.; benzocaine, ¼ gr.	Do.
Darficon PB	Tablet: Phenobarbital, 15 mg.; oxyphencyclimine hydrochloride, 5 mg.	Pfizer Laboratories.
Diatraegus	Tablet: Diallylbarbituric acid, ¼ gr.; nitroglycerin, 1/100 gr.; sodium nitrite, 1 gr.; tincture crataegus, 2 minims.	Buffington's, Inc.
Dia-Tropine	Tablet: Diallylbarbituric acid, ¼ gr.; atropine sulfate, 1/600 gr.; magnesium carbonate, 2½ gr.; calcium carbonate, 3½ gr.; bismuth subcarbonate, 1 gr.	Do.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Dilantin with Phenobarbital	Capsule: Phenobarbital, ¾ gr.; diphenylhydantoin sodium, 0.1 gm.	Parke, Davis & Co.
Do.	Capsule: Phenobarbital, ½ gr.; diphenylhydantoin sodium, 0.1 gm.	Do.
Dolonil	Tablet: Butabarbital, 15 mg.; phenazopyridine hydrochloride, 150 mg.; hyoscyamine hydrobromide, 0.3 mg.	Warner-Chilcott Laboratories.
Donabarb	Tablet: Phenobarbital, ¼ gr.; powder extract belladonna, ¼ gr.	Paul B. Elder Co., Inc.
Barbatro No. 1	Tablet: Phenobarbital, 15 mg.; atropine sulfate, 0.12 mg.	The S. E. Massengill Co.
Barbatro No. 2	Tablet: Phenobarbital, 15 mg.; atropine sulfate, 0.25 mg.	Do.
Barbeloid	Tablet: Amobarbital sodium, 20 mg.; hyoscyamine sulfate, 0.125 mg.; hyoscine hydrobromide, 0.007 mg.; homatropine methylbromide, 0.5 mg.	The Vale Chemical Co., Inc.
Barbidonna Elixir	Elixir (5 cc.): Phenobarbital, 16 mg.; hyoscyamine sulfate, 0.1286 mg.; atropine sulfate, 0.0250 mg.; scopolamine hydrobromide, 0.0074 mg.	Mallinckrodt Chemical Works.
Barbidonna Tablets	Tablet: Phenobarbital, 16 mg.; hyoscyamine sulfate, 0.1286 mg.; atropine sulfate, 0.0250 mg.; scopolamine hydrobromide, 0.0074 mg.	Do.
Barboma Elixir	Elixir (100 cc.): Phenobarbital, 0.4 gm.; homatropine methylbromide, 33.8 mg.	The Blue Line Chemical Co.
Barboma Tablets	Tablet: Phenobarbital, ¾ gr.; homatropine methylbromide, ¼s gr.	Do.
Bardase	Tablet or elixir (4 cc.): Phenobarbital, 16.2 mg.; hyoscyamine sulfate, 0.1 mg.; hyoscine hydrobromide, 0.007 mg.; atropine, 0.020 mg.; Taka-Diastase, 162.0 mg.	Parke, Davis & Co.
Bar-Don Elixir	Elixir (30 cc.): Phenobarbital, 100 mg.; hyoscyamine hydrobromide, 0.60 mg.; hyoscine hydrobromide, 0.042 mg.; atropine sulfate, 0.12 mg.	Warren-Teed Pharamaceuticals Inc.
Bar-Don Tablets	Tablet: Phenobarbital, 16.670 mg.; hyoscyamine hydrobromide, 0.10 mg.; hyoscine hydrobromide, 0.007 mg.; atropine sulfate, 0.020 mg.	Do.
Belap No. 0	Tablet: Phenobarbital, 8 mg.; belladonna extract, 8 mg.	Haack Laboratories, Inc.
Belap No. 1	Tablet: Phenobarbital, 15 mg.; belladonna extract, 8 mg.	Do.
Belap Ty-Med	Tablet: Amobarbital, 50 mg.; homatropine methylbromide, 7.5 mg.	Do.
Belladenal	Tablet: Phenobarbital, 50 mg.; belladonine, 0.25 mg.	Sandoz Pharmaceuticals.
Do.	Elixir (15 cc.): Phenobarbital, 15.6 mg.; belladonine, 0.078 mg.	Do.
Bellatol Elixir	Elixir (5 cc.): Butabarbital sodium, 20 mg.; tincture belladonna, 0.33 cc.	The Zemmer Co.
Bellergal	Tablet: Phenobarbital, 20 mg.; ergotamine tartrate, 0.3 mg.; levorotatory alkaloids of belladonna, 0.1 mg.	Sandoz Pharmaceuticals.
Do.	Tablet: Phenobarbital, 40 mg.; ergotamine tartrate, 0.6 mg.; levorotatory alkaloids of belladonna, 0.2 mg.	Do.
Beplete with Belladonna Elixir.	Elixir (4 cc.): Phenobarbital, 15 mg.; vitamin B_1, 1.5 mg.; vitamin B_2, 1 mg.; vitamin B_6, 0.33 mg.; vitamin B_{12}, 1.66 mg.; niacinamide, 10 mg.; pantothenol, 0.2 mg.; belladonna alkaloids, 0.2 mg.	Wyeth Laboratories.
Beradonna	Tablet: Phenobarbital, 16 mg.; homatropine methylbromide, 10 mg.; hyoscine hydrobromide, 0.0065 mg.; hyoscyamine sulfate, 0.1 mg.	Berar Pharmaceuticals.
Bilamide	Tablet: Phenobarbital, ½ gr.; dried ox bile, 2 gr.; dehydrocholic acid, 2 gr.; homatropine methylbromide, ¼s gr.	Norgine Laboratories, Inc.
Bilitrin	Tablet: Butabarbital sodium, 15.0 mg.; nitroglycerin, 0.3 mg.; pentaerythritol tetranitrate, 10.0 mg.	The Vale Chemical Co., Inc.
Bioxatphen	Tablet: Phenobarbital, 8 mg.; atropine sulfate, 0.06 mg.; bismuth subnitrate, 120 mg.; cerium oxalate, 120 mg.	The Zemmer Co.
Bismuth, belladonna, and phenobarbital.	Capsule: Phenobarbital, ¾ gr.; bismuth subgallate, 5 gr.; extract belladonna leaf, ¼ gr.	The Bernard Co.
Buffadyne A-S	Tablet: Amobarbital, 15 mg.; aspirin, 300 mg.; phenacetin, 150 mg.; caffeine, 30 mg.; homatropine methylbromide, 2.5 mg.; aluminum hydroxide gel, 75 mg.; magnesium hydroxide, 45 mg.	Lemmon Pharmacal Co.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Buffadyne with Barbiturates	Tablet: Secobarbital sodium, 8 mg.; amobarbital, 8 mg.; aspirin, 300 mg.; phenacetin, 150 mg.; caffeine, 30 mg.; aluminum hydroxide gel, 75 mg.; magnesium hydroxide, 45 mg.	Do.
Bunesia	Tablet: Butabarbital sodium, 10 mg.; homatropine methylbromide, 2.5 mg.; magnesium hydroxide, 300 mg.	McNeil Laboratories, Inc.
Buren	Tablet: Butabarbital, 15 mg.; phenazopyridine hydrochloride, 150 mg.; scopolamine hydrobromide, 0.0065 mg.; atropine sulfate, 0.0194 mg.; hyoscyamine sulfate, 0.1037 mg.	B. F. Ascher & Co., Inc.
Burrizem	Tablet: Butabarbital sodium, 10 mg.; reserpine, 0.1 mg.; rutin, 20 mg.; mannitol hexanitrate, 30 mg.	The Zemmer Co.
Butabarbital and hyoscyamine sulfate.	Tablet or elixir (5 cc.): Butabarbital, 15 mg.; hyoscyamine sulfate, 0.125 mg.	McNeil Laboratories, Inc.
Do.	Capsule: Butabarbital, 45 mg.; hyoscyamine sulfate, 0.375 mg.	Do.
Donaphen, New Special Donaphen.	Tablet: Phenobarbital, 15 mg.; atropine sulfate, 0.024 mg.; scopolamine hydrobromide, 0.0072 mg.; hyoscyamine hydrobromide, 0.128 mg.	Burt Krone Co.
Donna-Sed Elixir	Elixir (5 cc.): Phenobarbital, 16.2 mg.; hyoscyamine hydrobromide, 0.1037 mg.; atropine sulfate, 0.0194 mg.; hyscine hydrobromide, 0.0065 mg.	North American Pharmacal, Inc.
Donnasep	Tablet: Phenobarbital, 8.1 mg.; phenazopyridine hydrochloride, 50.0 mg., methenamine mandelate, 500 mg.; hyoscyamine sulfate, 0.0519 mg.; atropine sulfate, 0.0097 mg.; hyoscine hydrobromide, 0.0033 mg.	A. H. Robins Co., Inc.
Donphen	Tablet: Phenobarbital, 15 mg.; hyoscyamine sulfate, 0.1 mg.; atropine sulfate, 0.02 mg.; scopolamine hydrobromide, 6 µg.	Lemmon Pharmacal Co.
Dormitol-HM	Tablet: Phenobarbital, ¼ gr.; homatropine methylbromide, 1/64 gr.; strontium bromide, 1 gr.	Buffington's Inc.
Dynapin with Phenobarbital	Tablet: Phenobarbital, 15 mg.; nitroglycerin, 0.5 mg.; pentaerythritol tetranitrate, 15 mg.	Key Pharmacal Co.
Elmaloin with Phenobarbital	Capsule: Phenobarbital, 15 mg.; diphenylhydantoin, 1½ gr.	Paul B. Elder Co., Inc.
Ephedrine and sodium phenobarbital.	Tablet: Sodium phenobarbital, ¼ gr.; ephedrine sulfate, ¾ gr.	The Vale Chemical Co., Inc.
Ephedrine sulfate and phenobarbital.	Tablet: Phenobarbital, 15 mg.; ephedrine sulfate, 25 mg.	The Zemmer Co.
Ephedrine with Phenobarbital.	Tablet: Phenobarbital, ¼ gr.; ephedrine sulfate, ¾ gr.	P. J. Noyes Co.
Ercsital	Tablet: Phenobarbital, 7.5 mg.; ergotamine tartrate, 0.5 mg.; caffeine, 50 mg.	The Blue Line Chemical Co.
Ethrava-trate	Tablet: Mephobarbital, 10 mg.; pentaerythrityl tetranitrate, 20 mg.; ethaverine hydrochloride, 30 mg.	North American Pharmacal, Inc.
Eu-Phed-Amin	Tablet: Phenobarbital, 30 mg.; aminophylline, 0.1 gm.; ephedrine sulfate, 30 mg.; extract euphorbia, 0.1 gm.	Warren-Teed Pharmaceuticals Inc.
Eu-Phed-Ital	Tablet: Phenobarbital sodium, 30 mg.; ephedrine sulfate, 30 mg.; extract euphorbia, 0.12 gm.	Do.
Fensobel	Tablet: Phenobarbital, 8.1 mg.; belladonna extract, 2.95 mg.; aluminum hydrochloride gel, dried, 63 mg.; magnesium trisilicate, 63 mg.; bismuth subcarbonate, 32.5 mg.; magnesium carbonate, 252 mg.; precipitated calcium carbonate, 203.5 mg.; malt diastase, 12.5 mg.; peppermint oil, 3 mg.	United States Vitamin & Pharmaceutical Corp.
Franol	Tablet: Phenobarbital, 8 mg.; theophylline, 130 mg.; benzylephedrine hydrochloride, 32 mg.	Winthrop Laboratories.
Homechol	Tablet: Pentobarbital sodium, 8.0 mg.; homatropine methylbromide, 2.5 mg.; dehydrocholic acid, 60.0 mg.; ox bile extract, 150.0 mg.	Lemmon Pharmacal Co.
Homopent	Tablet: Pentobarbital sodium, 15 mg.; homatropine methylbromide, 2.5 mg.; magnesium trisilicate, 300 mg.	Lemmon Pharmacal Co.
H-P-A (Modified)	Tablet: Phenobarbital, ¼ gr.; aspirin, 5 gr.; extract hyoscyamus, ¼ gr.	Palns Drug Co.
Hybephen	Tablet: Phenobarbital, 15 mg.; hyoscyamine sulfate, 0.1277 mg.; atropine sulfate, 0.0233 mg.; hyoscine hydrobromide, 0.0094 mg.	The S. E. Massengil Co.
Hybephen Elixir	Elixir (5 cc.): Phenobarbital, 15 mg.; hyoscyamine sulfate, 0.1277 mg.; atropine sulfate, 0.0233 mg.; hyoscine hydrobromide, 0.0094 mg.	Do.
Hydrochol Plus	Tablet: Amobarbital, 15 mg.; dehydrocholic acid, 200 mg.; scopolamine methylnitrate, 0.8 mg.; ox bile desiccated, 50 mg.	Paul B. Elder Co., Inc.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Hytrona Antispasmodic Elixir	Elixir (5 cc.): Phenobarbital, 16 mg.; belladonna alkaloids, 0.2 mg.	Pitman-Moore.
Hytrona Antispasmodic Tablets	Tablet: Phenobarbital, 16 mg.; belladonna alkaloids, 0.2 mg.	Do.
Ilocalm	Tablet: Mephobarbital, 30 mg.; methscopolamine nitrate, 2.5 mg.; d-calcium pantothenate, 25 mg.	Warren-Teed Pharmaceuticals Inc.
Isordil with Phenobarbital	Tablet: Phenobarbital, 15 mg.; isosorbide dinitrate, 10 mg.	Ives Laboratories Inc.
Isufranol	Tablet: Phenobarbital, 8 mg.; theophylline, 130 mg.; benzylephedrine, 32 mg.; isoproterenol hydrochloride, 10 mg.	Winthrop Laboratories.
Isufranol, Mild	Tablet: Phenobarbital, 8 mg.; theophylline, 130 mg.; benzylephedrine, 32 mg.; isoproterenol hydrochloride, 5 mg.	Do.
Isuprel Compound Elixir	Elixir (15 cc.): Phenobarbital, 6 mg.; isoproterenol hydrochloride, 2.5 mg.; ephedrine sulfate, 12 mg.; theophylline, 45 mg.; potassium iodide, 130 mg.	Do.
Kaphebel	Tablet: Phenobarbital, ¼ gr.; belladonna root, ¼ gr.; kaolin colloidal, 7½ gr.	Paul B. Elder Co., Inc.
Kanumodic	Tablet: Pentobarbital, 8 mg.; methscopolamine nitrate, 2 mg.; cellulase, 9 mg.; pancrestin, 500 mg.; glutamic acid hydrochloride, 200 mg.; ox bile extract, 100 mg.; pepsin, 150 mg.	Dorsey Laboratories.
Kavatrate	Tablet: Phenobarbital sodium, ¼ gr.; veratrum viride, ¼ gr.; mistletoe, ⅛ gr.; hawthorn tincture, 30 minims; sodium nitrite, 1 gr.	Key Pharmacal Co.
Kle with Phenobarbital	Tablet: Phenobarbital, 16 mg.; potassium iodide, 400 mg.; ephedrine sulfate, 24 mg.	Laser Inc.
Klophyllin	Tablet: Phenobarbital, 15 mg.; aminophyllin, 150 mg.; potassium iodide, 125 mg.	G. D. Searle & Co.
Luftodil Suspension	Suspension (5 cc.): Phenobarbital, 8 mg.; theophylline, 50 mg.; ephedrine hydrochloride, 12 mg.; glyceryl guaiacolate, 100 mg.	Mallinckrodt Chemical Works.
Luftodil Tablets	Tablet: Phenobarbital, 16 mg.; theophylline, 100 mg.; ephedrine hydrochloride, 24 mg.; glyceryl guaiacolate, 200 mg.	Do.
Lufyllin-EP	Tablet: Phenobarbital, 16 mg.; lufyllin (dyphylline), 100 mg.; ephedrine hydrochloride; 16 mg.	Do.
Magnesium hydroxide-phenobarbital compound	Tablet: Phenobarbital sodium, 15 mg.; magnesium hydroxide, 300 mg.; atropine sulfate with aromatics, 0.12 mg.	McNeil Laboratories, Inc.
Malglyn Compound	Tablet or suspension (5 cc.): Phenobarbital, 16.2 mg.; belladonna alkaloids, 0.162 mg.; dihydroxy aluminum aminoacetate, 0.5 gm.	Brayten Pharmaceutical Co.
Manniphen	Tablet: Phenobarbital, 16 mg.; mannitol hexanitrate, 32 mg.	The Vale Chemical Co., Inc.
Mannipben with Rutin	Tablet: Phenobarbital, 16 mg.; mannitol hexanitrate, 32 mg.; rutin, 20 mg.	Do.
Mannitol hexanitrate with phenobarbital	Tablet: Phenobarbital, ¼ gr.; mannitol hexanitrate, ½ gr.	P. J. Noyes Co.
Do	Tablet: Phenobarbital, ¼ gr.; mannitol hexanitrate, ½ gr.	The Blue Line Chemical Co.
Maxitol	Tablet: Phenobarbital, 15 mg.; mannitol hexanitrate, 15 mg.; rutin, 15 mg.; ascorbic acid, 15 mg.	Burt Krone Co.
Meprane Phenobarbital	Tablet: Phenobarbital, 16 mg.; promethestrol dipropionate, 1 mg.	Reed & Carnrick.
Mesopin-PB	Tablet or elixir (5 cc.): Phenobarbital, 15 mg.; homatropine methylbromide, 5 mg.	Endo Laboratories Inc.
Metamine with Butabarbital	Tablet: Butabarbital, 16.2 mg.; trolnitrate phosphate, 2 mg.	Pfizer Laboratories.
Do	Tablet: Butabarbital, 48.6 mg.; trolnitrate phosphate, 10 mg.	Do.
Mezal	Tablet: Phenobarbital, 16 mg.; mannitol hexanitrate, 32 mg.	The S. E. Massengill Co.
Milprem-300	Tablet: Meprobamate 200 mg. Conjugated Estrogens—equine 0.4 mg.	Wallace Pharmaceuticals.
Milprem-400	Tablet: Meprobamate 400 mg. Conjugated Estrogens—equine 0.4. mg.	Do.
Milpath-200	Tablet: Meprobamate 200 mg. Tridihexethyl Chloride, 25 mg.	Do.
Milpath-400	Tablet: Meprobamate 400 mg. Tridihexethyl Chloride, 25 mg.	Do.
Miltrate-10	Tablet: Meprobamate 200 mg. Pentaerythritol tetranitrate, 10 mg.	Do.
Miltrate-20	Tablet: Meprobamate 200 mg. Pentaerythritol tetranitrate, 20 mg.	Do.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Monomeb	Tablet: Mephobarbital, 32 mg.; penthienate bromide, 5 mg.	Winthrop Laboratories.
Mudrane	Tablet: Phenobarbital, 21 mg.; potassium iodide, 195 mg.; aminophylline, 130 mg.; ephedrine hydrochloride, 16 mg.	Wm. P. Poythress & Co., Inc.
Mudrane GG Elixir	Elixir (5 cc.): Phenobarbital, 5.4 mg.; theophylline 20 mg.; ephedrine hydrochloride, 4 mg.; glyceryl guaiacolate, 26 mg.	Do.
Nactisol	Tablet: Butabarbital sodium, 15 mg.; poldine methylsulfate, 4 mg.	McNeil Laboratories, Inc.
Natrona Compound	Tablet: Phenobarbital, 15 mg.; extract hawthorn berries, 30 mg.; extract mistletoe, 15 mg.; sodium nitrite, 60 mg.; sodium bicarbonate, 0.2 gm.	The Zemmer Co.
Neocholan	Tablet: Phenobarbital, 8 mg.; dehydrocholic acid, 250 mg.; bile extract, 15 mg., homatropine methylbromide, 1.2 mg.	Pitman-Moore.
Nergestic	Tablet: Phenobarbital, 8 mg.; atropine sulfate, 0.10 mg.; magnesium trisilicate, 0.5 gm.	The S. E. Massengill Co.
Nitrased	Tablet: Secobarbital, 15 mg.; nitroglycerin, 0.4 mg.; pentaerythrityl tetranitrate, 15 mg.	Lemmon Pharmacal Co.
Nopheean Tablets	Tablet: Phenobarbital, 8 mg.; acetylsalicylic acid, 300 mg.	P. J. Noyes Co.
Novalene	Tablet: Phenobarbital, 16 mg.; ephedrine sulfate, 24 mg.; potassium iodide, 162 mg ; calcium lactate, 162 mg.	Lemmon Pharmacal Co.
Ozorbil-PB	Capsule: Phenobarbital, 7.5 mg.; belladonna extract, 7.5 mg.; dehydrocholoic acid, 32 mg.; deoxycholic acid, 32 mg.; ox bile extract, 65 mg.; sorbitan monooleate, 160 mg.; oleic acid, 180 mg.	Ives Laboratories, Inc.
Paminal Elixir	Elixir (5 cc.): Phenobarbital, 8 mg.; methscopolamine bromide, 1.25 mg.	The Upjohn Co.
Pamine PB Elixir	Elixir (5 cc.): Phenobarbital, 8 mg.; methscopolamine bromide, 1.25 mg.	Do.
Pamine PB, Half Strength	Tablet: Phenobarbital, 8 mg.; methscopolamine bromide, 1.25 mg.	Do.
Pediatric Piptal Antipyretic	Solution (0.6 cc.): Phenobarbital, 3 mg.; pipensolate bromide, 5 mg.; acetaminophen, 60 mg.	Lakeside Laboratories, Inc.
Pediatric Piptal with Phenobarbital	Solution (0.5 cc.): Phenobarbital, 3 mg.; pipensolate bromide, 2 mg.	Do.
Penestylon	Tablet: Phenobarbital, ¼ gr.; acetylsalicylic acid, 5 gr.	Paul B. Elder Co., Inc.
Pentaerythrityl tetranitrate with phenobarbital	Tablet: Phenobarbital, 16 mg.; pentaerythrityl tetranitrate, 10 mg.	P. J. Noyes Co.
Do	Tablet: Phenobarbital, 16 mg.; pentaerythrityl tetranitrate, 20 mg.	Do.
Pentratrol with Phenobarbital	Tablet: Phenobarbital, 15 mg.; pentaerythrityl tetranitrate, 10 mg.	North American Pharmacal Co.
Pentralline	Tablet: Butabarbital sodium, 10 mg.; reserpine, 0.05 mg.; pentaerythrityl tetranitrate, 10 mg.	McNeil Laboratories, Inc.
Perbusem	Tablet: Butabarbital sodium, 15 mg.; pentaerythrityl tetranitrate, 10 mg.	The Zemmer Co.
Peribar L-A No. 1	Tablet: Phenobarbital, 48.6 mg.; pentaerythrityl tetranitrate, 30 mg.	Whittier Laboratories, Inc.
Peritrate with Phenobarbital	Tablet: Phenobarbital, 15 mg.; pentaerythrityl tetranitrate, 10 mg.	Warner-Chilcott
Do	Tablet: Phenobarbital, 15 mg.; pentaerythrityl tetranitrate, 20 mg.	Do.
Peritrate With Phenobarbital SA	Tablet: Phenobarbital, 45 mg.; pentaerythrityl tetranitrate, 80 mg.	Do.
Phedorine	Tablet: Diallylbarbituric acid, 16 mg.; extract stramonium, 8 mg. (alkaloids 0.0015 gr.); ephedrine, 8 mg.; theophyline, 100 mg.	Buffington's, Inc.
Phenaphen Plus	Tablet: Phenobarbital, 16.2 mg.; phenacetin, 194 mg.; aspirin, 162 mg.; hyoscyamine sulfate, 0.031 mg.; pheniramine maleate, 12.5 mg.; phenylephrine hydrochloride, 10 mg.	A. H. Robins Co., Inc.
Phenobarbital and atropine	Tablet: Phenobarbital, ¼ gr.; atropine sulfate, 1/400 gr.	The Blue Line Chemical Co.
Do	do	Meyers & Co.
Do	do	Paine Drug Co.
Do	Tablet: Phenobarbital, ¼ gr.; atropine sulfate, 1/400 gr.	The Vale Chemical Co., Inc.
Phenobarbital with atropine sulfate	Tablet: Phenobarbital, 8 mg.; atropine sulfate, 0.06 mg.	The Zemmer Co.
Phenobarbital with atropine sulfate No. 2	Tablet: Phenobarbital, 15 mg.; atropine sulfate, 0.12 mg.	Do.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Phenobarbital and atropine sulfate.	Tablet: Phenobarbital, ¼ gr.; atropine sulfate, 1/150 gr.	Buffington's Inc.
Phenobarbital & Atropine No. 1.	Tablet: Phenobarbital, 16 mg.; atropine sulfate, 0.13 mg.	Pitman-Moore.
Phenobarbital & Atropine No. 2.	Tablet: Phenobarbital, 8 mg.; atropine sulfate, 0.65 mg.	Do.
Phenobarbital and Atropine Tablets.	Tablet: Phenobarbital, 8 mg.; atropine sulfate 1/1000 gr.	P. J. Noyes Co.
Do	Tablet: Phenobarbital, 16 mg.; atropine sulfate, 1/150 gr.	Do.
Phenobarbital and Atropine Tablets No. 2.	Tablet: Phenobarbital, ¼ gr.; atropine sulfate, 1/150 gr.	Do.
Phenobarbital and Atropine Tablets No. 3.	Tablet: Phenobarbital, ½ gr.; atropine sulfate, 1/150 gr.	Do.
Phenobarbital and belladonna	Tablet: Phenobarbital, ¼ gr.; belladonna leaves ½ gr. (total alkaloids 0.0015 gr.).	The Vale Chemical Co., Inc.
Do	Tablet: Phenobarbital, ¼ gr.; belladonna extract, ½ gr.	Paine Drug Co.
Do	Tablet: Phenobarbital, 16 mg.; belladonna extract, 8 mg.	Eli Lilly and Co.
Phenobarbital and Belladonna No. 2.	Tablet: Phenobarbital, ¼ gr.; belladonna extract, ½ gr. (alkaloids 0.00156 gr.).	The Upjohn Co.
Phenobarbital with mannitol hexanitrate.	Tablet: Phenobarbital, 7.5 mg., mannitol hexanitrate 15 mg.; ascorbic acid powder, 25 mg.; rutin, 25 mg	Paul B. Elder Co., Inc. (Harold M. Harter, D.V.M.)
Phenobarbital and mannitol hexanitrate.	Tablet; Phenobarbital, ¼ gr.; mannitol hexanitrate, ½ gr.	Meyer Drug & Surgical Supply Co.
Phenobarbital Sodium Atropine No. 1.	Tablet: Phenobarbital sodium, 8 mg.; atropine sulfate, 60 μg.	McNeil Laboratories, Inc.
Phenobarbital Sodium Atropine No. 2.	Tablet: Phenobarbital sodium, 15 mg.; atropine sulfate, 120 μg.	McNeil Laboratories, Inc.
Phenobarbital Sodium Atropine No. 3.	Tablet: Phenobarbital sodium, 30 mg.; atropine sulfate, 200 μg.	Do.
Phenobarbital and sodium nitrite.	Tablet: Phenobarbital, ¼ gr.; sodium nitrite, 1 gr.	P. J. Noyes Co.
Thedrinem	Tablet: Phenobarbital, 8 mg.; theophylline, hydrous, 100 mg.; ephedrine hydrochloride, 25 mg.	The Zemmer Co.
Theobarb	Tablet: Phenobarbital, 32 mg.; theobromine, 325 mg.	Mallinckrodt Chemical Works.
Theobarb-R	Tablet: Phenobarbital, 10 mg.; reserpine, 0.1 mg.; theobromine, 324 mg.	Do.
Theobarb Special	Tablet: Phenobarbital, 16 mg.; theobromine, 325 mg.	Do.
Theobromine and phenobarbital.	Tablet: Phenobarbital, 16 mg.; theobromine, 0.3 gm.	P. J. Noyes Co.
Theobromine-Phenobarbital	Tablet: Phenobarbital, 30 mg.; theobromine, 0.3 gm.	The S. E. Massengill Co.
Do	Tablet: Phenobarbital, 32 mg.; theobromine, 324 mg.	The Upjohn Co.
Theobromine-Phenobarbital Compound.	Tablet: Phenobarbital, ¼ gr.; theobromine, 2½ gr.; potassium iodide, 2½ gr.; potassium bicarbonate, 2 gr.	Do.
Theobromine with Phenobarbital No. 1.	Tablet: Phenobarbital, 15 mg.; theobromine, 324 mg.	Buffington's, Inc.
Theobromine and sodium acetate with phenobarbital.	Tablet: Phenobarbital, ¼ gr.; theobromine and sodium acetate, 3 gr.	Paul B. Elder Co., Inc.
Theobromine sodium salicylate with phenobarbital.	Tablet: Phenobarbital, 15 mg.; theobromine sodium salicylate, 300 mg.	The Zemmer Co.
Theocardone No. 1	Tablet: Phenobarbital, 15 mg.; theobromine, 300 mg.	Haack Laboratories, Inc.
Theocardone No. 2	Tablet: Phenobarbital, 30 mg.; theobromine, 300 mg.	Do.
Theodide	Tablet: Phenobarbital, ¼ gr.; potassium iodide, 2½ gr.; theobromine sodium salicylate, 2½ gr.	The Vale Chemical Co., Inc.
Theoglycinate with Phenobarbital.	Tablet: Phenobarbital, 16 mg.; theophylline-sodium glycinate, 324 mg.	Brayten Pharmaceutical Co.
Theoglycinate with Racephedrine and Phenobarbital.	Tablet: Phenobarbital, 16 mg.; theophylline-sodium glycinate, 324 mg.; racephedrine hydrochloride, 24 mg.	Do.
Theoplaphen	Tablet: Phenobarbital, 15 mg.; theobromine sodium salicylate, 0.2 gm.; calcium lactate, 0.1 gm.	The S. E. Massengill Co.
Theominal	Tablet: Phenobarbital, 32 mg.; theobromine, 320 mg.	Winthrop Laboratories.
Theominal M	Tablet: Phenobarbital, 15 mg.; theobromine, 320 mg.	Do.
Theominal R S	Tablet: Phenobarbital, 10 mg.; theobromine, 320 mg.; alseroxylon, 1.5 mg.	Do.
Theophen	Tablet: Phenobarbital, ¼ gr.; theobromine sodium salicylate, 5 gr.; calcium carbonate, 2½ gr.	The Vale Chemical Co., Inc.
Theorate	Tablet: Phenobarbital, 16.2 mg.; theobromine, 324 mg.	Whittier Laboratories, Inc.
Thymodyne	Tablet: Phenobarbital, 32 mg.; theophylline anhydrous, 130 mg.; ephedrine sulfate, 24 mg.	P. J. Noyes Co.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Trocinate with Phenobarbital	Tablet: Phenobarbital, 16 mg.; thiphenamil hydrochloride, 100 mg.	Wm. P. Poythress & Co., Inc.
Tricloloid	Tablet: Phenobarbital, 16 mg.; tricyclamol chloride, 50 mg.	Burroughs Wellcome & Co.
Trisphen	Tablet: Phenobarbital, ¼ gr.; antropine sulfate, 1/150 gr.; magnesium trisilicate, 7 gr.	The Vale Chemical Co., Inc.
Valpin-PB	Tablet or elixir (5 cc.): Phenobarbital, 8 mg.; anisotropine methylbromide, 10 mg.	Endo Laboratories Inc.
Vascrutin	Tablet: Diallylbarbituric acid, ¼ gr.; nitroglycerin, 1/150 gr.; sodium nitrite, 1 gr.; tincture crataegus, 2 minims; rutin, 20 mg.	Buffington's, Inc.
Veralsem	Tablet: Phenobarbital, 15 mg.; veratrum viride, 50 mg.; sodium nitrite, 60 mg.	The Zemmer Co.
Verastrite	Tablet: Phenobarbital, ¼ gr.; cryptenamine, 40 CSR (carotid sinus reflex) units; sodium nitrite, 1 gr.	Neisler Laboratories, Inc.
Veritag	Tablet: Phenobarbital, 16 mg.; veratrum viride, 40 mg.; sodium nitrite, 65 mg.	S. J. Tutag and Co.
Vertegus	Tablet: Phenobarbital, ¼ gr.; veratrum viride, ¼ gr.; sodium nitrite, 1 gr.; mistletoe, ½ gr.; hawthorn berries, ½ gr.	Burt Krone Co.
Veruphen	Tablet: Phenobarbital, 15 mg.; rutin, 20 mg.; veratrum viride, 15 mg.; sodium nitrite, 60 mg.	The Zemmer Co.
Viritin	Tablet: Phenobarbital, 15 mg.; mannitol hexanitrate, 30 mg.; veratrum viride alkaloids, 1.5 mg.; rutin, 20 mg.	Lemmon Pharmacal Co.
W-T	Powder (4 gm.): Phenobarbital, 15 mg.; belladonna extract, 10 mg. (0.12 mg. belladonna alkaloids); benzocaine, 15 mg.; calcium carbonate, 1.55 gm.; magnesium oxide, 0.5 gm.; aluminum hydroxide gel, dried, 60 mg.	Warren-Teed Pharmaceuticals Inc.
W-T	Tablet: Phenobarbital, 1/16 gr.; belladonna extract, 1/24 gr.; benzocaine, 1/16 gr.; calcium carbonate, 6 gr.; magnesium trisilicate, 3½ gr.; aluminum hydroxide gel, dried, 2½ gr.; chlorophyll extract, 1%.	Do.
Xanthophen	Tablet: Phenobarbital, 16.2 mg.; theobromine, 162 mg.; ethylenediamine dihydriodide, 32.4 mg.	Pitman-Moore.
Zallogen Compound	Tablet: Phenobarbital, 8 mg.; tocamphyl, 75 mg.; homatropine methylbromide, 2.5 mg.	The S. E. Massengill Co.
Zantrate	Tablet: Cyclopentenylallylbarbituric acid, ½ gr.; ephedrine sulfate, ¼ gr.; theophylline anhydrous, 2 gr.	The Upjohn Co.
Zem-Dab	Tablet: Butabarbital sodium, 10 mg.; dehydrocholic acid, 60 mg.; ox bile desiccated, 120 mg.; homatropine methylbromide, 2.5 mg.	The Zemmer Co.
No. 23	Tablet: Phenobarbital, ½ gr.; aminophylline, 3 gr.	Stayner Corp.
No. 35	Tablet: Phenobarbital, ½ gr.; aminophylline, 1.5 gr.; ephedrine sulfate, ½ gr.	Do.
No. 36	Tablet: Pentabarbital sodium, ¾ gr.; ephedrine sulfate, ½ gr.; aminophylline, 3 gr.	Do.
No. 65	Tablet: Phenobarbital, ¼ gr.; extract belladonna, ¼ gr.	Do.
No. 66	Tablet: Phenobarbital, ¾ gr.; extract belladonna, ¼ gr.	Do.
No. 73	Tablet: Phenobarbital, ¼ gr.; belladonna, ⅛ gr.	Barlstric Corp.
No. 88	Tablet: Phenobarbital, ¼ gr.; aminophylline, 1.5 gr.	Stayner Corp.
No. 89	Tablet: Phenobarbital, ½ gr.; aminophylline, 1.5 gr.	Do.
No. 111	Tablet: Phenobarbital, ½ gr.; ephedrine sulfate, ¼ gr.	Do.
No. 136	Tablet: Phenobarbital, 20 mg.; homatropine methylbromide, 5 mg.	Do.
No. 663	Tablet: Phenobarbital, ⅛ gr.; theophylline, 2 gr.; ephedrine hydrochloride, ¼ gr.	Do.
Rx. No. 4104	Tablet: Phenobarbital, ¼ gr.; calcium carbonate, 7½ gr.; magnesium oxide, 4 gr.; atropine sulfate, 1/200 gr.	The Zemmer Co.
Rx. No. 4105	Tablet: Phenobarbital, ¼ gr.; calcium carbonate, 10 gr.; atropine sulfate, 1/200 gr.	Do.
Rx. No. 4106	Capsule: Phenobarbital, ¼ gr.; atropine sulfate, 1/200 gr.; calcium carbonate, 6½ gr.; magnesium oxide, heavy, 2 gr.	Do.
Rx. No. 4123	Capsule: Phenobarbital, ¼ gr.; bismuth subgallate, 5 gr.; extract belladonna, ¼ gr.	Do.
Rx. No. 4126	Capsule: Pentobarbital sodium, 15 mg.; extract belladonna, 10 mg.	The Zemmer Co.

EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Composition	Manufacturer or supplier
Rx. No. 4143	Capsule: Phenobarbital, ¼ gr.; aminophyllina, 1.5 gr.; potassium iodide, 1 gr.	Do.
Rx. No. 4152	Tablet: Phenobarbital, ¾ gr.; atropine sulfate, 1/200 gr.	Do.
Rx. No. 4155	Tablet: Phenobarbital, ¼ gr.; atropine sulfate, 1/1200 gr.; aluminum hydroxide gel. 3¾ gr.; kaolin, 3¾ gr.	Do.
Rx. No. 4170	Tablet: Phenobarbital, ½ gr.; atropine sulfate, 1/200 gr.; calcium carbonate, 10 gr.	Do.
Rx. No. 4184	Capsule: Sodium butabarbital, 15 mg.; belladonna extract, 15 mg.	Do.

[FR Doc.73-3 Filed 1-5-73;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTION, AND CLASSIFICATION OF ECONOMIC UNITS

Dressed Broilers and Turkeys

Subpart D of Part 101 of Chapter 1 of Title 6 of the Code of Federal Regulations is amended in § 101.32 to include the first sale by producers of broilers and turkeys in the raw agricultural product exemption under § 101.32.

The poultry producing industry is in the unique position of being one of the only major sectors in which an initial sale of agricultural commodities is not exempt. Virtually all chickens and turkeys are hatched, grown to slaughter weight, slaughtered, eviscerated, and otherwise processed before the first sale. The industry is not unlike the fish industry where the killing, scaling, and other processing occurs prior to the first sale. The Council earlier defined "raw seafood" products to include those which have been shelled, shucked, iced, skinned, scaled, eviscerated, or decapitated.

Accordingly, this amendment modifies § 101.32 (a) and (b) in order to remove this inequity.

Because the purpose of these amendments is to amend and modify Part 101 to provide immediate guidance and information as to Cost of Living Council regulations, the Council finds that publication in accordance with usual rule making procedures is impracticable and that good cause exists for making this regulation effective in less than 30 days. Interested persons may submit written comments regarding the above amendments. Communications should be addressed to the Office of General Counsel, Cost of Living Council, New Executive Office Building, Washington, D.C. 20507.

Effective date: January 4, 1973.

DONALD RUMSFELD,
Director, Cost of Living Council.

Part 101 of Chapter I of Title 6 of the Code of Federal Regulations is amended as follows:

1. Subpart D is amended in § 101.32 to read as follows:

§ 101.32 Agricultural products, seafood products, and raw sugar price adjustments.

(a) *Raw agricultural products.* (1) Subject to the special rule set forth below, the sale of agricultural products which retain their original physical form and have not been processed is exempt. Processed agricultural products are products which have been canned, frozen, slaughtered, milled, or otherwise changed in their physical form. Packaging is not considered a processing activity. Examples:

Exempt	*Nonexempt*
Live cattle, calves, hogs, sheep, and lambs.	Carcasses and meat cuts.
Live poultry.	
Raw milk	Pasteurized milk and processed products, such as butter, cheese, ice cream.
	Frozen, dried, or liquid eggs.
Sheared or pulled wool.	Wool products.
	Processed and blended honey-butter product.
Mohair.	
Hay: Bulk, pelleted, cubed, or baled.	Dehydrated alfalfa meal or alfalfa meal pellets.
Wheat	Flour.
Sugar beets and sugarcane.	Refined sugar.
Maple sap.	
All seeds for planting.	Seeds processed for other uses.
Raw coffee bean	Roasted coffee bean.
	Canned and frozen vegetables.
	Dill pickles.
	Packaged slaw.
	Popped popcorn.
Feed grains including:	Mixed feed.
Corn	Cracked corn.
Sorghum.	
Barley	Rolled barley.
Oats	Rolled oats.
Soybean	Soybean meal and oil.
Leaf tobacco	Cigarettes and cigars.
Baled cotton, cotton seed, cotton lint.	Cotton yarn, cotton-seed oil, cotton-seed meal.
	Frozen french fries, dehydrated potatoes.
Unmilled rice	Milled rice.
	Roasted, salted, or otherwise processed nuts.
	Canned or freeze dried mushrooms.
Stumpage or trees cut from the stump.	Milled lumber.
	Canned fruit or juices.
	Glazed citrus peel.
	Canned grapes, wine.
	Applesauce.
	Canned prunes and prune juice.
	Canned olives.
Garden plants	Floral wreaths.

(2) Special rule: Only the first sale by the producer or grower of those agricultural products which are of a type sold for ultimate consumption in their original physical form is exempt. Examples of these products are:

Shell eggs, packaged or loose.	Brussels sprouts.
	Beets.
Raw honeycomb honey.	Unpopped popcorn.
Fresh potatoes, packaged or not.	All fresh or naturally dried fruits, packaged or not, including:
All raw nuts—shelled and unshelled	Fresh oranges.
Fresh mushrooms.	Grapes and raisins.
Fresh mint.	Apples.
Dried beans, peas, and lentils.	Peaches.
	Strawberries.
All fresh vegetables and melons including:	Grapefruit.
	Pears.
	Lemons.
Tomatoes.	Plums and prunes.
Lettuce.	Cherries.
Sweet corn.	Cranberries.
Onions.	Avocados.
Green beans.	Blueberries.
Cantaloupe.	Apricots.
Cucumbers.	Tangerines.
Cabbage.	Olives, uncured.
Carrots.	Nectarines.
Watermelons.	Raspberries.
Green peas.	Blackberries.
Asparagus.	Figs.
Pepper.	Tangelos.
Broccoli.	Limes.
Cauliflower.	Dates.
Spinach.	Papayas.
Green lima beans.	Bananas.
Honeydews.	Pomegranates.
Escarole.	Currants.
Garlic.	Persimmons.
Artichokes.	Cut flowers.
Eggplant.	

(b) *Dressed broilers and turkeys and raw seafood products.* The first sale by (1) a producer of broilers or turkeys or (2) a producer or fisherman of raw

seafood products including those which have been shelled, shucked, iced, skinned, scaled, eviscerated, or decapitated is exempt.

* * * * *

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743; and Executive Order No. 11640, as amended)

[FR Doc.73-459 Filed 1-4-73;4:32 pm]

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 10—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

The following regulations are issued pursuant to Executive Order 11652 of March 8, 1972 (37 FR 5209), entitled "Classification and Declassification of National Security Information and Material" and the National Security Council Directive of May 17, 1972, implementing that Executive order.

The Department of Agriculture security regulations have been approved by the Interagency Classification Review Committee; the following parts thereof affecting the public are published as required by the above-cited Executive order and Directive.

Sec.
10.1 Purpose.
10.2 Authority to classify.
10.3 Department review committee.
10.4 Review of classified material for declassification purposes.
10.5 Historical research and access by former Government officials.

AUTHORITY: The provisions of this Part 10 are issued under Executive Order 11652 (37 FR 5209, Mar. 10, 1972) and National Security Council Directive of May 17, 1972 (37 FR 10053, May 19, 1972).

§ 10.1 Purpose.

To set forth those provisions of the U.S. Department of Agriculture Security Regulations to the extent they affect the general public.

§ 10.2 Authority to classify.

Classifying authority of national security information or material is vested in and only may be exercised by the Secretary of Agriculture.

§ 10.3 Department review committee.

The Department review committee shall consist of the Department Security Officer, who shall serve as Chairman; the Director of Personnel, who shall serve as Vice Chairman; the General Counsel; the Assistant Secretary for Administration; and the Administrator of the Agency originating a document which has been classified.

§ 10.4 Review of classified material for declassification purposes.

(a) *Mandatory review of exempted material.* All classified information and material originating in the Department of Agriculture after June 1, 1972, which is exempt from the General Declassification Schedule, and classified information originating in the Department of Agriculture prior to June 1, 1972, assigned to Groups 1, 2, or 3 of Executive Order 10501, as amended, shall be subject to a classification review by the originator at any time after the expiration of 10 years from the date or origin provided:

(1) A department or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable the Department to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

(b) *Systematic reviews.* All information and material classified after June 1, 1972, and determined in accordance with Chapter 21, 44 U.S.C. to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by each Agency of the Department for the purpose of making such information and material available to the public in accordance with the determination regarding declassification made by the classifier. During each calendar year, each agency shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year, the Department or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(c) *Review for declassification of classified material 10 years old.* Members of the public or Departments may direct requests for mandatory review for declassification under section 5 (C) and (D) of Executive Order 11652 (hereafter referred to as the Order) to the Department Security Officer, Office of Personnel, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250. The Security Officer shall in turn assign the request to the appropriate Agency Head for action. In addition, the Security Officer or the Agency which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to 31 U.S.C. 483a the requester shall be so notified. The Agency which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Department review committee for a determination. Should the Agency assigned action on a request for review determine that under the criteria set forth in section 5(B) of the Order a continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Department review committee and the notice of determination shall advise him of this right.

(d) *Appeals to the Department review committee for declassification.* The Department review committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The review committee is authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the committee determines that continued classification is required under the criteria of section 5(B) of the Order it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(e) *Review of classified material over 30 years old.* A request by a member of the public or by a Department, to review for declassification, documents more than 30 years old, shall be referred directly to the Archivist of the United States and he shall have the requested documents reviewed for declassification. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the Secretary of Agriculture, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the Secretary of Agriculture makes at that time the personal determination required by section 5(E)(1) of the Order. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(f) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraphs (c), (d), or (e) of this section, the burden of proof is on the originating Agency to show that continued classification is warranted within the terms of the Order.

(g) *Availability of declassified material.* Upon a determination, paragraphs (c), (d), or (e) of this section, that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of Title 5 U.S.C. (Freedom of Information Act) or other provision of law. As required by section 5(C) of the Order, a request for classification review must describe the document with sufficient particularity to enable the Department to identify it with a reasonable amount of effort. Whenever a request is deficient in its description

of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the grounds that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If none-the-less the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

§ 10.5 Historical research and access by former Government officials.

(a) Upon written request, persons outside the executive branch engaged in historical research projects or persons who have previously occupied policymaking positions to which they were appointed by the President, other than those referred to in section 11 of the Order, may have access to classified national security information if the Secretary:

(1) Determines that access is clearly consistent with the interests of national security; and

(2) Takes appropriate steps to assure that classified information or material is not published or otherwise compromised.

Access granted a person by reason of his having previously occupied a policymaking position shall be limited to those papers which the former official originated, reviewed, signed, or received while in public office.

(b) Every applicant for access shall, beforehand, agree in writing to the following:

(1) That he will protect any classified information made available to him in accordance with provisions of the Order.

(2) To a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

These regulations are effective June 1, 1972.

Dated: December 15, 1972.

FRANK B. ELLIOTT,
Assistant Secretary for Administration.

[FR Doc.73-344 Filed 1-5-73;8:45 am]

Chapter I—Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

PART 32—MOHAIR STANDARDS

Standards for Grades of Mohair Top

This document establishes official standards of the United States for grades of mohair top. Mohair top is the processed fiber obtained after raw mohair—the hair of the Angora goat—has been scoured or cleaned, carded, and combed. Essentially, these standards provide:

(1) Specifications in terms of average fiber diameter and fiber diameter dispersion for 12 grades: Finer than 40s, 36s, 32s, 30s, 28s, 26s, 24s, 22s, 20s, 18s, and coarser than 18s; (2) methods for determining the grade of mohair top; and (3) methods for obtaining samples representative of the official mohair top grade standards.

On July 21, 1972, a notice of rule making was published in the FEDERAL REGISTER (37 FR 14614–14617) proposing to establish these standards to appear in 7 CFR Part 32, pursuant to authority conferred by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). A 90-day period following the public notice was provided for interested persons to submit written data, views, or arguments concerning the proposal.

Statement of considerations. A total of 9 comments on the proposed mohair top grade standards was received from mohair producers and their organizations, marketing agencies, research and educational workers, and others. All favored immediate adoption of the proposal. Among those strongly supporting the proposal were such groups as the Texas Sheep and Goat Raisers Association, the Texas Wool and Mohair Warehouse Association, the American Textile Manufacturer's Institute, Inc., and the Mohair Council of America.

On the basis of the comments received and all other information available to the Department, it is concluded that, with the slight editorial changes made for purposes of clarity and the minor changes noted herein, the adoption of the mohair top grade standards proposed July 21, 1972, is in the public interest and should be implemented.

Therefore, under the authority conferred by the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.), the official standards of the United States for grades of mohair top (7 CFR 32.100, 32.300, 32.301, 32.302, 32.402, 32.403) are promulgated as proposed in the FEDERAL REGISTER (37 FR 14614–14617) except for the following minor changes:

In § 32.201(d) the definition of the term "lot" is changed to read: "The entire quantity of mohair top constituting the subject of consideration. As used herein, "lot" refers to a test lot not exceeding 20,000 pounds (9,072 kg.)."

Subparagraph (2) of § 32.302(a)(i) is changed by removing the phrase specifying "a searchlight microprojector bulb" and replacing it with the following: "a light source that will give a well-defined fiber image."

Subparagraph (6) of § 32.302(a)(i) is modified by changing the sentence describing the placing of the sliver in the cross-sectioning device to read: "Each sliver (test specimen) of mohair top making up the sample shall be placed individually in the slot of the cross-sectioning device, positioning each sliver so that it will be cut at its approximate midlength."

It is not intended that these changes should make any change in the application of the standards from that intended under the proposal.

Therefore, in accordance with the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further public rule making proceedings on the matter are impractical and unnecessary, and good cause is found for making the standards effective less than 30 days after their publication in the FEDERAL REGISTER.

Accordingly, the standards are promulgated as follows:

(Secs. 203, 205, 60 Stat. 1087, 1090 as amended, 7 U.S.C. 1622, 1624; 37 FR 28464, 28476)

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF MOHAIR TOP

§ 32.100 Official mohair top grades.

The official grades for mohair top and the specifications for each shall be those set forth in table 1. However, mohair top which qualifies for a grade on the basis of its average fiber diameter but does not meet the fiber diameter dispersion requirement for that same grade shall be assigned a dual grade designation. In such cases, the first designation shall indicate the grade based on average fiber diameter and the second designation shall be that of the next coarser grade.

TABLE 1—SPECIFICATIONS FOR THE OFFICIAL GRADES OF MOHAIR TOP

Grade	Limits for average diameter (microns)	Fiber diameter dispersion: percent [1]							Approximate number of fiber measurements [2]
		30 microns and under, minimum	40 microns and under, minimum	50 microns and under, minimum	30.1 microns and over, maximum	40.1 microns and over, maximum	50.1 microns and over, maximum	60.1 microns and over, maximum	
Finer than 40's	Under 23.55	80			20	1			1,000
40's	23.55 to 25.54	74			26	4			1,000
36's	25.55 to 27.54	67			33	6			1,200
32's	27.55 to 29.54	57			43	8			1,200
30's	29.55 to 31.54	47			53	13			1,400
28's	31.55 to 33.54		80			20	3		1,400
26's	33.55 to 35.54		73			27	5		1,600
24's	35.55 to 37.54		64			36	8		1,600
22's	37.55 to 39.54		56			44	13		1,800
20's	39.55 to 41.54			82			18	6	2,200
18's	41.55 to 43.54			77			23	8	2,200
Coarser than 18's	Over 43.54								2,600

[1] The 2d maximum percent shown for any grade is a part of, and not in addition to, the 1st maximum percent. In each grade, the minimum percent and the 1st maximum percent total 100 percent.

[2] The number of fibers to measure for each test shall be the number needed to attain confidence limits of the mean within ±0.40 micron at a probability of 95 percent. The approximate number of fibers for the grades listed above may serve as a guide to the number of measurements needed to meet the required confidence limits.

§ 32.200 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 32.201 Terms defined.

For the purpose of this part, unless the context otherwise requires, the following terms shall be construed to mean:

(a) *Average fiber diameter.* The sum of the individual diameter measurements divided by the number of fibers measured, as described in § 32.302.

(b) *Fineness.* Average fiber diameter.

(c) *Grade.* A numerical designation used in classifying mohair top, based on average fiber diameter and dispersion of fiber diameters.

(d) *Lot.* The entire quantity of mohair top constituting the subject of consideration. As used herein, "lot" refers to a test lot not exceeding 20,000 pounds (9,072 kilograms).

(e) *Micron.* A unit of linear measurement equal to $\frac{1}{1000}$ millimeter or $\frac{1}{25,400}$ inch.

(f) *Mohair.* Fiber from the Angora goat.

(g) *Mohair top.* A continuous, untwisted strand of scoured mohair fibers from which the shorter fibers, i.e., noil, have been removed by combing.

(h) *Sample.* Four slivers (test specimens) of mohair top obtained as described in § 32.302(4).

(i) *Standards.* The official standards of the United States for grades of mohair top.

(j) *Standard samples.* Physical samples representative of the standards.

(k) *Test.* A determination by measurement of the average fiber diameter and the fiber diameter dispersion of a sample of mohair top, conducted in accordance with procedures provided in § 32.302.

(l) *Test specimen.* A sliver of mohair top at least 1 yard (0.91 meter) long, obtained as described in § 32.302(4).

METHODS FOR DETERMINING GRADE OF MOHAIR TOP

§ 32.300 General.

The official standards of the United States for grades of mohair top as defined in § 32.100 shall be the basis for grade determination. Grade may be determined by (a) inspection or (b) measuring the number of fibers of a sample needed to attain the required confidence limits of the mean, calculating the average fiber diameter and diameter dispersion, and comparing the average diameter and dispersion with the specifications for grades of mohair top. Both methods for determining grade shall be official; however, if the grade as determined by inspection differs from that determined by measurement, the grade determined by measurement shall prevail.

§ 32.301 Inspection method.

Determination of the grade of mohair top by inspection will be accomplished by comparing the fibers in the mohair top to be graded with the fibers in the mohair top samples certified by the U.S. Department of Agriculture as representative of the official grades. When using the certified samples to determine the grade of mohair top, the grade assigned shall be that of the certified sample which most nearly matches the mohair top being graded.

§ 32.302 Measurement method.

The determination of the grade of mohair top by measurement shall be by comparison of the measured average fiber diameter and fiber diameter dispersion with the specifications for the official standards of the United States for grades of mohair top. This determination shall be made in accordance with the procedure for determining average fiber diameter and fiber diameter dispersion provided in paragraph (a) of this section and the procedure for designating grade provided in paragraph (b) of this section.

(a) *Procedure for determining average fiber diameter and fiber diameter dispersion.*—(1) *Summary of procedure.* The average fiber diameter and fiber diameter dispersion are determined by sectioning the fibers in a test specimen to a designated length, mounting the sections of fibers on a slide, projecting the magnified image onto a wedge scale, and measuring the diameter of a minimum number of fibers, as specified in this section.

(2) *Apparatus and material.* The following apparatus and materials are needed and shall comply with the following provisions:

(i) *Microprojector.* The microprojector shall be capable of giving a precise magnification of at least 500×. This magnification can be accomplished satisfactorily with a vertically installed microscope equipped with a 10–15× eyepiece, a 20–21× objective with an aperture of approximately 0.50 centimeter, a fixed body tube, a focusable stage responsive to a coarse and fine adjustment, a focusable substage with condenser and iris diaphragm, and a light source that will give a well-defined fiber image. The microscope must be installed so that the projection distance can be adjusted to produce the required 500× magnification.

(ii) *Stage micrometer.* Calibrated glass slide used for accurate setting and control of the magnification.

(iii) *Cross-sectioning device, heavy duty.* An instrument approximately 2 inches (5 cm.) in height; consisting essentially of a metal plate with slot for holding a quantity of fibers, a key for compressing the fibers, and a tongue-propelling arrangement by which the fiber bundle may be extruded for sectioning.

(iv) *Microscope slides.* 1" by 3" (25×75 mm.).

(v) *Cover glasses.* No. 1 thickness, ⅞" by 2" (22×50 mm.).

(vi) *Mounting medium.* Colorless mineral oil with a refractive index between 1.53 and 1.43 and of suitable viscosity.

(vii) *Wedge scales.* Strips of heavy paper or Bristol board imprinted with a wedge for use at a magnification of 500×. The wedge is usually divided into 2.5 micron intervals (cells).

(3) *Calibration.* The microscope shall be adjusted to give a magnification of 500× in the plane of the projected image. This may be accomplished by placing a stage micrometer on the stage of the microprojector and bringing the microscope into such adjustment that an interval of 0.20 mm. on the stage micrometer will measure 100 mm. when sharply focused in the center of the image plane.

(4) *Sampling.* The lot shall be sampled by drawing from each 20,000 pounds (9,072 kilograms), or fraction thereof, four sections of sliver (test specimens) each of which shall be at least 1 yard (0.91 meter) in length and taken from different balls of mohair top, selected at random. Only one ball shall be taken from any one bale or carton. For broken mohair top (top not wound into balls), an equivalent length of sliver shall be taken at random. Only one test specimen shall be taken from any one can or package. The four test specimens shall constitute a sample.

(5) *Test condition.* Test specimens shall be preconditioned to approximate moisture equilibrium in an atmosphere of from 5 to 25 percent relative humidity at a temperature less than 122° F. (50° C.). Then the test specimens shall be conditioned for at least 4 hours in the standard atmosphere for testing, namely, 63 to 67 percent relative humidity at a temperature of 68° to 72° F. (19.9° to 22.1° C.).

(6) *Preparation of slides.*—(i) *Filling cross-section device.* Each sliver (test specimen) of mohair top making up the sample shall be placed individually in the slot of the cross-sectioning device, positioning each sliver so that it will be cut at its approximate midlength. The sliver shall be compacted firmly with the compression key and the latter secured with the set screw.

(ii) *Preliminary section.* The gripped fibers shall be cut off at the upper and lower surfaces of the plate. The fiber bundle shall be extruded approximately 0.50 mm. in order to take up slack in the fibers and the propulsion mechanism. The projecting fibers shall be moistened with a few drops of mineral oil. This projecting fiber bundle shall be cut off with a razor blade flush with the upper surface of the fiber holder plate and the section discarded.

(iii) *Final section.* The fiber bundle shall again be extruded, approximately 0.25 mm., i.e., 250 microns. The fiber bundle shall be moistened with a few drops of mineral oil and the excess blotted off. The projecting fibers shall be cut off with a sharp razor blade flush with the holder plate, leaving the fiber pieces adhering to the razor blade.

(iv) *Mounting the fibers.* A few drops of mineral oil shall be placed on a clean glass slide. With a dissecting needle the fiber pieces shall be scraped from the razor blade onto the slide. The fibers shall

be thoroughly dispersed in the oil with the dissecting needle and the slide completed with a cover glass. Sufficient oil should be used in the preparation of the slide to insure thorough distribution of the fibers, but an excess must be avoided, as practically no oil should be permitted to flow out or be squeezed out beyond the borders of the cover glass. If the number of fibers is too great to permit proper distribution on the slide, or if an excess of oil has been used, a portion of the mixture, after thorough dispersion of the fibers, may be wiped away with a piece of tissue or cloth. Slides shall be measured the day they are prepared.

(7) *Measurement of fibers.* The slide shall be placed on the stage of the microprojector, cover glass toward the objective. Fiber diameter measurments shall be made at the approximate mid-length of the fibers. Fiber edges appear as fine lines without borders when they are uniformly in focus. It is unusual, however, for both edges of the fiber to be in focus at the same time. If both edges of the fiber are not uniformly in focus, adjustment shall be made so that one edge of the fiber is in focus and the other shows as a bright line. To record the measurement, it is necessary to mark the point where the wedge corresponds with the fiber image as determined by (i) the fine lines of both edges when they are uniformly in focus, or (ii) the fine line of one edge and the inner side of the bright line at the other edge when they are not uniformly in focus. The slide shall be traversed in planned courses so that fibers on all portions of the slide will be measured. Successive fibers should be measured whose mid-points come within the field (a circle 4 inches in diameter, centrally located in the projected area). Fibers shorter than 200 microns or longer than 300 microns and those having distorted images shall be excluded from measurement. The marks on the wedge scale indicating the diameter of fibers measured are counted and combined into cells for calculation as indicated in paragraph (a) (10) of this section. Occasionally a fiber diameter will be less or greater than the extreme limits of the wedge scale. When this occurs, the image of the fiber is projected onto the border of the wedge scale and lines are drawn on the scale at the edges of the fiber image. The distance between the lines is later measured with a metric ruler to obtain the diameter of the fiber. When measuring fiber diameters in this manner, 1 mm. is equal to 2 microns.

(8) *Nature of test.* One test shall consist of the measurement by two operators of the same four slivers (test specimens) of mohair top. The measurment of both operators shall be combined for calculation of average fiber diameter and fiber diameter dispersion.

(9) *Number of slides and fibers.* Each operator shall make a slide from each test specimen, making a total of four slides per operator. The number of fibers to be measured per slide shall be determined by dividing the approximate number of fibers to be measured per test by 8 (the total number of slides prepared per test). The minimum number of fiber measurements required for each test shall be the number needed to attain confidence limits of the mean within ±0.40 micron at a probability of 95 percent. Each operator shall measure approximately one-half the required number of fibers. The approximate number of fiber measurements needed for each of the grades—as listed in § 32.100, table 1—may serve as a guide. However, the minimum number of fibers to be measured to attain the prescribed confidence limits can be calculated by using the equation shown below:

$$n=\left(\frac{1.96\sigma}{0.40}\right)^2$$

In this equation:

n = Number of fibers to be measured, and
σ = Standard deviation of fiber diameters.

(10) *Calculation and report.* The measurements of both operators shall be combined and the following calculations made by using the applicable formulae shown below:

(i) The average diameter of fibers ($\overline{X}$):

$$\overline{X}=A+mE_1$$

(ii) The standard deviation (σ):

$$\sigma=m\sqrt{E_2-E_1^2}$$

(iii) The confidence limits of mean at 95 percent probability level =

$$\overline{X}\pm\frac{1.96\sigma}{\sqrt{n}}$$

In the formulae stated above:

A = Midpoint of cell containing the smallest measurement.
m = Cell interval.
n = Total number of fiber measurements.

$$E_1=\frac{\Sigma fz}{n} \text{ and } E_2=\frac{\Sigma fz^2}{n}, \text{ where}$$

Σ = Summation.
f = Observed frequency.
z = Deviation in Cells from A.

An example of the calculations is set forth below:

EXAMPLE OF CALCULATIONS: AVERAGE FIBER DIAMETER, STANDARD DEVIATION, AND CONFIDENCE LIMITS OF MEAN

Cell No.	Cell boundaries (microns)	A (microns)	Deviation in cells from A, z	Observed frequency, f	fz	fz^2	Cumulative frequency	Cumulative percent
5	10.0 to 12.5	11.25	0	1	0	0	1	0.10
6	12.5 to 15.0	—	1	15	15	15	16	1.60
7	15.0 to 17.5	—	2	66	132	264	82	8.20
8	17.5 to 20.0	—	3	141	423	1,269	223	22.30
9	20.0 to 22.5	—	4	165	660	2,640	388	38.80
10	22.5 to 25.0	—	5	176	880	4,400	564	56.40
11	25.0 to 27.5	—	6	138	828	4,968	702	70.20
12	27.5 to 30.0	—	7	99	693	4,851	801	80.10
13	30.0 to 32.5	—	8	79	632	5,056	880	88.00
14	32.5 to 35.0	—	9	55	495	4,455	935	93.50
15	35.0 to 37.5	—	10	35	350	3,500	970	97.00
16	37.5 to 40.0	—	11	9	99	1,089	979	97.90
17	40.0 to 42.5	—	12	8	96	1,152	987	98.70
18	42.5 to 45.0	—	13	6	78	1,014	993	99.30
19	45.0 to 47.5	—	14	4	56	784	997	99.70
20	47.5 to 50.0	—	15	0	0	0	997	99.70
21	50.0 to 52.5	—	16	3	48	768	1,000	100.00
	Total			1,000	5,485	36,225		

Number of measurements (n) = 1,000.
A (midpoint of cell containing smallest diameter measurement) = 11.25 microns.
m (cell interval) = 2.5 microns.

$$E_1=\left(\frac{\Sigma fz}{n}\right)=\frac{5,485}{1,000}=5.4850 \text{ and } E_2=\left(\frac{\Sigma fz^2}{n}\right)=\frac{36,225}{1,000}=36.2250$$

Average diameter, $\overline{X}=A+mE_1=11.25+2.5(5.4850)=24.96$ microns.[1]
Standard deviation, $\sigma=m\sqrt{E_2-E_1^2}=2.5\sqrt{36.2250-30.0852}=2.5(2.4779)=6.19$ microns.[1]
Confidence limits of mean at 95 percent probability level =

$$\overline{X}\pm\frac{1.96\sigma}{\sqrt{n}}=24.96\pm\frac{12.1324}{31.6127}=24.96\pm0.38 \text{ micron.}^1$$

[1] Round off the calculated values of average fiber diameter, standard deviation, and confidence limit of the mean to 2 decimal places as follows: If the figure in the 3d decimal place is 4 or less, retain the figure in the 2d decimal place unchanged; otherwise, increase the figure in the 2d decimal place by 1.

(b) *Procedure for designating grade—*

(1) *Single grade designation.* If the measured average diameter and the fiber diameter dispersion correspond to a single grade, that shall be the grade assigned.

Example: Average fiber diameter—30.94 microns.

Fiber diameter dispersion:

	Percent
30 microns and under	51
30.1 microns and over	49
40.1 microns and over	10

Grade designation—30s.

(2) *Dual grade designation.* If the fiber dispersion does not meet the requirements for the grade to which the average fiber diameter corresponds, the mohair top shall be assigned a dual grade designation, the second designation being one grade coarser than the grade to which the average fiber diameter corresponds.

Example: Average fiber diameter—30.94 microns.
Fiber diameter dispersion:

	Percent
30 microns and under	45
30.1 microns and over	55
40.1 microns and over	16

Grade designation—30s–28s.

SAMPLES REPRESENTATIVE OF THE OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF MOHAIR TOP

§ 32.402 Standard samples of mohair top grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of mohair top will be furnished when available as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of the cost thereof as fixed in § 32.403. The certification will be issued by the U.S. Department of Agriculture and will be signed by the Director of the Livestock Division or other official duly authorized by him.

(a) Samples representative of the official grades of mohair top: (1) *Complete set.* Nine certified samples of mohair top, grades 40s through 20s.

(2) *Individual sample.* Individual certified samples of mohair top, grades 40s through 20s.

(b) Each application for standard samples of mohair top shall be upon an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, postal money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested and shall incorporate the following agreement:

(1) That no samples representative of the official mohair top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and cancelled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

§ 32.403 Cost of Standard samples for mohair top grades.

(a) *Complete set.* Twenty-seven dollars each, delivered to any destination within the United States and $30 each, delivered to any destination outside the United States.

(b) *Individual sample.* Three dollars each, delivered to any destination within the United States, and $3.50 each, delivered to any destination outside the United States.

The foregoing standards shall become effective January 1, 1973.

Done at Washington, D.C., this 29th day of December 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.73-218 Filed 1-5-73;8:45 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 711—MARKETING QUOTA REVIEW REGULATIONS

Extension of Office Term

On page 24827 of the FEDERAL REGISTER of November 22, 1972 (37 FR 24827), was published a notice of proposed rule making to issue an amendment to the Marketing Quota Review Regulations.

Interested persons were given 15 days after publication of such notice in which to submit written data, views, or recommendations with respect to the proposed amendment. No data, views, or recommendations were received. Accordingly, the amendment as proposed is adopted with the following additions:

1. The basis and purpose title is added to the introductory paragraph.

2. An authority clause is added.

3. An effective date provision is added immediately following the authority clause.

Signed at Washington, D.C., on December 29, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

Basis and purpose. The purpose of this amendment is to change the length of the term of office for serving as a member of a marketing quota review committee panel. Currently each panel member is appointed or reappointed annually by the Secretary for a period of 1 calendar year. This amendment provides that effective beginning with the 1973 calendar year each panel member be appointed for 3 consecutive calendar years and be subject to reappointment for succeeding terms. Since appointments of panel members for service in 1973 and succeeding years are required in the near future, it is hereby determined that compliance with the 30 day effective date provisions of 5 U.S.C. 553 is unnecessary and contrary to the public interest. Accordingly, this amendment shall became effective upon publication in the FEDERAL REGISTER (1-8-73).

Section 711.10 of the Marketing Quota Review Regulations (35 FR 15355, 16235, 36 FR 1463, 37 FR 10656, 11465) is revised to read as follows:

§ 711.10 Term of office.

Appointment as a member of a review committee panel shall be for a term of 3 calendar years. A member may be reappointed for succeeding terms. Notwithstanding the foregoing, a review committee shall continue in office to conclude hearings before it which are begun during such 3-year term and make final determinations thereof, or to hold a reopened hearing, or to conclude a hearing remanded to it by a court.

(Secs. 301, 363-368, 375, 52 Stat. 38, as amended, 63, as amended, 64, 66, as amended; 7 U.S.C. 1301, 1363-1368, 1375)

Effective date: Upon publication in the FEDERAL REGISTER (1-8-73).

[FR Doc.73-327 Filed 1-5-73;8:45 am]

PART 722—COTTON

Subpart—1973 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

NATIONAL MARKETING QUOTA REFERENDUM RESULT

Section 722.564 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section announces the result of the national marketing quota referendum with respect to the 1973 crop of extra long staple cotton held during the period December 4 to 8, 1972, each inclusive.

Since the only purpose of § 722.564 is to announce the referendum result, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary. Accordingly, § 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.564 Result of the national marketing quota referendum for the 1973 crop of extra long staple cotton.

(a) *Referendum period.* The national marketing quota referendum for the 1973 crop of extra long staple cotton was held by mail ballot during the period December 4 to 8, 1972, each inclusive, in accordance with § 722.561 (37 FR 21988) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 2,039 farmers engaged in the production of the 1972 crop of extra long staple cotton voted in the referendum. Of those voting, 1,899 farmers, or 93.1 percent, favored the 1973 national marketing quota, and 140 farmers, or 6.9 percent, opposed the 1973 national marketing quota.

(c) *1973 national marketing quota continues in effect.* The national marketing quota for the 1973 crop of extra long staple cotton of 113,800 bales proclaimed in § 722.558 (37 FR 21988) shall continue in effect since two-thirds or more

of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended; 7 U.S.C. 1343)

Effective date: Date of filing this document with the Director, Office of the Federal Register (1–5–73).

Signed at Washington, D.C., on December 29, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-326 Filed 1-5-73;8:45 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1972-Crop Tung Oil Warehouse-Stored Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1972-Crop Tung Oil Warehouse-Stored Loan Program

On page 20182 of the FEDERAL REGISTER of September 27, 1972, there was published a notice of proposed rule making relating to the support program for the 1972 crop of tung nuts. Interested persons were given 30 days in which to submit written data, views, and recommendations pertaining to the level of support, the method of support, conditions of eligibility, area and period of the program, and other program provisions. No comments have been received.

The general regulations governing price support for the 1970 and subsequent crops (35 FR 7363) and any amendments thereto and the 1970 and subsequent crop tung oil warehouse-stored loan program regulations (35 FR 19499) and any amendments to such regulations are supplemented by revising §§ 1421.450–1421.453, effective as to the 1972 crop of tung oil. The material previously appearing in these sections remains in full force and effect as to the crop to which it was applicable. The revised sections read as follows:

§ 1421.450 Availability.

(a) *Area.* The program will be available in the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

(b) *Period.* Loans will be available from November 1, 1972, through September 30, 1973.

§ 1421.451 Service fees and delivery charges.

Producers shall pay a loan service fee as provided in § 1421.11(a) of the general regulations, and instead of the delivery charge specified in § 1421.11(b) of the general regulations, a delivery charge of 6 cents per hundredweight for the quantity of tung oil tendered to CCC for loan which is not redeemed by October 31, 1973. Such fee and charge will be deducted from loan proceeds, but the charge applicable to the quantity of oil redeemed will be credited to the producer's account.

§ 1421.452 Support rate.

Loans on eligible tung oil produced from 1972 crop
from 1972-crop tung nuts shall be made at the rate of 27.6 cents per pound.

§ 1421.453 Maturity of loans.

Loans will mature on demand but not later than October 31, 1973.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714(b). Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, as amended, 1054; 15 U.S.C. 714(c); 7 U.S.C. 1446, 1421)

Effective date: Upon publication in the FEDERAL REGISTER (1–8–73).

Signed at Washington, D.C., on December 29, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.73-330 Filed 1-5-73;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2327]

PART 13—PROHIBITED TRADE PRACTICES

Glen Head Mills of Georgia, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages or connections:* 13.15–235 Producer status of dealer or seller; 13.15–235 (m) Manufacturer; § 13.30 *Composition of goods:* 13.30–75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.–73–90 Textile Fiber Products Identification Act; § 13.130 *Manufacture or preparation:* 13.130–50 Textile Fiber Products Identification Act. Subpart—Concealing, obliterating, or removing law required and informative marking: § 13.523 *Textile fiber products tags or identification:* Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—Business Status, Advantages, or Connections: § 13.1440 *Identity:* § 13.–1485 *Manufacturer's operations;* § 13.–1530 *Producer status of dealer*—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–80 Textile Fiber Products Identification Act. Subpart—Using misleading name—VENDOR: § 13.2420 *Manufacturing nature:*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply section 5, 68 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Glen Head Mills of Georgia, Inc., et al., Jasper, Ga., Docket No. C-2327, Dec. 1, 1972.]

In the Matter of Glen Head Mills of Georgia, Inc., a Corporation, and Edward Negola, Individually and as an Officer of Glen Head Mills of Georgia, Inc.

Consent order requiring a Jasper, Ga., wholesaler of carpeting fabrics fabricated from its yarns, among other things to cease removing or mutilating information required by the Textile Fiber Products Identification Act; failing to maintain adequate records; and misbranding its textile fiber products. Respondent is further required to cease using the word "Mills" as part of the corporate or trade name which misrepresents that respondent owns, operates or controls mills, factories or manufacturing plants.

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

It is ordered, That respondents Glen Head Mills of Georgia, Inc., a corporation, its successors and assigns, and its officers, and Edward Negola, individually and as an officer of Glen Head Mills of Georgia, Inc., and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, manufacture for introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain or preserve records of fiber content of textile fiber products fabricated from their yarns and manufactured to their specifications as required by section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the rules and regulations promulgated thereunder.

C. Removing or mutilating, or causing or participating in the removal or mutilation of, the stamp, tag, label, or other identification required by the Textile Fiber Products Identification Act to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce, and prior to the time such textile fiber product is sold and delivered to the ultimate consumer without substituting therefor labels conforming to section 4 of said Act and the rules and regulations promulgated thereunder and in the manner prescribed by section 5(b) of the Act.

D. Failing to maintain and preserve, as required by section 6(b) of the Textile Fiber Products Identification Act, such records of the fiber content of textile fiber products as will show the information set forth on the stamps, tags, labels, or other identification removed by respondents, together with the name or names of the person or persons from whom such textile fiber products were received, when substituting stamps, tags, labels, or other identification pursuant to section 5(b) of the Textile Fiber Products Identification Act.

E. Failing to set forth in disclosing fiber content information as to floor coverings containing exempted backings, fillings or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not the exempted backings, fillings, or paddings.

It is further ordered, That respondents Glen Head Mills of Georgia, Inc., a corporation, its successors and assigns, and its officers, and Edward Negola, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering for sale, sale or distribution of carpet rolls, rugs, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Directly or indirectly using the word "Mills" or any other word or term of similar import or meaning in or as a part of respondents' corporate or trade name or representing in any other manner that respondents perform functions of a mill or otherwise manufacture or process the products sold by them unless or until respondents own, operate, or directly or absolutely control the mill, factory or manufacturing plant wherein said products are manufactured.

2. Misrepresenting in any manner that respondents own, operate or control mills, factories or manufacturing plants where their products are manufactured.

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

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

It is further ordered, That the respondent corporation, Glen Head Mills of Georgia, Inc., shall forthwith distribute a copy of the order to each of its operating divisions.

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: December 1, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-232 Filed 1-5-73;8:45 am]

[Docket No. 8894]

PART 13—PROHIBITED TRADE PRACTICES

Howard Carpet Mills, Inc., and Howard S. Stein

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Howard Carpet Mills, Inc., et al., New York, N.Y., Docket No. 8894, Dec. 1, 1972]

In the Matter of Howard Carpet Mills, Inc., a Corporation, and Howard S. Stein, Individually and as an Officer of the Corporation

Order requiring a New York City manufacturer of carpets, among other things to cease marketing dangerously flammable products.

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

It is ordered, That the initial decision of the Administrative Law Judge shall, on the 1st day of December, 1972, become the decision of the Commission.

It is further ordered, That respondent Howard Carpet Mills, Inc., a corporation, its successors and assigns, and its officers, and respondent Howard S. Stein, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall, and processing or destruction shall, in addition to the products set forth in subparagraph 1 of paragraph 2 of the complaint, be applicable to any other styles of carpeting found not to meet an applicable standard under the Flammable Fabrics Act, as amended, since the issuance of the complaint and until the order becomes final within the meaning of the Federal Trade Commission Act.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action and (6) any disposition of said products since November 10, 1971. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon requests, respondents will forward to the Commission for

testing a sample of any such carpet or rug. Respondents will also advise the Commission fully and specifically concerning items (1) through (5) above with regard to any products coming within the purview of paragraph 4 of this order.

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 the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

It is further ordered, That Howard Carpet Mills, Inc., a corporation, and Howard S. Stein, individually and as an officer of the corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: December 1, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-233 Filed 1-5-73;8:45 am]

[Docket No. C-2328]

PART 13—PROHIBITED TRADE PRACTICES

Pakistan Arts and Crafts, Inc., and Jamil Akhter

Subpart—Importing, manufacturing, selling or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply section 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Pakistan Arts and Crafts, Inc., et al., New York, N.Y., Docket No. C-2328, Dec. 6, 1972]

In the Matter of Pakistan Arts and Crafts, Inc., a Corporation, and Jamil Akhter, Individually and as an Officer of Said Corporation

Consent order requiring a New York City importer and manufacturer of wearing apparel, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

It is ordered, That the respondents Pakistan Arts and Crafts, Inc., a corporation, its successors and assigns, and its officers, and Jamil Akhter, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the ponchos which gave rise to the complaint, of the flammable nature of said ponchos and effect the recall of said ponchos from such customers.

It is further ordered, That the respondents herein either process the ponchos which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said ponchos.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commsision an interim special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the ponchos which gave rise to the complaint, (2) the number of said ponchos in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said ponchos and effect the recall of said ponchos from customers, and of the results thereof, (4) any disposition of said ponchos since November 6, 1970, and (5) any action taken or proposed to be taken to bring said ponchos into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said ponchos, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

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 dissoluiton of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

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

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: December 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-234 Filed 1-5-73;8:45 am]

[Docket No. 8825-c]

PART 13—PROHIBITED TRADE PRACTICES

Sunshine Art Studios, Inc. et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status,* advantages or connections: 13.15-30 Connections or arrangements with others; § 13.75 *Free goods or services.* Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections: § 13.1395 *Connections and arrangements with others;* § 13.1553 *Services;* —Goods: § 13.1625 *Free goods or services;* § 13.1735 *Sample, offer, or order conformance.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1955 *Free goods;* § 13.2060 *Sample, offer, or order conformance.* Subpart—Securing orders by deception: § 13.2170 *Securing orders by deception.* Subpart—Shipping for payment demand, goods in excess of or without order: § 13.2195 *Shipping for payment demand, goods in excess of or without order.* Subpart—Threatening infringement suits, not in good faith: § 13.2264 *Delinquent debt collection.*

(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, Sunshine Art Studios, Inc. et al., Springfield, Mass., Docket No. 8825, Nov. 30, 1972]

In the Matter of Sunshine Art Studios, Inc., Junior Sales Club of America, Inc., Sales Leadership Club, Inc., and Trans-American Collection Agency, Inc., Corporations, and Ryland E. Robbins, Individually and as an Officer of Said Corporations

Order requiring three Springfield, Mass., sellers of greeting cards and an affiliated collection agency, among other things to cease shipping and seeking payment for unordered merchandise; making deceptive "free" offers; using misleading order forms; sending substitute shipments without offering refunds; and collecting delinquent accounts through subterfuge.

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

It is ordered, That respondents Sunshine Art Studios, Inc., Junior Sales Club of America, Inc., Sales Leadership Club, Inc., and Guardian Collection Agency, Inc., corporations, their successors and assigns, and Ryland E. Robbins, individually and as an officer of each such corporation, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of greeting cards or any other product, or in the collection of accounts arising therefrom, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Sending any merchandise without the expressed request or consent of the recipient unless such merchandise shall have attached to it a clear and conspicuous statement that the recipient may treat the merchandise as a gift to him and that he has the right to retain, use, discard, or dispose of it in any manner that he sees fit without any obligation whatsoever to the sender.

2. Sending any communication (including bills, invoices, reminders, letters, notices, or dunning communications) that in any manner seeks to obtain payment for or return of merchandise shipped without the expressed consent or request of the recipient.

3. Sending any merchandise to any person without first obtaining a specific order therefor after respondents have been notified by such person that no further merchandise shipments are to be made.

4. Using any coupon or order form by which purchasers purport to authorize or authorize (either of which is referred to herein as "authorization") respondents to send merchandise at a future date unless the authorization is set forth in a completely separate and distinct paragraph in such document, which separate paragraph contains only words or information necessary to the authorization and which clearly and conspicuously states the following:

(1) That the document is an authorization to send merchandise at a future date; and

(2) That such authorization shall apply only to one offering other than an initial shipment, if any, which offering is to be shipped within 1 year; and

(3) A description of the merchandise covered by the authorization.

5. Resorting to any subterfuge or coercion to sell respondents' merchandise.

6. Representing, directly or by implication, that delinquent accounts will be, or have been, turned over to an independent, bona fide collection agency.

7. Representing, directly or by implication, that Guardian Collection Agency, Inc., is an independent, bona fide collection agency; or that any other organization or trade name owned or controlled wholly or partially by respondents is an independent, bona fide collection agency.

8. Representing, directly or by implication, that delinquent accounts will be referred to an attorney if payment is not received.

9. Using any subterfuge or deceptive scheme or device in connection with the collection of delinquent accounts.

10. Shipping to any customer greeting cards, or any other merchandise, that differ in a material respect from the greeting cards or the other merchandise ordered without informing the customer that he is entitled to a full cash refund if he does not wish to accept the substitute merchandise or a partial refund of a stated amount if he is willing to accept merchandise of lesser quality or value than that ordered.

11. Representing, directly or by implication, that imprinting or other service in connection with the sale of greeting cards or other products is given "free" or as a gift or without cost or charge in connection with:

(1) Any offer which runs for an indefinite term or continuously for a period in excess of 1 year;

(2) Any offer not covered by (1), above, excluding introductory offers, unless as to such limited offer:

(a) A regular bona fide retail price is established for the product without the imprinting or service;

(b) A regular bona fide retail price is established for the imprinting or service, or in the absence of such price a determination is made of the cost to respondents of providing the imprinting or service; and

(c) The price of the greeting cards or product is reduced at least as much as the price or cost of the imprinting or service.

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

It is further ordered, That corporate respondents distribute a copy of this order to each of their operating divisions or departments.

It is further ordered, That the respondents herein shall, within sixty (60) days after the effective date 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.

It is further ordered, That the initial decision, as modified, be, and it hereby is, adopted as the decision of the Commission.

Issued: November 30, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-235 Filed 1-5-73;8:45 am]

[Docket No. C-2329]

PART 13—PROHIBITED TRADE PRACTICES

William Freihofer Baking Co., Inc.

Subpart—Advertising falsely or misleadingly: § 13.20 *Comparative data or merits;* § 13.30 *Composition of goods;* § 13.135 *Nature of product or service;* § 13.170 *Qualities or properties of product or service:* 13.170–74 Nutritive; § 13.205 *Scientific or other relevant facts.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1575 *Comparative data or merits;* § 13.1590 *Composition;* § 13.1605 *Content;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising.*

(Sec. 6 38 Stat. 721; 15 U.S.C. 46. Interprets or applies section 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, William Freihofer Baking Co., Inc., Allentown, Pa., Docket No. C-2329, Dec. 7, 1972]

In the Matter of William Friehofer Baking Co., Inc., a Corporation

Consent order requiring an Allentown, Pa., producer of bakery goods, among other things to cease misrepresenting the nutritional value of its bread.

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

It is ordered, That respondent William Freihofer Baking Co., a corporation, their successors and assigns, and their agents, officers, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of any bread or baked product, forthwith cease and desist from:

(1) Disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains the following:

(a) Any representation, orally, visually, or by any other means, that Freihofer's Bread is "double enriched," has "almost twice the nutrition," is "double

nutrition," or has "almost twice the vitamins and iron," as ordinary enriched bread,

(b) Any representation, or implication, orally, visually, or by any other means, that the wheat germ content of Freihofer's Bread is equivalent to that of whole wheat bread, such as by saying "* * * Freihofer's now contains the same natural wheat germ as 100 percent whole wheat bread,"

(c) Any representation, orally, visually, or by any other means that Freihofer's Bread represents a "nutritional bread through" or breakthrough, or any other representation to that effect;

It is provided however, That should respondent reformulate its bread so as to make any of the above-proscribed representations true, that the above-proscribed representations may be made.

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

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 corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty (60) days after the service of the order upon them, file with the Commission a report in detail the manner and form of their compliance with the order to cease and desist.

Issued: December 7, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-231 Filed 1-5-73;8:45 am]

Title 31—MONEY AND FINANCE

Subtitle A—Office of the Secretary of the Treasury

PART 0—STANDARDS OF CONDUCT

Persons Required To File Financial Statements

Appendix A of the Department of the Treasury Standards of Conduct, which identifies positions the incumbent of which must file financial statements, as provided in § 0.735.70 of the Standards, is amended to identify positions in the new Bureau of Alcohol, Tobacco, and Firearms and to revise the entries for several other Bureaus and Offices of the Department.

The Department finds that notice of proposed rule making is not necessary under 5 U.S.C. 553 since the amendment relates exclusively to agency personnel. As revised Appendix A reads as follows:

APPENDIX A—IDENTIFICATION OF POSITIONS THE INCUMBENTS OF WHICH MUST FILE FINANCIAL STATEMENTS

SPECIFIC POSITIONS

Office of the Secretary

All employees Grade 15 and above.
All employees Grades 13 and 14, Office of Domestic Gold and Silver Operations.
All contract and procurement personnel Grades 13 and 14, Office of Administrative Programs, and Office of Central Services.

Bureau of Alcohol, Tobacco, and Firearms

Director.
Deputy Director.
Assistant Director (Criminal Enforcement).
Deputy Assistant Director.
Chief, Special Programs Division.
Chief, Planning and Procedures Division.
Chief, Liaison and Technology Division.
Chief, Firearms and Explosives Division.
Chief, Alcohol Division.
Assistant Director (Inspection).
Deputy Assistant Director.
Regional Inspectors.
Assistant Director (Administration).
Chief, Administrative Programs Division.
All personnel, GS-13 and above who are involved in contract and procurement.
Assistant Director (Regulatory Enforcement.)
Technical Advisor (Tobacco).
Deputy Director.
Chief, Industry Control Division.
Assistant Chief, Industry Control Division.
Chief, Regulations and Procedures Division.
Assistant Chief, Regulations and Procedures Division.
Chief, Trade and Consumer Affairs Division.
Assistant Chief, Trade and Consumer Affairs Division.
Assistant Director (Technical and Scientific Services).
Chief, Data Processing Division.
Chief, Technical Services Division.
Chief, Scientific Services Division.
Regional Directors.
Assistant Regional Directors.
Special Agents in Charge.
Assistant Special Agents in Charge.
Resident Agents.
Chief, Field Operations.
Area Supervisors.
Group Supervisors.
All Attorneys GS-15 and above.

Bureau of Accounts

Commissioner of Accounts.
Chief Disbursing Officer.
Comptroller.
Director, Cash Management.
Assistant Director, Cash Management (Foreign Depositary Analysis).
Chief Domestic Banking Operations.
Chief Auditor.
Operating Facilities Officer.
Chief, Procurement Section.

Bureau of Customs

All employees, GS-15 and above.
Customs Law Specialists, GS-14.
Deputy Assistant Regional Commissioners of Customs (Classification and Value), (Inspection and Control), (Financial Management).
District Directors.
Assistant District Directors.
Special Agents in Charge.
Assistant and Deputy Special Agents in Charge.
Customs Attachés, GS-13 and above.
Senior Customs Representatives.
Resident Agents.
Senior Resident Agents.
Regional Directors and Assistant Regional Directors, Security and Audit.
Supervisory Import Specialist, GS-13 and above.

Internal Revenue Service

All Staff Assistants in the Office of the Commissioner.
Assistant Commissioners.
Deputy Assistant Commissioners.
Office of Assistant Commissioner (ACTS).
Division Directors.
Associate Directors.
Assistant Division Directors.
Office of Assistant Commissioner (Administration).
Director, Facilities Management Division.
Office of Assistant Commissioner (Compliance).
Division Directors.
Assistant Division Directors.
Office of Assistant Commissioner (Planning and Research).
Director, Systems Development Division.
Office of Assistant Commissioner (Stabilization).
Division Directors.
Office of Assistant Commissioner (Technical).
Technical Advisors to the Assistant Commissioner.
Division Directors.
Assistant Division Directors.
Branch Chiefs.
Personnel at GS-13 and above who have authority to sign off on tax rulings.
Regional Commissioners.
Regional Inspectors.
Assistant Regional Commissioners of Accounts, Collection and Taxpayers Service; Appellate; Audit; Intelligence; and Stabilization.
Executive Assistants to the above Assistant Regional Commissioners.
District Directors.
Assistant District Directors.
Branch Chiefs, Assistant Branch Chiefs and Associate Branch Chiefs of Appellate in Branch Offices.
Contract and procurement personnel at GS-13 and above.

Bureau of the Mint

Director of the Mint.
Deputy Director of the Mint.
Assistant Director for Administration.
Assistant Director for Technology.
Assistant Director for Production.
Assistant Director for Public Services.
Assistant Director for West Coast Operations.
Chief, Management and Organization Division.
Financial Manager and Assistant Financial Manager, Budget and Finance Division.
Contract Specialist.
General Attorney.
Superintendents and Assistant Superintendents, Philadelphia and Denver Mints and New York Assay Office.
Officers in Charge, San Francisco Assay Office and Fort Knox Bullion Depository.
Assistant Officer in Charge, San Francisco Assay Office.
All Presidential Appointments.

Bureau of the Public Debt

Commissioner of Public Debt.
Deputy Commissioner of Public Debt.
Assistant Commissioner of Public Debt.
Chief Counsel.
Assistant Chief Counsel.

* * * * *

Office of the Treasurer, United States

Treasurer of the United States.
Deputy Treasurer of the United States.
Assistant Deputy Treasurer.
Assistants to the Deputy Treasurer.
Administrative Officer.

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(E.O. 11222, May 8, 1965; 18 U.S.C. 201 note; 5 CFR 735.104)

Dated: January 2, 1973.

[SEAL] WARREN F. BRECHT,
Assistant Secretary for Administration.

[FR Doc.73-347 Filed 1-5-73;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER A—ADMINISTRATION

PART 807—ISSUING AIR FORCE PUBLICATIONS AND FORMS OUTSIDE THE AIR FORCE

Miscellaneous Amendments

Part 807, Subchapter A, Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 807.1 is amended by revising paragraphs (b) and (c), and deleting paragraph (e) as set forth below.

§ 807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.

* * * * *

(b) Publications marked "for official use only" will be released to private citizens, private organizations, or commercial activities only under the conditions set forth in AFR 12-31.

(c) Publications and forms other than those specified in paragraphs (a) and (b) of this section will be issued, on request to private citizens and organizations of any country, but only under the conditions cited in AFR 11-25 and Parts 806 and 813 of this chapter. If requested items are not immediately available from local stocks, the Publications Distribution Office will obtain them from the Air Force Publications Distribution Center for release to the requester. For those publications with M or X distribution symbols to which the Publications Distribution Office is not normally entitled, PDOs will include a statement in the remarks section of the requisition that the item is for release to the public. When the index indicates that an item is stocked and issued only by the OPR (Office of Primary Responsibility), the requester will be referred to HQ USAF, AF/DADP.

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(e) [Deleted]

§ 807.2 [Amended]

2. Section 807.2 is amended by deleting paragraphs (a) through (b)(2). The table following paragraph (b)(2) remains under this section.

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-67 Filed 1-5-73;8:45 am]

SUBCHAPTER A—ADMINISTRATION

PART 809—ISSUE AND CONTROL OF IDENTIFICATION (ID) CARDS

Subchapter A of Chapter VII of Title 32 of the Code of Federal Regulations is amended by revising Part 809 to read as follows:

Subpart A—General Information

Sec.
809.1 Purpose.
809.2 Types of ID cards.
809.3 Reproduction of ID cards.
809.4 Definitions.
809.5 Change in status of member or dependent.
809.6 Accredited/approved institutions of higher learning.
809.7 Chart of entitlement to benefits and privileges.

Subpart B—General Procedures

809.10 Command responsibility.
809.11 Action by Air Force Accounting and Finance Center (AFAFC).
809.12 Retrieval, confiscation, and appeal procedures.
809.13 Loss, theft, or destruction of ID cards.

Subpart C—ID Cards for Members on Active Duty—DD Form 2AF (Active) (Green)

809.20 General information.
809.21 Individual responsibility.
809.22 How to apply for green card.
809.23 Surrender of green card.

Subpart D—ID Cards for Members Entitled to Retire Pay—DD Form 2AF (Retired) (Gray)

809.30 General information.
809.31 How to apply for gray card.
809.32 When to issue/reissue gray card.
809.33 Surrender of gray card.

Subpart E—ID Cards for Reserve Members Not on Active Duty—DD Form 2AF (Reserve) (Red)

809.40 General information.
809.41 How to apply for red card.
809.42 When to issue/reissue red card.
809.43 Surrender of red card.

Subpart F—Geneva Conventions ID Cards—DD Forms 489 and 528

809.50 General information.
809.51 Geneva Conventions credential system described.
809.52 Issuance and use of ID cards.
809.53 When to issue/reissue ID cards.
809.54 Military-civilian relationship for prisoner of war identification purposes.

Subpart G—Uniformed Services Identification and Privilege (USIP) Card—DD Form 1173

809.60 General information.
809.61 Issue by other services.
809.62 Persons entitled to USIP cards.
809.63 When to surrender USIP card.
809.64 Where to file completed DD Forms 1172.
809.65 Expiration date to enter in item 3, DD Form 1173.

AUTHORITY: The provisions of this Part 809 issued under 10 U.S.C. 8012.

Subpart A—General Information

§ 809.1 Purpose.

(a) This part governs the preparation, issuance, use, accountability, and disposition of identification cards issued by the Air Force to U.S. Armed Forces active duty and retired Air Force personnel, Reserve of the Air Force personnel, dependents, and others eligible for certain services administered by the Armed Forces.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 809.2 Types of ID cards.

Individuals, except active duty members serving as OSI special agents and members designated in § 809.62(j), may be issued only one of the types of cards described in paragraphs (a), (b), (c), and (d) of this section. (DD Forms 2AF will be issued to Air Force members only.)

(a) DD Form 2AF (Active) (Green), Armed Forces Identification Card.

(b) DD Form 2AF (Retired) (Gray), Armed Forces Identification Card.

(c) DD Form 2AF (Reserve) (Red), Armed Forces Identification Card.

(d) DD Form 1173, Uniformed Services Identification and Privilege Card.

(e) DD Form 489, Noncombatant's Certificate of Identity.

(f) DD Form 528, Geneva Conventions Identification Card.

§ 809.3 Reproduction of ID cards.

Title 18, U.S.C. 701, prohibits photographing or other unauthorized reproduction or possession of United States identification cards under penalty of fine or imprisonment or both.

EXCEPTION: Photocopying of DD Forms 2AF and 1173 as part of the admission procedure for medical care under the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) is authorized.

§ 809.4 Definitions.

(a) *Armed Forces.* The Army, Navy, Air Force, Coast Guard, and Marine Corps.

(b) *Issuing activity.* An agency or person authorized, upon receipt of a properly certified application, to issue one of the ID cards listed in this part. (This activity must have the necessary photographing and laminating facilities.) Commissioned officers, warrant officers, noncommissioned officers (grades E-7 through E-9), civilians (GS-5 and above) may be authorized to authenticate ID cards. An NCO in grade E-5 or E-6 who is Noncommissioned Officer in Charge (NCOIC) of the pass issuing facility may be authorized to authenticate ID cards.

(c) *Active duty member of a Uniformed Service.* A person serving on active duty or active duty for training pursuant to a call or order that does not specify a period of 30 days or less.

(d) *Retired member of a Uniformed Service.* A retired member of the Uniformed Services who is entitled to retired, retainer, or equivalent pay.

(e) *Deceased member.* A member who died while serving on active duty or who died while in a retired status, or a member of the Reserve component who died in line of duty while in an active status for less than 30 days whose survivors are paid the death gratuity under DODPM, part 4, chapter 5.

(f) *Dependent.* A person who bears any of the following relationships to an active duty or retired member of a Uniformed Service or to a person who at the time of his death was on active duty or was a retired member of a Uniformed Service:

(1) The lawful wife.
(2) The unremarried widow.
(3) The lawful husband.
(4) The unremarried widower.
(5) Child:

NOTE: When used in this part, under 21 years of age (under age 21) means before the 21st birthday; under 23 years of age (under age 23) means before the 23d birthday; over 21 years of age (over age 21) means on or after the 21st birthday; over 23 years of age (over age 23) means on or after the 23d birthday.

(i) A legitimate child, adopted child, or legitimate stepchild:

(A) Who is unmarried and under 21 years of age whther or not dependent on th) active duty or retired member; or

(B) Who is unmarried and 21 years of age or older, but is incapable of self-support because of a mental or physical incapacity that existed before his 21st birthday, and is, or was at the time of death of the active duty or retired member, dependent on the member for over half of his support; or

(C) Who is unmarried and 21 or 22 years of age and pursuing a full-time course of education approved by the Secretary of Defense or the Secretary of Health, Education, and Welfare (as applicable), or is approved by a State agency under Title 38, U.S.C., chapters 34 (Veterans Educational Assistance) and 35 (War Orphans' and Widows' Educational Assistance) for the purposes of those chapters, and is, or was at the time of death of the active duty or retired member, dependent on him for over half of his support.

(ii) An unmarried child or stepchild who was illegitimate at the time of birth, and who is, or was at the time of death of the active duty or retired member, dependent on the member for more than half of his support; residing in the member's household or in a dwelling provided or maintained by the member, and is:

(A) Under 21 years of age; or

(B) Twenty-one years of age or older, but incapable of self-support because of a mental or physical incapacity that existed before his 21st birthday; or

(C) Twenty-one or 22 years of age and pursuing a full-time course of education approved by the Secretary of Defense or the Secretary of Health, Education, and Welfare (as applicable), or that is approved by a State agency under Title 38, U.S.C., chapters 34 (Veterans' Educational Assistance) and 35 (War Orphans' and Widows' Educational Assistance) for the purpose of those chapters.

NOTE: Courses of education offered by institutions listed in "Education Directory, Part 3, Higher Education" and/or "Accredited Higher Institutions" issued periodically by the Office of Education, Department of Health, Education, and Welfare meet the criteria approved by the Secretary of Defense or Secretary of Health, Education, and Welfare. To determine approval of courses offered by a foreign institution, by an institution not approved by a State agency under Title 38, U.S.C., Chapters 34 and 35, a statement may be obtained from the Office of Education, Department of Health, Education, and Welfare, Washington, D.C. 20202.

(6) A parent or parent-in-law who either:

(i) Is dependent on the active duty or retired member for over half of his support and is residing in a dwelling provided or maintained by the member; or

(ii) Was at the time of death of the member dependent on him for over half of his support and is residing in a dwelling provided or maintained by the member.

NOTE: For the purpose of commissary and theater, eligibility is determined on actual residence in the household of the military sponsor. For the purpose of exchange, the condition of residence is not essential in defining a parent/parent-in-law.

(g) *Eligible recipient.* Section 809.7 is a guide for designating the extent of benefits and privileges for entitled recipients. The pertinent directive will take precedence in conflicting situations, as follows:

(1) Medical care—Part 815 of this chapter and AFR 168–9.

(2) Commissary privileges—Part 823 of this chapter.

(3) Exchange patronage—AFR 147–14.

(4) Admission to military theaters—AFR 34–32.

(h) *Issuing activity.* An agency or person authorized, upon receipt of a properly certified application, to issue one of the ID cards listed in this part. (This activity must have the necessary photographing and laminating facilities.) Commissioned officers, warrant officers, noncommissioned officers (grades E–7 through E–9), and civilians (GS–5 and above) may be authorized to authenticate ID cards. An NCO in grade E–5 or E–6 who is NCOIC of the pass issuing facility may be authorized to authenticate ID cards.

(i) *Sponsor.* A person independently eligible for one of the cards listed in this part, upon whom another person's eligibility for an ID card is based.

(j) *Verifying activity.* An agency or person designated to certify to the eligibility of individuals to receive ID cards. Normally, the consolidated base personnel office (CBPO) is the responsible activity. The responsible person may be a commissioned officer, warrant officer, noncommissioned officer (grades E–7 through E–9), or civilian employees (GS–5 and above). An NCO in grade of E–5 or E–6 who is NCOIC of the verifying activity may be authorized to certify to the eligibility of ID card recipients.

(k) *Service member.* Individual of the Armed Forces on active duty for 31 days or more or retiree entitled to retired pay or retainer.

(l) *Protected personnel.* Included in this category are:

(1) Medical personnel exclusively engaged in the search for or the collection, transport, or treatment of the wounded or sick, or in the prevention of disease, staffs exclusively engaged in the administration of medical units and establishments, and chaplains attached to the Armed Forces.

(m) *Totally (100 percent) disabled veteran.* An individual who has been honorably discharged from any of the Services of the U.S. Armed Forces and certified by the Veterans' Administration to be totally (100 percent) disabled as a result of a service-connected injury or illness.

§ 809.5 Change in status of member or dependent.

(a) *Legal separation, interlocutory divorce, final divorce decree.* A wife or a dependent husband divorced from a service member (active duty, retired with pay) loses eligibility for DD Form 1173 on the date the divorce becomes final. A spouse does not lose eligibility through issuance of an interlocutory decree of divorce even when the court has approved a property settlement releasing the service member from responsibility for support. (However, the service member may revoke his designation of agent's privileges for commissary if he desires.) A spouse remains eligible for DD Form 1173 as long as the relationship of husband and wife is not terminated by a final divorce decree. (The eligibility of unmarried children is not affected by the divorce, except a stepchild relationship ceases upon divorce of parent and stepparent.) The fact that the divorced wife of a member remarries does not necessarily terminate a child's eligibility for medical care, exchange, and theater privileges. A child of an active duty or retired member adopted after the member's death retains eligibility for health benefits; however, the adoption of a child of a living member by another person (other than by a person whose dependents are eligible for health benefits) terminates the child's eligibility.

(b) *Marriage and final divorce decree of dependent child.* Children lose eligi-

bility upon reaching age 21, except children mentally or physically incapacitated and those enrolled in an approved institution of higher learning. If a child is married, eligibility ceases on the date of marriage. However, should the marriage terminate by "final" divorce decree, annulment, or any other reason, the child may again be entitled to DD Form 1173 as the child of a service member if the eligibility requirements of a dependent child are met. An "interlocutory decree" would entitle the child to commissary and theater privileges if residing in the member's household.

(c) *Dependent's eligibility terminated.* Member's release from active duty, discharge, official placement of the member in a desertion status, or divorce (except as provided in paragraphs (a) and (b) of this section) terminates the eligibility for a dependent's DD Form 1173.

(d) *Hospital insurance benefits.* Upon attaining age 65, retired members, their spouses and children, and spouses and children of deceased members who become entitled to hospital insurance benefits under Social Security health insurance program lose their eligibility for benefits from civilian sources under the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS).

(e) *Stepchildren.* Although an unmarried legitimate stepchild at the time of the member's or retired member's death is and continues to be an eligible dependent for the purpose of this part, such child loses eligibility for DD Form 1173 as a stepchild of a deceased member or retired member when the child's natural mother remarries or the child is adopted by a third party.

§ 809.6 Accredited/approved institutions of higher learning.

Institutions meeting the criteria are listed in the "Education Directory, Higher Education" issued periodically by the Office of Education, Department of Health, Education, and Welfare. (It may be requested through the publication distribution system.) Accredited business schools are listed in the Directory of Accredited Institutions published by the Accrediting Commission for Business Schools and may be obtained upon written request to the Commission, 1730 M Street NW., Washington, DC 20036. Institutions accredited by a State agency pursuant to title 38, U.S.C., chapters 34, 35, and 36 must be verified by the institution concerned. To determine approval or courses offered by a foreign institution, by an institution not listed in either of the above directories, or by an institution not approved by a State agency, a statement may be obtained from the Office of Education, Department of Health, Education, and Welfare, Washington, D.C. 20202.

NOTE: A full-time course of education is official enrollment in an institution above the high school level for 12 or more semester hours.

§ 809.7 Chart of entitlement to benefits and privileges.

Establish eligibility as a dependent/eligible recipient according to the appropriate paragraph.

Eligible recipients	A	B	C	D	E
	Medical Care		Commissary	Exchange	Theater
	Civilian Facility	Service Facility			
1. Dependents of active duty or retired member (eligible for retired pay) of Uniformed Services:					
a. Lawful wife	Yes	Yes	Yes	Yes	Yes.
b. Lawful husband	(1)	(1)	(25)	Yes	Yes.
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	Yes	Yes	(3)	(1)	Yes.
(2) Over 21 years of age	(4)	(4)	(3)	(4)	(2).
d. Unmarried illegitimate children:					
(1) Under 21 years of age	(19)	(19)	(3)	No	Yes.
(2) Over 21 years of age	(19)	(19)	(3)	No	(2).
e. Parents	No	(5)	(3)	(1)	(2).
f. Parents-in-law	No	(5)	(3)	(1)	(2).
2. Surviving dependents of members of Uniformed Services who died while on active duty or in a paid retired status:					
a. Unremarried widow	Yes	Yes	Yes	Yes	Yes.
b. Unremarried widower	(6)	(6)	No	No	No.
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	Yes	Yes	(3)	(7)	Yes.
(2) Over 21 years of age	(8)	(8)	(3)	(7)	(2).
d. Unmarried illegitimate children:					
(1) Under 21 years of age	(19)	(19)	(3)	No	Yes.
(2) Over 21 years of age	(19)	(19)	(3)	No	(2).
e. Parents	No	(9)	(3)	No	No.
f. Parents-in-law	No	(9)	(3)	No	No.
3. Other members of the household of active duty or retired members, and widows, such as stepparent, parent by adoption and wards.	No	No	(3)	No	(2).
4. Honorably discharged veteran of Armed Forces, totally (100 percent) disabled as result of service-connected disability and so certified by the Veterans' Administration	No	No	Yes	Yes	Yes.
a. Lawful wife	No	No	Yes	Yes	Yes.
b. Lawful husband	No	No	(25)	Yes	Yes.
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	No	(3)	(1)	Yes.
(2) Over 21 years of age	No	No	(3)	(4)	(2).
d. Parents	No	No	(3)	(1)	(2).
e. Parents-in-law	No	No	(3)	(1)	(2).
5. Surviving dependents of honorable discharged veteran of Armed Forces who died while certified by the Veterans' Administration as being totally (100 percent) disabled as result of service-connected disability:					
a. Unremarried widow	No	No	Yes	Yes	Yes.
b. Unremarried widower	No	No	No	No	No.
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	No	(3)	(7)	(7).
(2) Over 21 years of age	No	No	(3)	(7)	(7).
d. Parents	No	No	(3)	No	No.
e. Parents-in-law	No	No	(3)	No	No.
6. Surviving dependents of members of Reserve component of Armed Forces who died in line of duty complying with order that specified active status for a period of 30 days or less:					
a. Unremarried widow	No	No	Yes	Yes	Yes.
b. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	No	(3)	(7)	(7).
(2) Over 21 years of age	No	No	(3)	(7)	(7).
7. Surviving dependent of member of Reserve component of Armed Forces who died in line of duty with order that specified active duty status for a period of more than 30 days:					
a. Unremarried widow	Yes	Yes	Yes	Yes	Yes.
b. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	Yes	Yes	(3)	(7)	(7).
(2) Over 21 years of age	(8)	(8)	(3)	(7)	(7).
8. Court-approved separation or interlocutory divorce between service member and spouse:					
a. Lawful wife	Yes	Yes	Yes	Yes	Yes.
b. Lawful husband	(1)	(1)	No	Yes	Yes.
c. Unmarried legitimate children including adopted and stepchildren:					
(1) Under 21 years of age	Yes	Yes	(3)	(1)	(2).
(2) Over 21 years of age	(4)	(4)	(3)	(4)	(2).
d. Parents	No	(5)	(3)	(1)	(2).
e. Parents-in-law	No	(5)	(3)	(1)	(2).
9. Court-approved final divorce decree between service member and spouse:					
a. Ex-wife	No	No	No	No	No.
b. Ex-husband	No	No	No	No	No.
c. Unmarried legitimate children, including children adopted by service member residing with person not eligible for ID card:					
(1) Under 21 years of age	Yes	Yes	No	(1)	(2).
(2) Over 21 years of age	(4)	(4)	No	(4)	(2).
d. Parents of service member	No	(5)	(3)	(1)	(2).

Eligible recipients	A	B	C	D	E
	Medical Care		Commissary	Exchange	Theater
	Civilian Facility	Service Facility			
10. Final divorce decree between deceased service member and spouse:					
a. Ex-wife	No	No	No	No	No.
b. Ex-husband	No	No	No	No	No.
11. Civilian employed by or affiliated with USAF. (For purposes of this item only, CONUS means for: Exchange—50 States, District of Columbia, Puerto Rico, Guam, Johnston Island, and other U.S. possessions; Medical Care—the U.S. (excluding Alaska and Hawaii) and District of Columbia; Commissary and Theater—the 50 States and District of Columbia)					
a. USAF employees and dependents residing on military installations within CONUS	No	No	(11)	(13)	Yes.
b. U.S. citizen employee of DOD, including person paid from nonappropriated funds and his dependents stationed outside CONUS	No	(10)	(12)	(14)	(12).
c. Uniformed and nonuniformed, full-time paid employee of American Red Cross assigned to duty with activity of Armed Forces:					
(1) CONUS	No	(10)	(24)	(1)	(16).
(2) Outside CONUS	No	(10)	(22)	(18)	Yes.
d. Civilian employee under private or Government contract with USAF and his dependents:					
(1) CONUS	No	No	No	(13)	(16).
(2) Outside CONUS	No	(10)	(12)	(18)	(18).
e. U.S. citizen employee of other U.S. Government department or agency and his dependents:					
(1) CONUS	No	No	(11)	(13)	(15).
(2) Outside CONUS	No	(10)	(12)	(18)	Yes.
f. Exchange service employee:					
(1) CONUS (including Alaska and Hawaii)	No	No	(11)	(14)	No.
(2) Outside CONUS (U.S. citizen)	No	(10)	(12)	(14)	Yes.
12. Foreign military member of NATO in U.S. and his dependents in U.S.:	Yes	Yes	Yes	Yes	Yes.
a. Lawful wife	Yes	Yes	Yes	(20)	(2).
b. Lawful husband	(1)	(1)	Yes	(20)	(2).
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	Yes	Yes	(3)	(20)	(2).
(2) Over 21 years of age	(4)	(4)	(3)	(20)	(2).
d. Parents	No	No	(5)	(20)	(2).
e. Parents-in-law	No	No	(5)	(20)	(2).
13. Foreign military member in U.S. other than NATO and his dependents in U.S.:	No	Yes	Yes	(20)	Yes.
a. Lawful wife	No	(23)	Yes	(20)	Yes.
b. Lawful husband	No	(23)	Yes	(20)	Yes.
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	(23)	(3)	(20)	(2).
(2) Over 21 years of age	No	(23)	(3)	(20)	(2).
d. Parents	No	(23)	(3)	(20)	(2).
e. Parents-in-law	No	(23)	(3)	(20)	(2).
14. Foreign military member training under U.S. sponsorship at overseas Air Force installation outside his own country:	(10)	(10)	(17)	(18)	(18).
a. Lawful wife	No	(10)	(3)	(18)	(18).
b. Lawful husband	No	(10)	(3)	(18)	(18).
c. Unmarried legitimate children, including adopted and stepchildren:					
(1) Under 21 years of age	No	(10)	(3)	(18)	(18).
(2) Over 21 years of age	No	(10)	(3)	(18)	(18).
d. Parents	No	No	(3)	(18)	(18).
e. Parents-in-law	No	No	(4)	(18)	(18).
15. Foreign trainee under the Military Assistance Program, other than NATO, military or civilian, in U.S. or stationed at armed forces installation (and their dependents):					
a. Trainee	(10)	(10)	(11)	(21)	(15).
b. Dependents	No	(10)	(3)	No	(15).
16. Civilian of foreign nation on duty in U.S. at invitation of DOD Agency (and their dependents):					
a. Civilian on duty	No	(23)	(11)	(21)	(15).
b. Dependents	No	No	No	No	No.

NOTES: 1. Adopted children and stepchildren (except for medical care), illegitimate children, parents, parents-in-law and husbands must be dependent upon the member for over half of their support. Unmarried legitimate children under age 21 are not subject to dependency provisions. Husbands are not subject to dependency provisions for commissary, exchange and theater privileges. Red Cross personnel: Only uniformed paid American National Red Cross personnel are eligible for exchange privileges.

2. Yes, if actually residing in the military sponsor's household. For purposes of theater entitlement, a "military sponsor's household" is also interpreted to include the domicile of dependent children under 21 years of age with either legally separated or divorced parent, domicile at a school, or domicile at any other place designated by the military sponsor. Parents/parents-in-law and dependent children 21 years of age and older if in fact dependent upon the military sponsor for over half of their support and residing in domicile provided or maintained by the military sponsor.

3. If actually residing full time in sponsor's (same) household, designated his agent in writing in item 18, DD Form 1172, and making purchases in his behalf. A sponsor's child residing in the household of a divorced spouse or other nonelligible recipient who is not a sponsor, may not be designated as an agent. A parent, parent-in-law, stepparent, or parent by adoption must be dependent upon the member for over half of his support and reside full-time in the same household as the sponsor. (See Part 828 of this chapter for designation of other types of agents.)

4. If the child is incapable of self-support because of a mental or physical incapacity that existed before he reached age 21 and he is in fact dependent on the member for over half of his support; or has not passed his 23d birthday and is enrolled in a full-time course of study in an institution of higher education as approved by the Secretary of Defense or the Secretary of Health, Education, and Welfare and is in fact dependent on the member for over half of his support. For exchange purposes, the mental or physical incapacity need not have arisen prior to age 21.

5. If in fact dependent on the member/retiree for over half of his support and resides in a dwelling place provided or maintained by the member/retiree.

6. Is in fact dependent on member at the time of her death for over half of his support because of a mental or physical incapacity.

7. If the widow remains unmarried, legitimate children over age 21 must be more than 50 percent dependent on the widow, and physically incapable of self-support, or under age 23 and enrolled full-time in a course of study in an accredited educational institution of higher learning above the high school level. Children under age 21 must be more than 50 percent dependent upon the widow.

8. If the child is incapable of self-support because of a mental or physical incapacity that existed before he reached age 21 and was at the time of the member's death in fact dependent on him for over half of his support; or has not reached his 23d birthday and is enrolled in a full-time course of study in an institution of higher learning as approved by the Secretary of Defense or the Secretary of Health, Education, and Welfare, and was at the time of the member's death in fact dependent on him for over half of his support. Note 7 also applies where appropriate.

9. If at the time of the member's death was in fact dependent on the member for over half of his support and residing in a dwelling provided and maintained by the member.

10. Only to the extent prescribed by Part 818 of this chapter. Cognizant Air Force commander should authorize medical care.

11. Privileges may be extended by the Secretary of the Air Force when it is impracticable for such personnel to procure subsistence supplies from civilian agencies without impairing the efficient operations of the installation.

12. Major commanders may extend privileges to civilian officers and employees of the U.S. Government.

13. Limited exchange privileges to employees residing on military installation upon approval of the installation commander and the Secretary of the Air Force. Dependents are not entitled to exchange privileges.

14. Within CONUS—limited exchange privileges to employee only. Outside CONUS, upon approval of major commander, dependents may be afforded exchange privileges.

15. Within CONUS—theater privileges may be authorized by the military installation commander if the employee is in TDY status, upon presentation of his official travel orders or evidence of temporary occupancy of Government quarters, or is occupying permanent Government quarters on military installation. TDY status per se does not entitle civilian personnel to theater privileges. Dependents of such personnel will not be afforded theater privileges. Allied nationals working for the U.S. Government may not be granted theater privileges within the country of their nationality.

(Footnotes continued on next page.)

16. Only during occupancy of temporary or permanent quarters on a military installation.
17. Only to the extent prescribed by Part 823 of this chapter.
18. Only to the extent consistent with applicable international agreements and subject to such limitations and restrictions as the oversea commander may consider necessary to impose.
19. An unmarried child or stepchild who was illegitimate at the time of birth and who is, or was at the time of death of the active duty or retired member, dependent on the member for more than half of his support; residing in the member's household or in a dwelling place provided or maintained by the member, and (1) under 21 years of age; or (2) 21 years of age or older but incapable of self-support because of a mental or physical incapacity that existed prior to his 21st birthday; or (3) 21 or 22 years of age and pursuing a full-time course of education that is approved by the Secretary of Defense or Secretary of Health, Education, and Welfare, as applicable, or that is approved by a State agency pursuant to chapters 34 (Veterans' Educational Assistance) and 35 (War Orphans' and Widows' Educational Assistance) of title 38, U.S.C., for the purposes of those chapters.
20. Officers and enlisted men of the armed forces of foreign nations, when on duty with the U.S. armed forces under competent orders issued by the Army, Navy, Air Force, or Marine Corps, and their dependents, as defined in AFR 147-14, are authorized unlimited exchange privileges. Purchases of items of the uniform are limited by the provisions of AFM 50-29. When visiting U.S. installation, officers and enlisted men of the armed forces of foreign nations are authorized unlimited exchange privileges, except that merchandise sold to them is restricted to quantities required for their personal use, and the sale of items of the uniform is governed by AFM 50-29 and AFR 147-14.
21. Foreign military personnel will be granted the privileges indicated in note 20. Civilian employees of foreign governments on duty under competent orders, and residing within the limits of a U.S. installation, for the convenience of the U.S. Government will be granted limited exchange privileges upon determination by the responsible commander that comparable commercial facilities are not conveniently available and upon authorization by the secretary of the department concerned. See AFR 147-14.
22. Commissary privileges may be extended to all uniformed and nonuniformed, full-time, paid professional and headquarters staff personnel and uniformed, full-time, paid secretarial and clerical workers of the Red Cross who are assigned to duty with the Armed Services by the Red Cross. Extension of such privileges will be determined by the major oversea commander or commandant upon the capability, without detriment to his ability to fulfill his military mission.
23. Foreign nationals, other than personnel of NATO nations, in the United States. Personnel of foreign nations, when in the United States on a status officially recognized by an agency of the Department of Defense, may be provided medical care in Air Force medical facilities to the same extent and under the same conditions as comparable U.S. personnel. Such persons include:
(a) Military personnel whose names appear on the Diplomatic List or the List of Employees of Diplomatic Missions published by the Department of State.
(b) Military personnel assigned or attached to U.S. military units for duty or training.
(c) Military personnel on duty in the United States at the invitation of the Department of Defense or one of the military departments.
(d) Military personnel accredited to Joint U.S. defense boards or commissions.
(e) Dependents of military personnel listed in (a) through (d) above when residing with their sponsor.
(f) Civilian personnel of foreign nations on duty in the United States at the invitation of the Department of Defense or one of the military departments may be provided care in an emergency.
24. Privileges may be extended to all uniformed and nonuniformed, full-time, paid professional and headquarters staff personnel of the Red Cross who are assigned to duty with the armed services by the Red Cross and who reside within the military installation. Extension of such privileges will be determined by the major commander concerned.
25. Must reside in the same household as the sponsor.

Subpart B—General Procedures

§ 809.10 Command responsibility.

The commander of each Air Force or Air National Guard installation (or his designee) will:

(a) Designate verifying/issuing activities and individuals in writing. The commander of a unit geographically separated from the Unit Personnel Record Group (UPRGp) may act as the verifying activity if he has sufficient information to make an appropriate judgment. (Send questionable cases for verification to the servicing CBPO.)

(b) Issue an ID card to each eligible applicant. If a commander is aware that eligible dependents of active duty and retired members have not been issued DD Form 1173 and the member is unwilling or unable to execute the necessary application, the commander will request the appropriate verifying activity to execute DD Form 1172, "Application for Uniformed Services Identification and Privilege Card." The verifying activity will insure that the statement: "Member is (unwilling) or (unable) to make application" is entered in item 18, "Remarks," and that this paragraph is cited as authority. Upon verification of the dependency as provided herein, the designated issuing activity will issue DD Form 1173 to the eligible dependent(s).

(c) Extend medical care to all eligible dependents and insure it is not withheld because a member has failed to provide the usual ID cards to the dependents (paragraph (b) of this section). (Medical care in military medical treatment facilities is a right accruing to dependents of active duty personnel under title 10 U.S.C., 1071–1088. See also AFR 168-9.)

(d) Advise recipients to carry their ID cards on their person at all times; explain the penalties for their unlawful use. Insure that the sponsor completely understands the certification contained in item 19, DD Form 1172.

(e) Retrieve or confiscate ID cards under § 809.12.

(f) Issue DD Forms 489 and 528 consistent with current Air Force directives as well as policies established by major oversea commanders.

(g) Contact AFMPC/DPMDRM for further interpretation of policy if necessary to resolve question on cases not covered herein.

§ 809.11 Action by Air Force Accounting and Finance Center (AFAFC).

To obtain additional evidence required to establish dependency or relationship, AFAFC will correspond with the dependent(s) listed on DD Form 1172 and, when action is complete, return DD Form 1172 to the verifying activity with a separate statement, indicating whether the relationship/dependency requirement is established. A copy of AFAFC's determination will be filed with the DD Form 1172 until it is superseded.

NOTE: A dependent parent, parent-in-law, or any other person for whom a current determination of dependency is not in effect must complete a questionnaire on residency and financial affairs which AFAFC sends to the person upon receipt of DD Form 1172. Dependency determination is based on the income, expense, and residency data the claimed dependent reports on these forms. This determination is valid until superseded, terminated, or voided by a change in the dependent's status. Subsequent applications may be verified without submission to AFAFC if the sponsor certifies in writing in item 18, DD Form 1172, that the dependency status previously established by AFAFC has not changed. Sponsor should be cautioned that such certification means that the dependent has not received an initial payment or an increase in social security payment, VA compensation, or other income; has not inherited or otherwise acquired anything of monetary value, including cash, stock, or real property, etc; has not changed residence; has had no change in expense—household or personal; or has not had a change in marital status since dependency was last determined by AFAFC.

§ 809.12 Retrieval, confiscation, and appeal procedures.

ID cards are Government property. Any commissioned or noncommissioned officer or security policeman, in performing his duties may confiscate an ID card that has expired, is being fraudulently used, or is presented by a person not entitled to it. When any CBPO activity learns of a change in dependency status affecting entitlement to DD Form 1173 (that is, divorce, marriage of children, overage, etc.) that activity will send complete information to the Personal Affairs Section (Officer or Airman Records Unit for non-Base-Level Military Personnel System (BLMPS) CBPOs). The Personnel Affairs Section or Officer or Airman Records Unit will act to recover the dependent's card through the sponsor or his commander. If such action is unsuccessful, they will comply with paragraph (a) of this section. File evidence of such interim and final actions with the DD Form 1172. If the DD Form 1173 is retrieved, DD Form 1172 will be destroyed or appropriately annotated. A suspense period of 30 days from the date of notice to the sponsor will be established for completing CBPO action.

(a) *Retrieval.* Although authorities will make every effort to retrieve cards on a voluntary basis, they do not have the authority to seize ID cards by force from persons not subject to military law. If a person not subject to military law refuses to surrender an ID card on demand, recourse may be a suit to recover the property. If a card cannot be retrieved voluntarily, the circumstances will be reported to the nearest chief, security police. If all attempts fail, refer information to HQ USAF/JACL, Washington, D.C. 20314 for possible transmittal to the Department of Justice. Send an information copy of referral action to AFMPC/DPMDRM, Randolph AFB, Tex. 78148.

(b) *Confiscation.* Any officer, noncommissioned officer, or security policeman who confiscates an ID card will report the circumstances to the nearest Air Force installation chief, security police, who will initiate appropriate investigative action. Refer completed reports of investigation to the installation staff judge advocate, who will determine if judicial or administrative action is appropriate. In all cases involving the misuse of a card, send a copy of the completed report of investigation to AFMPC/DPMDRM, Randolph Air Force Base, Tex. 78148.

NOTE: DD Forms 1173 previously issued to retired members remain valid; however, the DD Form 2AF (Ret) (Gray) is presently the only card authorized for issuance/reissuance to Air Force retirees entitled to retired, retainer, or equivalent pay.

(c) *Special retrieval procedures.* When administrative elimination action that may result in discharge is initiated, a member's ID card (DD Form 2AF (Active)) and the member's dependents' ID cards (DD Forms 1173) will be retrieved by the member's commander. The member and his dependents will immediately be reissued ID cards overstamped "temporary" and expiring not later than 90 days from the date elimination action is initiated. If it becomes necessary to reissue the cards after 90 days, reissue will be effected for an additional period not exceeding 90 days. Reissue of cards on a 90-day basis will be continued until the case is resolved. Original (not expired) retrieved cards will be retained until the elimination action is resolved and either returned to the member/dependents or destroyed, as appropriate. All temporary cards will be destroyed. Reissue of DD Forms 2AF and 1173 will be documented by AF Form 279 or DD Form 1172, respectively.

(d) *Reissue.* If it becomes necessary to confiscate an ID card for misuse, abuse, or control of access to a privilege facility:

(1) *DD Form 1173.* Reissue the card immediately and obliterate those privileges withdrawn (that is, commissary, exchange, or theater). Annotations by overstamping that are required to add prominence to withdrawal of a privilege are authorized. Do not withdraw medical care benefits or change expiration date of card.

(2) *DD Form 2AF (Active), 2AF (Retired), and 2AF (Reserve).* Reissue the card immediately, prominently annotating the card to show privileges withheld; for example "exchange not authorized." Do not change other data on card unless incorrect.

(e) *Appeal.* Individuals whose privileges are withdrawn may submit to the installation commander a written appeal for restoring privileges.

§ 809.13 Loss, theft or destruction of ID cards.

The following procedures will be used for loss, theft, or destruction of ID cards.

Line	If the ID card is—	Rule		
		1	2	3
A	DD Form 2AF (Act), 2AF (Ret), 2AF (Res), or 1173	Yes		
B	DD Form 489		Yes	
C	DD Form 528			Yes
D	Loss, theft, or destruction will be reported promptly through the resubmission of the application for the appropriate ID card.	X	X	X
E	The following statement by the sponsor/member must be included on the DD Form 1172, in item 18, Remarks: "I certify that the DD Form....., issued to ....., has been (lost) (stolen) (destroyed) under the following circumstances: (Explain in detail). It has not been (located) (recovered) after a diligent search. Further, if found, I will surrender it to an appropriate USAF facility."	X		
F	The cardholder will certify the circumstances of the loss in a memorandum or letter to the nearest issuing activity who uses this report as a basis for replacement. The information in the report of loss should be similar to the statement in E above.		X	
G	Issuing activity will hold the certificate for 1 year and then destroy it		X	
H	Replacement of ID cards will be accomplished in the same manner as the original application.	X	X	X

Subpart C—ID Cards for Members on Active Duty—DD Form 2AF (Active) (Green)

§ 809.20 General information.

This subpart provides for the issue of DD Form 2AF (Active) (Green) to members of the Air Force on active duty (§ 809.4(c)). It will be issued to all personnel on active duty for more than 30 days, including protected personnel (§ 809.4(1)) and members of the Air Force Reserve and Air National Guard of the United States serving on active duty for training and currently enrolled cadets of the Air Force Academy (USAFA). Members ordered to active duty for 30 days or less will not be issued DD Form 2AF (Active) (Green), but will be identified by copies of their orders or other documents establishing temporary active duty status and their DD Form 2AF (Retired) (Gray) or DD Form 2AF (Reserve) (Red), as appropriate.

§ 809.21 Individual responsibility.

Each person to whom a DD Form 2AF (Active) (Green) is issued will insure that the card is in his possession at all times and will be aware of the penalty for unlawful use.

§ 809.22 How to apply for green card.

The applicant for DD Form 2AF (Active) (Green) will initiate action by contacting the CBPO/geographically separated unit (GSU). The CBPO Officer or Airman Records Unit or the CBPO Personal Affairs Section operating under the Base-Level Military Personnel System (BLMPS) will prepare one copy of AF Form 279, obtain member's signature, and verify information with the Unit Personnel Record Group. If CBPO/GSU services are not available, the applicant will complete AF Form 279 and submit it to a designated agency for verification. The verified AF Form 279 is returned to the applicant who takes it to the nearest Air Force issuing activity. Then it will be filed in the member's UPRGp and destroyed by the CBPO effecting the member's release from active duty when DD Form 2AF (Active) (Green) is destroyed.

§ 809.23 Surrender of green card.

An individual will surrender his DD Form 2AF (Active) (Green) when:

(a) It is replaced.

(b) It expires.

(c) He is in disciplinary confinement.

(d) He is no longer entitled to it.

If the ID card is replaced, he surrenders the old card to the issuing activity when his replacement card is issued; if it is not replaced, he surrenders it to the appropriate records custodian.

Subpart D—ID Cards for Members Entitled to Retired Pay—DD Form 2AF (Retired) (Gray)

§ 809.30 General information.

This subpart provides for the issue of DD Form 2AF (Retired) (Gray) to all USAF and ResAF members entitled to retired pay including those on the Temporary Disability Retired List (TDRL). Retired members entitled to retired pay who waive retired pay to receive VA compensation or who waive receipt of retired pay for any other reason are also entitled to DD Form 2AF (Retired) (Gray). Members who will retire under title 10, U.S.C. 1331, are not entitled to DD Form 2AF (Retired) (Gray) until they are eligible to receive retired pay by virtue of completing service requirements and upon reaching the prescribed statutory age.

§ 809.31 How to apply for gray card.

(a) *Personnel being retired.* An applicant for DD Form 2AF (Retired) (Gray) will complete and submit one copy of AF Form 279 to his Unit Personnel Record Group custodian for verification. The custodian will return the verified AF Form 279 to the applicant, who takes it to the nearest Air Force issuing activity.

(b) *Retired personnel.* An applicant for DD Form 2AF (Retired) (Gray) will complete and submit one copy of AF Form 279 to the CBPO of the nearest Air Force installation in person or by mail, as follows:

(1) Retired Air Force personnel will submit DD Form 2AF (Retired) (Gray), retirement orders (or letter of certification to the Veterans Administration for Pay), or evidence of listing in the Air Force Register.

(2) If retirement orders announce transfer to the Retired Reserve Section, but do not indicate that applicant is entitled to DD Form 2AF (Retired) (Gray) nor indicate entitlement to retired pay, send application and a copy of orders for verification to ARPC, 3800 York Street, Denver, CO 80205.

(3) The verified AF Form 279 is returned to the applicant for presentation to the nearest Air Force issuing activity.

§ 809.32 When to issue/reissue gray card.

(a) *Issue.* DD Form 2AF (Retired) (Gray) will be issued at the time an Air Force member is temporarily or permanently retired or upon individual application therefore at any time thereafter.

(b) *Reissue.* DD Form 2AF (Retired) (Gray) will be reissued to:

(1) Show a change in expiration date.

(2) Replace a lost, stolen, or destroyed card.

(3) Correct an error.

(4) Replace a mutilated card.

(5) Show change from airman to officer status.

(6) Change data that makes the old card questionable as a means of identification.

(7) Document entitlement to civilian medical care.

§ 809.33 Surrender of gray card.

A person surrenders his DD Form 2AF (Retired) (Gray) when:

(a) It is replaced.

(b) It expires.

(c) He is no longer entitled to it.

(d) He is requested to do so by competent authority (§ 809.12).

If the ID card is replaced, he surrenders the old card to the issuing activity where his replacement card is issued; if it is not replaced, he surrenders it to the appropriate records custodian.

Subpart E—ID Cards for Reserve Members Not on Active Duty—DD Form 2AF (Reserve) (Red)

§ 809.40 General information.

This subpart provides for the issue of DD Form 2AF (Reserve) (Red) to members of the USAF Reserve components not on active duty. DD Form 2AF (Reserve) (Red) will be issued to personnel participating in the USAF AFR program and retired Reserve personnel not entitled to either the DD Form 2AF (Active) (Green) or 2AF (Retired) (Gray). DD Form 2AF (Reserve) (Red) is not issued to a member of the Inactive Status List Reserve Section (ISLRS) or the Obligated Reserve Section (ORS). However, members of the Professional Officer Course or the Financial Assistance Program, AFROTC, and AFROTC graduates appointed as Reserves of the Air Force may be issued DD Form 2AF (Reserve) (Red), notwithstanding their assignment to ORS.

§ 809.41 How to apply for red card.

An applicant for DD Form 2AF (Reserve) (Red) will complete one copy of AF Form 279 and submit it to the custodian of his UPRGp for verification. (Exception: At the time oaths of office are signed, the Professor of Aerospace Studies may be designated verifying officer for AF Form 279.) The verified AF Form 279 is returned to the applicant, who takes it to the nearest Air Force or ANG issuing activity. AF Form 279 will be destroyed when DD Form 2AF (Reserve) (Red) becomes invalid and is destroyed.

(a) The ARPC, 3800 York Street, Denver, CO 80205, is custodian for master personnel records pertaining to members of the Retired Reserve (without pay), Nonaffiliated Reserve section, Eligible Reinforcement Designees, Mobilization Augmentees administered by ARPC, and AFROTC graduates.

(b) The ANG CBPO is custodian for all unit personnel records of ANG personnel.

(c) The AFROTC detachment is custodian for all unit personnel records of members of the professional officer course and financial assistance program.

The AF Form 279 will be filed in the Unit Personnel Record Group.

§ 809.42 When to issue/reissue red card.

(a) *Issue.* Upon individual request, DD Form 2AF (Reserve) (Red) may be issued at any time to any eligible member of the USAFR, ANG, or AFROTC.

(b) *Reissue.* DD Form 2AF (Reserve) (Red) will be reissued to:

(1) Show a change in grade upon promotion to or demotion from any grade above airman first class.

(2) Replace a lost, stolen or destroyed card.

(3) Correct an error.

(4) Replace a mutilated card.

(5) Change data that makes the card questionable as a means of identification.

§ 809.43 Surrender of red card.

Member surrenders his DD Form 2AF (Reserve) (Red) when:

(a) It is replaced.

(b) It expires.

(c) He is no longer entitled to it.

(d) He is requested to do so by competent authority (§ 809.12).

If the ID card is replaced, he surrenders the old ID card to the issuing activity where his replacement card is issued; if it is not replaced, he surrenders it to the appropriate records custodian.

Subpart F—Geneva Conventions ID Cards—DD Forms 489 and 528

§ 809.50 General information.

This subpart provides for the issue of ID cards established to meet the requirements of the Geneva Conventions to protect war victims, and it establishes relative military-civilian grade relationships for use exclusively in treatment of prisoners of war with due regard to grade.

§ 809.51 Geneva Conventions credential system described.

Pertinent articles of the Geneva Conventions Relative to Prisoners of War, August 12, 1949, require that:

(a) Identification cards be issued in duplicate to persons who are liable to become prisoners of war. In the event of capture as a prisoner of war, the prisoner is bound to identify himself by providing the capturing authority with his name, rank, service number, and date of birth. Identity cards shall be shown by the prisoner upon demand but shall in no case be taken from him. Prisoners of war should have identity documents in their possession at all times.

(b) Prisoners of war be treated with regard due their rank and age, and protected personnel are to be identified.

§ 809.52 Issue and use of ID cards.

DD Forms 489 and 528 are issued by direction of the appropriate authority and do not reuqire an application.

(a) *Armed Forces members.* (1) DD Form 2AF (Active) (Green) will be issued to all Air Force members on extended active duty. Members will keep this card in their possession at all times to fulfill the requirement referred to in § 809.51.

(2) DD Form 528 will be used in conjunction with DD Form 2AF (Active) (Green) to serve as the duplicate card. Upon capture and detention as a prisoner of war, the DD Form 528 may be surrendered to the capturing authority to provide identification of the bearer and for use in expeditiously compiling accurate prisoner of war data to be forwarded to the United States. DD Form 528 will be issued to all Air Force members departing the continental limits of the United States for assignments to duty elsewhere. The losing CBPO will initiate action to issue the card.

(b) *Civilian noncombatant personnel.* DD Form 489 will be issued in duplicate to civilian noncombatant personnel authorized to accompany U.S. military forces in regions of war and who are liable to capture and detention by the enemy as prisoners of war. This credential will be issued to such individuals departing the continental limits of the United States to serve elsewhere.

(c) *Military-civilian grade relationships.* In paragraph (d) of this section and § 809.54, military-civilian grade relationships are developed to conform with the pattern for advances of pay to prisoners of war established by Article 60 of the Geneva Conventions Relative to the Treatment of Prisoners of War, August 12, 1949, and to facilitate treatment of prisoners of war with due regard to grade. The development of these relationships is based largely on congressional action in establishing grades and salaries for military and civilian employees, and the categories will be used throughout the Department of Defense for prisoners of war identification purposes. It is not the intent of this part to require their use for any other purpose.

(d) *Categories.* Civilian noncombatants authorized by DOD component concerned to accompany the Armed Forces in regions of war will be placed in categories listed in § 809.54 as follows:

(1) Experts, consultants, and other special categories of personnel directly employed by the Federal Government will be assigned by the department concerned to an appropriate category based on a salary or grade comparison with civilian employees listed in § 809.54, columns d and e.

(2) Nonappropriated fund employees or service organization employees, such as United Service Organization (USO), Young Men's Christian Association, Salvation Army, etc., will be assigned by the department concerned to an appropriate category based on a salary or

grade comparison with civilian employees listed in § 809.54, columns d and e.

(3) Advisors, observers, contractors, representatives, employees, and similar categories of non-Federal personnel will be assigned by the department concerned to an appropriate category, based on the individual's standing in his profession or line of work and the difficulty and responsibility of duties performed.

(4) Professional entertainers will be assigned to the appropriate category by the Department of the Army, acting for the Department of Defense. Categories will be determined upon the recommendation of the United Service Organizations, based on the professional standing of the individual in the entertainment field.

(5) Red Cross personnel will be placed in category III.

(6) Accredited news media representatives will be assigned to the assimilated grade in the joint regulations for "Correspondents Accompanying the Armed Forces of the United States."

§ 809.53 When to issue/reissue ID cards.

DD Forms 489 and 528 will be issued:

(a) To personnel assigned to or proceeding to an oversea area where issue of the Geneva Conventions ID card applies.

(b) To replace a lost or stolen card.

(c) To correct an error.

(d) To replace a mutilated card.

(e) Upon reclassification and placement in a different Geneva Conventions category.

§ 809.54 Military-civilian relationship for prisoner of war identification purposes.

A Geneva Convention categories	B Description	C Military grades	D Classification Act and similar categories of personnel	E Wage Board employees of Departments of the Army and Air Force	F Upgraded employees of Department of the Navy
V	General officers or prisoners of war of equivalent rank.	O–7 and O–8.	GS–16 through GS–18, Public Law 313.		
IV	Majors, lieutenant colonels, and colonels or prisoners of equivalent rank.	O–4 through O–6.	GS–12 through GS–15.	WL–14 and WL–15, WS–15 through WS–19.	Masters, foremen, chief quartermen, and equivalents.
III	Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank.	O–1 through O–3, W–1 through W–4.	GS–7 through GS–11.	WG–12 through WG–15, WL–10 through WL–13, WS–9 through WS–14 (optional).	Quartermen, leadingmen, planners and estimators, progressmen, and other ungraded staff and supervisory personnel above the journeymen level.
II	Sergeants and other noncommissioned officers or prisoners of equivalent rank.	E–4 through E–9.	GS–5 and GS–6.	WG–6 through WG–11, WL–4 through WL–9, WS–1 through WS–8.	Heads, journeymen, and employees in other occupations above the helper level.
I	Prisoners ranking below sergeants.	E–1 through E–3.	GS–1 through GS–4.	WG–1 through WG–5, WL–1 through WL–3.	Laborers, helpers, and equivalents.

Subpart G—Uniformed Services ID and Privilege (USIP) Card—DD Form 1173

§ 809.60 General information.

This subpart states responsibilities of commanders and CBPOs (or designated verifying activities) and explains how to apply for and obtain DD Form 1173.

§ 809.61 Issue by other services.

(a) The Uniformed Services have agreed to assist each other in issuing DD Form 1173. (This agreement does not include issuance of DD Forms 2.) Any applicant for DD Form 1173, including totally (100 percent) disabled veterans, will obtain verification of entitlement from his or her sponsor's parent service before actual issuance of the DD Form 1173.

(b) The parent service will complete section IV and the applicable items of section II, DD Form 1172, and return it to the applicant/sponsor for presentation to any service installation having the proper facility for issuing the card. Every effort will be made to assist individuals of other services in obtaining proper identification credentials by assisting in the preparation of the application and directing the applicant to the nearest parent service installation.

§ 809.62 Persons entitled to USIP card.

DD Form 1173 is issued to:

(a) Dependents 10 years of age or over of members of the Uniformed Services (on active duty, entitled to retired pay, or deceased) when such dependents are residing with a divorced spouse or in a household of which the sponsor is not the head. DD Form 1173 may be issued to dependents under 10 years of age when unusual circumstances require unquestionable proof of relationship and entitlement.

(c) Honorably discharged veterans of the Armed Forces who are totally (100 percent) disabled as a result of a service-connected disability as certified by the Veterans' Administration, their eligible dependents, and surviving dependents.

(d) Military personnel assigned as OSI special agents (§ 809.2).

(e) U.S. civilians employed by or affiliated with the Air Force (§ 809.7, item 11, for restrictions):

(1) U.S. citizen employees of the Air Force and their dependents residing together on a military installation in the continental United States.

(2) U.S. citizen employees of the Air Force and their dependents stationed outside the continental United States.

(3) Uniformed, full-time, paid personnel of American Red Cross assigned to duty within an activity of the Armed Forces and their dependents.

(4) Non-U.S. citizen employees under private or Government contract with the Air Force and their dependents.

(5) U.S. citizen employees of other U.S. Government agencies and their dependents.

NOTE: Personnel on TDY will not be issued DD Form 1173. Travel orders are sufficient to establish entitlement for privileges and benefits.

(f) Foreign military personnel subject to NATO (North Atlantic Treaty Organization)/SOFA (Status of Forces Agreement) and their dependents when serving in the United States under the sponsorship of the Air Force.

(g) Foreign military personnel other than NATO and their dependents when serving in the United States under the sponsorship of the Air Force.

(h) Foreign military personnel and dependents under U.S. sponsorship at an oversea Air Force installation outside their own country.

(i) Foreign civilian personnel and dependents serving in an official status at an Air Force installation under Air Force sponsorship.

(j) Active duty members who also meet the criteria of a dependent when DD Form 1173 is required for proof of eligibility for medical care under the CHAMPUS.

§ 809.63 When to surrender USIP card.

DD Form 1173 will be surrendered:

(a) When a new card is issued, except to replace loss or theft.

(b) Upon expiration date.

(c) When the cardholder becomes ineligible by reason of age, divorce, attainment of self-support, or other reasons.

(d) Upon death, retirement, discharge, or release to inactive duty of sponsor. (CBPO will be notified for active duty personnel and AFMPC/DPMDRM for all others.) Sponsors being processed for separation or release from active duty are required to complete DD Form 1407, Dependent Medical Care and DD Form 1173 Statement, indicating whether they have a dependent receiving medical care under the dependent's Medical Care Program.

(e) When the sponsor is officially placed in deserter status.

(f) Upon demand of the verifying activity, the issuing activity, the base commander, or other authoritative activity (§ 809.12).

(g) Immediately upon a change in status of sponsor that would terminate or modify the right to any benefit for which the card may be used. Survivors of deceased personnel will be directed to comply with these provisions.

§ 809.64 Where to file completed DD Forms 1172.

Line	A If card is—	B Then DD Form 1172 is—
1	Sponsored by active duty member	Filed in member's UPR Gp.
2	Sponsored by member being retired with pay (see note).	
3	Sponsored by member retired with pay other than general officer or retiree on TDRL.	Filed in master personnel records, NPRC/NCPMF-F, 9700 Page Boulevard, St. Louis, MO 63132.
4	Sponsored by general officer retired with pay or member on TDRL.	Filed in master personnel records, AFMPC/DPMDRR, Randolph Air Force Base, Tex. 78148.
5	Issued to surviving dependent	Same as 3 above.
6	Issued to civilian employed by or affiliated with the Air Force.	Returned to verifying activity for filing with locally maintained records of sponsor.
7	Issued to foreign military member	
8	Issued to member of another uniformed service	Returned to verifying activity.
9	Issued to totally (100 percent) disabled veteran	

NOTE: Verifying and issuing activities will coordinate the issue of DD Form 1173 and retrieval of invalidated DD Form 1173 at least 7 days before retirement date of member to assure inclusion/removal of pertinent DD Form 1172 from member's Unit Personnel Record Group before release of the record from CBPO custody.

§ 809.65 Expiration date to enter in item 3, DD Form 1173.

Line	A If cardholder is—	B Then enter date—
1	Spouse of member serving on specific tour of enlistment.	Of sponsor's expiration of enlistment, or extension, or 6 years from date of issuance, whichever is earliest.
2	Spouse of member serving on contracted or specified period of duty.	Sponsor's tour of duty will be completed.
3	Spouse of regular AF officer or Reserve officer serving indefinite tour.	6 years from date of card issuance.
4	Spouse of member placed on TDRL	5 years from date member went on TDRL.
5	Spouse of member entitled to retired pay	6 years from date of issuance or date preceding 65th birthday, whichever comes first. (Card issued or reissued after age 65 showing appropriate civilian medical care entry will expire 6 years from date of issuance.)
6	Dependent child under 21 years of age	6 years from date of issuance, or the day before child's 21st birthday, or service expiration date of sponsor, whichever is earliest.
7	Dependent child over 21, but day under 23 years of age, attending school (§ 809.6).	Before child's 23d birthday, service expiration date of sponsor, or disenrollment date, whichever is earliest.
8	Dependent child over 21 years of age who is incompetent.	Service expiration date of sponsor or 6 years from date of issuance, whichever is earlier.
9	Unremarried widow or widower of a deceased member.	4 years from date of issuance.
10	Parent/parent-in-law	4 years from date of issuance, unless eligibility is otherwise terminated, whichever is earlier.
11	Foreign military member, civilian employee, or dependent(s).	Expiration of sponsor's tour of duty, date dependent child will become ineligible because of age before sponsor's duty is terminated, or 4 years from date of issuance, whichever is earliest.
12	Military member assigned as OSI special agent.	6 years from date of issuance, unless earlier expiration date is appropriate.
13	Totally (100 percent) disabled veteran, his dependent(s), or surviving dependent(s) (§ 809.62(c)).	3 years from date of issuance, unless earlier expiration date is appropriate.
14	Red Cross or U.S. citizen AAFES employee.	2 years from date of issuance, unless earlier expiration date is appropriate.
15	All others	1 year from date of issuance, unless earlier expiration date is appropriate.

NOTES: 1. Card will not be issued to person when eligibility for or use of the card for 30 days or less is indicated or for use in conjunction with TDY.
2. No card will be issued having an expiration date beyond 6 years from date of issuance.
3. Never use "indefinite" in item 3.
4. Do not establish an expiration date beyond 65th birth date for CHAMPUS recipients. Reissue cards concurrently with 65th birth date with item 15b containing an entry to show CHAMPUS entitlement ("Yes" and date or "No" as appropriate).

By order of the Secretary of the Air Force

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-10 Filed 1-5-73;8:45 am]

PART 809b—DEPENDENTS' EDUCATION

Miscellaneous Amendments

Part 809b, Subchapter A, Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 809b.0 is revised to read as follows:

§ 809b.0 Purpose.

(a) This part prescribes policies and procedures concerning military and contract transportation to and from schools, both on-base and off-base, for dependent schoolchildren of military and civilian personnel.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

2. Section 809b.6 is amended by revising paragraphs (f) and (k) to read as follows:

§ 809b.6 Policy.

* * * * *

(f) Do not furnish transportation at Air Force expense to any school 1 mile or less from the pupil's residence unless specifically authorized by the major command concerned. This limitation will be waived only under highly unusual conditions when adherence would clearly jeopardize the health and safety of the pupils. Any request to waive this limitation must include a complete description of the conditions believed to justify it.

* * * * *

(k) Only one trip to and one trip from the school per day is authorized for any one child. When unusual circumstances warrant, a request for an exception to this restriction may be requested from the major command concerned. The request must clearly document the unusual circumstances that justify the exception.

* * * * *

3. Section 809b.8 is amended by revising paragraphs (a) (2) and (b) (3) (iii) to read as follows:

§ 809b.8 Transportation of children who reside on a military installation.

(a) *To public schools.* * * *

(2) Prior approval of the major command concerned is required before transportation will be provided at Air Force expense to public schools other than the local public schools. Requests for approval will include all required determinations, supporting documentary data, and rationale. This approval is required for each school year and will be requested only when the base commander determines that:

* * * * *

(b) *To private schools.* * * *

(3) * * *

(iii) Attendance at private schools is necessary because available public

schools in the locality are unable to provide adequately for the childrens' education. Prior approval of the major command concerned is required for each school year in which authorization is contingent upon a determination under this paragraph.

* * * * *

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-68 Filed 1-5-73;8:45 am]

SUBCHAPTER B—SALES AND SERVICES

PART 811—SALE OR RELEASE OF DOCUMENTARY STILL PHOTOGRAPHS

Part 811, Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is retitled as set forth above and revised to read as follows:

Sec.
811.1 Purpose.
811.2 Exclusions.
811.3 Policy on personal retention of photography.
811.4 Policy on sale of photography.
811.5 Authorized sellers.
811.6 Authorized purchasers.
811.7 Procedure for selling photographs.
811.8 Policy on releasing photographs.
811.9 Procedures for releasing photographs.
811.10 Procedure for collecting and controlling fees.
811.11 Schedule of fees and rates.

AUTHORITY: The provisions of this part 811 issued under 10 U.S.C. 8012, 31 U.S.C. 483a.

§ 811.1 Purpose.

This part controls the sale or release of Air Force documentary still photographs. It explains when photographic material may be sold or released without charge, and includes a schedule of fees. It also explains the collection and control of fees. It should be used with Part 806 of Subchapter A of this chapter and Part 813 of this subchapter. Additionally, Part 806 of this chapter tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 811.2 Exclusions.

This part does not apply to: (a) The sale of aerial photography. All requests for aerial photography are referred to the Assistant Secretary of Defense (Public Affairs), Washington, D.C. 20301.

(b) Photographs obtained by or made at the request of the Office of Special Investigations for use in connection with an investigation or a counterintelligence report. The release of such photographs is governed by Part 806 of Subchapter A of this chapter and AFR 124-4.

(c) Photographs obtained or made by the request of the aircraft and missile accident/incident investigative board in accordance with their investigation of Air Force aircraft and missile accident/incident investigated under authority of AFR 172-4. The release of such photographs is governed by Part 806 of Subchapter A of this chapter nad AFR 127-4.

§ 811.3 Policy on personal retention of photography.

Part 811a of this subchapter explains the policy on personal retention or other personal use of official Air Force photography.

§ 811.4 Policy on sale of photography.

(a) Air Force disclosure and denial procedures regarding requests for photographs are contained in Part 806 of Subchapter A of this chapter.

(b) Reproduction (prints and duplicate negatives) made from existing black and white negatives, duplicate color negatives and transparencies from existing counterpart color material, and color prints from existing color negatives may be sold within the restrictions listed in the following subparagraphs. The commander of the selling activity will insure that the purchaser understands the pertinent restrictions before photographs are sold to him. (See § 811.8 for policy on releasing photography.)

(1) Although photographs may be sold, it is Department of Defense policy not to compete with available commercial services. Therefore, photographs and related services that are also available from commercial sources should not be sold.

(2) Photography or photographic services that satisfy the other provisions of this part may be provided to State and local units of government under title III of the Intergovernmental Cooperation Act of 1968. The requester must certify that such services cannot be procured reasonably and expeditiously through ordinary business channels. Reimbursement will be in accordance with fees listed in § 811.11.

(3) Photographs of non-Air Force subjects or activities made by Air Force photographers may not be sold or released unless clearances or talent releases authorizing their use outside the Air Force are on file at the Depository.

(4) Photographs will not be sold for any use that implies Air Force endorsement of a service or product, unless the buyer has obtained written approval from the Secretary of the Air Force, Office of Information (SAF/OIPL).

(5) The reproduction of prints for sale must not interfere with official Air Force requirements, nor may such work be used to justify increased personnel and equipment.

(6) Each print sold will bear the official Air Force credit line as follows:

U.S. AIR FORCE PHOTO
Released by (Unit), ( ) Air Force Base

(7) The sale of prints does not include the waiver of proprietary or privacy rights, unless these rights and the right of transfer belong to the Air Force.

(8) No person or persons may claim exclusive rights to official Air Force photographs.

(c) Photographs required to conduct official Department of Defense business will be furnished without charge. To the extent that workload and funds permit, prints requested by the sources listed in Part 813 of this subchapter will be furnished without charge.

§ 811.5 Authorized sellers.

Any Air Force audio-visual activity with custody of still documentary negatives and transparencies may sell copies as provided in this part.

§ 811.6 Authorized purchasers.

Unclassified Air Force photographs and photographs not precluded from public dissemination by AFR 12-31 (For Official Use Only) may be purchased by:

(a) Members and agencies of the Federal Government, States, counties, and territorial governments.

(b) The public—that is, any person or group of persons not including those of foreign affiliation as noted in § 811.9(b).

§ 811.7 Procedure for selling photographs.

The Air Force activity receiving a purchase request will:

(a) Determine whether: (1) The photographs requested are unclassified and releasable (if required). (See § 811.8 for policy on release of photography.)

(2) The request requires the approval of another Air Force agency.

(3) The prints can be produced from negatives or other material on hand.

(b) If negatives are not on hand but are known to be in the U.S. Air Force Central Still Photographic Depository or elsewhere, the purchaser will be referred to the holding activity.

(c) A purchase request submitted in writing should include:

(1) The name of the requester (individual or organization).

(2) The title and number of the negative from which the print is to be made, or a complete description of the picture's content.

(3) The intended use of the photographic material—for example, personal, publication, advertising, etc.

(4) The exact number and size of prints requested.

§ 811.8 Policy on releasing photographs.

Photographic material may be released by the appropriate office of information or as stated in § 811.9. Classified photography will be downgraded as provided by Part 850 of Subchapter E of this chapter, and the appropriate classification guide. Photography requiring security clearance before release will be submitted to the appropriate office of information for security review.

§ 811.9 Procedure for releasing photographs.

(a) The appropriate office of information will determine in accordance with AFR 190-12 releasability of photographs requested by:

(1) Print or electronic media.

(2) Motion picture companies.

(3) Commercial industries.

(4) Nonprofit organizations.

(5) Persons connected, in any way, with the above organizations.

(6) The general public.

(b) The Foreign Liaison Division (HQ USAF/CVAFI) is the releasing authority for photography requested by foreign governments, foreign industry, or foreign nationals.

(c) The organizations possessing requested photographic material will release it directly to Federal, State, territorial, county, or municipal agencies.

(d) The appropriate casualty assistance office is the releasing authority for copies of official portraits requested by members of the armed forces in a casualty status, their next-of-kin, or authorized representative.

(e) The Secretary of the Air Force, Office of Legislative Liaison, is the releasing authority for photographs requested by members of Congress, their offices, or their representatives.

§ 811.10 Procedure for collecting and controlling fees.

(a) The Air Force activity that makes the sale (see § 811.5) will collect payment in advance.

(b) Purchasers will pay by cash, U.S. postal money order, certified check, cashier's check, bank draft, or personal or commercial check (subject to collection). Negotiable instruments will be drawn payable to the Treasurer of the United States.

(c) The officer in charge of the collecting activity will safeguard all fees received until they are deposited. The collecting activity will not hold fees overnight, unless adequate safekeeping facilities are available for storing them. The collecting officer will deposit fees daily with the servicing accounting and finance officer (AFO) or accounting and disbursing agent. The collections will be processed in accordance with accounting and finance directives.

§ 811.11 Schedule of fees and rates.

Fees are established by the Department of Defense.

(a) *Photography.* Still pictorial or documentary photographic prints, and not more than three prints from any individual negative, may be sold on each order. Unlisted standard sizes of prints may be furnished, if available, at proportionate rates.

(1) *Black and white photography:*

8- by 10-inches single weight glossy finish, first print	$1.25
Second and third prints, each	1.00
8- by 10-inch double weight matte finish, first print	1.75
Second and third prints, each	1.50
11- by 14-inch double weight matte finish, each	3.50
16- by 20-inch double weight matte finish, each	4.75
20- by 24-inch double weight matte finish, each	6.50

(2) *Color photography:*

35 mm. color transparencies (cardboard mount), each	3.50
4- by 5-inch color transparencies or color negatives, each	6.75
8- by 10-inch color transparencies or color negatives, each (in quantities not exceeding three copies of any one view)	$14.00
8- by 10-inch color print, first print	4.50
Second and third prints, each	2.00
11- by 14-inch color print, first print	8.00
Second and third prints, each	5.00
16- by 20-inch color print, each	17.50
16- by 20-inch color print on 20- by 24-inch board, each	19.25

(b) *Services:*

(1) Clerical search and processing, per hour	5.00
Minimum charge	3.00
(2) Professional searching or researching—(to be established at actual hourly rate prior to search. A minimum charge will be established at one-half hourly rate.)	

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-69 Filed 1-5-73;8:45 am]

PART 811a—AUDIO-VISUAL DOCUMENTATION PROGRAM

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is revised by adding a new Part 811a.

Sec.
811a.1 Purpose.
811a.2 Sources of material for the program.
811a.3 Program objectives.
811a.4 Uses of documentation.
811a.5 Personal photography—U.S. Air Force photographer on official assignment.

AUTHORITY: The provisions of this Part 811a issued under 10 U.S.C. 8012.

§ 811a.1 Purpose.

(a) This part explains the audio-visual documentation program, its objectives and how the program is used.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 811a.2 Sources of material for the program.

The sources of material for this program are audio-visual documentation; combat documentation; base support photography; and the visual records produced by armament recordings, optical instrumentation, mapping and charting, and reconnaissance systems.

§ 811a.3 Program objectives.

The objectives of the audio-visual documentation program are to record the growth, progress, and employment of the Air Force through the use of the motion picture, still photographic and television media; to collect, house, evaluate, preserve, and serve these documentary media records; and to use this documentation to enhance Air Force presentations.

§ 811a.4 Uses of documentation.

Documentation is used for many purposes at all levels in the Air Force. These are divided into "immediate" and "future" uses.

(a) *Immediate use.* Documentation is relied upon heavily in analyzing and evaluating concepts and results of deployments, operations, tests, and exercises and to complete motion picture films and television presentations that support Air Force objectives. Television, motion picture, and still photographic products are extensively used by all Government offices to enhance the presentation of subject matter. Audio-visual documentation provides content for slides, silent and sound motion picture clips, video clips, and multimedia products used for training, management, informational, and briefing purposes.

(b) *Future use.* The audio-visual materials, selected from the total Air Force documentation effort, that have long term or permanent value, are retained in the U.S. Air Force Central Depositories and the National Archives. These historical records of Air Force operations and accomplishments are the source of content material for future presentations such as motion pictures and television productions, and publications such as books and magazines.

§ 811a.5 Personal photography—U.S. Air Force photographer on official assignment.

(a) Air Force photographers on official assignment are not permitted to engage in photography for personal sale, retention, or for any other purposes not directly related to official U.S. Air Force activities.

(b) Sometimes Air Force photographers, by choice or agreement, use personally-owned equipment or supplies—e.g., cameras or film—during an official assignment. In such cases, they should understand that ALL photographic material exposed while on that assignment will be the property of the Department of the Air Force. Photographs, motion pictures, negatives, transparencies, or other products of photography are subject to the same safeguards and release requirements as any material intended for release to the press, public, or to individuals. (For policies governing release of material outside the Department of Defense, refer to Part 806 of Subchapter A of this chapter, Part 810 of this subchapter, AFRs 190–12, and 190–22, and Part 835 of Subchapter C of this chapter.)

(c) Air Force photographic material will not be withheld for personal purposes, reproduced in whole or in part for other than official purposes, or disposed of in any manner whatsoever. The written consent of an official authorized by law, regulation, orders, or other competent authority, is required to permit such withholding, reproduction, or disposition of photographic material.

By order of the secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc. 73-70 Filed 1-5-73;8:45 am]

SUBCHAPTER H—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

PART 872—AIR FORCE JUNIOR RESERVE OFFICERS' TRAINING CORPS

Miscellaneous Amendments

Part 872, Subchapter H of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 872.1 is revised to read as follows:

§ 872.1 Purpose.

(a) This part prescribes policies and procedures for the organization, administration, and operation of the Air Force Junior Reserve Officers' Training Corps (AFJROTC).

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

1a. Section 872.2 is amended by revising paragraphs (e), (j), and (k), and adding a new paragraph (m) to read as follows:

§ 872.2 Definitions.

* * * * *

(e) *Aerospace Education Instructor (AEI).* The senior retired Air Force officer employed by the secondary school to manage and conduct the AFJROTC program at the school.

* * * * *

(j) *Aerospace Education (AE).* The official designation of the AFJROTC curriculum—an integral academic course of study prescribed by the Air Force and conducted by the secondary school.

(k) *Academic Year (AY).* The annual period of academic instruction at any given school.

* * * * *

(m) *Officer.* Either a commissioned officer or a warrant officer.

2. Section 872.3 is revised to read as follows:

§ 872.3 Policy on AFJROTC.

The Department of the Air Force will conduct an AFJROTC program that will provide meaningful military training of benefit to the student and to the Air Force. The program is officially sponsored and funded.

3. Section 872.5 is revised to read as follows:

§ 872.5 AFJROTC objectives.

AFJROTC students should develop:

(a) An appreciation of the basic elements and requirements for national security.

(b) Respect for and an understanding of the need for constituted authority in a democratic society.

(c) Patriotism and an understanding of their personal obligation to contribute toward national security.

(d) Habits of orderliness and precision.

(e) A high degree of personal honor, self-reliance, and leadership.

(f) Knowledge of fundamental aerospace doctrine.

(g) Basic military skills.

(h) A knowledge of and appreciation for the traditions of the Air Force.

(i) An interest in the Air Force as a career.

4. Section 872.7 is revised to read as follows:

§ 872.7 AFJROTC organization.

The Secretary of the Air Force will determine the plans and policies to implement and conduct an AFJROTC program.

(a) AFJROTC units. Units of the AFJROTC are classified, as indicated below, according to the type of school where such units are established:

(1) *Military Institutes or Military Schools.* Schools at the secondary level that:

(i) Require a 4-year course of aerospace education.

(ii) Organize their students as a Corps of Cadets under constantly maintained discipline.

(iii) Require all members of the corps to be in uniform for most school activities.

(iv) Have as their objective the development of students' character by means of military training and the regulation of their conduct according to the principles of military discipline, and, in general, to meet military standards similar to those maintained at the service academies.

(2) *High schools—public or private secondary schools not operated on essentially military basis.* A 3-year course of aerospace education is conducted at these schools, and enrollment in the AFJROTC program is elective.

(b) The AFJROTC is organized as a subordinate activity of Air University with a central cadre manned by active duty personnel. AFJROTC units are manned by retired Air Force personnel hired by the host schools. Retired personnel so employed are in no way considered a part of the Air Force manpower ceiling established by the Office of the Secretary of Defense.

5. Section 872.8 is amended by revising the introductory text and paragraphs (a) and (b) to read as follows:

§ 872.8 Requirements for establishment.

A unit is established or involuntarily disestablished only by direction of the Secretary of the Air Force. A school that desires to establish an AFJROTC unit must be fully accredited by the appropriate State or regional accreditation agency and must make proper application for establishment of a unit to Air University. The school must enter into a contractual agreement with the Commander, Air University:

(a) To provide a program of instruction prescribed by the Air Force of either a 4-year course of required aerospace education at military schools or a 3-year elective course at high schools. (The unit is considered established when this program of instruction is fully implemented.)

(b) To maintain at established units an ROTC membership of not less than 100 physically fit male students who are at least 14 years of age and citizens of the United States.

* * * * *

6. Section 872.9 is revised to read as follows:

§ 872.9 Procedures for establishment.

(a) Officials of a secondary school may apply for an AFJROTC unit by writing to the Commander, Air University, Maxwell Air Force Base, Ala. 36112. An application and agreement form will be sent to the requesting school. If the completed application indicates that the institution satisfies the selection criteria, the school will be visited by Air University personnel before a contract is executed.

(b) Reports of visits and recommendations by Air University will be sent to HQ USAF/DPPEA, Washington, D.C. 20330, not later than January 15th of each year for permission to establish units. If a request is made by a school system, Air University will include recommendations stating the advantages and disadvantages of organizing the AFJROTC program as a multiple unit. Upon approval by HQ USAF, Air University will notify the schools selected for establishment and any applicants not selected.

7. Section 872.10 is amended by revising paragraph (b) to read as follows:

§ 872.10 Conditions for retaining units.

* * * * *

(b) During the probationary year, AFROTC will visit each unit on probation.

(1) If probation conditions are not corrected by the end of the probationary year, the Commandant, AFROTC, will either recommend disestablishment of the unit or, if a minimum of 50-student members are enrolled, he may request a 1-year extension of the probationary period. Justification for extension must include a program of positive actions to correct the probation conditions. The Commander, Air University, will approve or disapprove extended probation.

(2) If probation conditions are not corrected by the end of the additional probationary year, the Commandant, AFROTC, will recommend disestablishment of the unit or, if a minimum of 50-student members are enrolled, he may request a 3-year extension of the probationary period. This 3-year extension is contingent on a complete change of retired military personnel in the AFJROTC

unit (if circumstances so warrant) before the start of the academic year in which the 3-year extension is effective. The Commander, Air University, will approve or disapprove continued extension of probation. The unit will be disestablished at the conclusion of the 3-year period if probation conditions are not corrected by that time.

(3) Copies of all correspondence concerning probation and disestablishment will be sent to HQ USAF/DPPEA, Washington, D.C. 20330. HQ USAF/DPPEA will be notified in writing 45 days before dispatch of disestablishment letters to schools hosting AFJROTC units, unless disestablishment is requested by officials of the host school.

8. Section 872.11 is revised to read as follows:

§ 872.11 Disestablishment of units.

(a) *Notification.* If the authorities of a school desire to disestablish the AFROTC unit, they will notify the Commander, Air University, in writing. Withdrawal of a unit for reasons other than request of the school officials will be made only for cases such as:

(1) Failure to maintain requirements for a unit.

(2) Failure of a school to remedy the deficiency that resulted in the unit's being placed on probation.

(3) When disestablishment serves the best interest of the Air Force.

(b) *Method of disestablishment.* Upon notification of disestablishment, the unit will be phased out and the equipment removed in an orderly manner. No new enrollments will be accepted and the total phaseout will be accomplished within a maximum of 2 years (3 years at military institutes or military schools) after completion of the probationary year.

9. Section 872.12 is amended by changing the title to read "Eligibility requirements" and revising paragraph (e) to read as follows:

§ 872.12 Eligibility requirements.

* * * * *

(e) Be physically fit to participate in AFJROTC training. A student is considered physically fit if he is qualified for the physical education program of the school.

* * * * *

10. Section 872.14 is amended by revising paragraphs (b) and (c) to read as follows:

§ 872.14 Admission of special students.

* * * * *

(b) Special students will not be issued uniforms and will not be reported on institutional records as AFJROTC members.

(c) If the applicant is a citizen of a foreign country recognized by the United States, the national interest of which is compatible with the United States, he must obtain a letter from a representative of his government stating that there is no objection to the student's receiving AFJROTC instruction. The AEI will retain the original of the letter in the student's personnel records and send a copy of the letter to AFJROTC. If the AEI is in doubt about relations between the United States and another country, he will send a request for review through channels for decision.

11. Section 872.16 is revised to read as follows:

§ 872.16 Curriculum requirements.

The program of instruction for AFJ ROTC will be of not less than 3 academic years' duration. The curriculum will include a minimum of 96 hours a year of aerospace education, including leadership laboratory. A 4-year course of required aerospace education will be conducted at all military schools. Summer school sessions are authorized if credit received for summer school AFJ ROTC instruction equals not more than two semesters of credit based on the formula: 96 hours of instruction=2 semesters; 48 hours of instruction=1 semester.

12. Section 872.17 is revised to read as follows:

§ 872.17 Requirements for instructors.

(a) *Authorization.* Retired Air Force officer and noncommissioned officer instructors whose qualifications and subsequent performance of duty meet the standards prescribed by the Commander, Air University, will be authorized as follows:

(1) Single and multiple units in high schools and military schools are authorized one retired officer instructor per 500 AFJROTC members (or major fraction thereof), and one retired enlisted instructor per 100 AFJROTC members (or major fraction thereof). As an exception, each school qualifying for an AFJROTC unit is authorized at least one officer. Within these authorizations, an officer instructor may be substituted for an enlisted instructor, or vice versa.

(2) The number of instructor personnel authorized for each unit is determined annually by Air University, based on the average number of member students.

(i) Supervisory personnel for multiple units are obtained by organizing the multiple unit in such a way that the limitations above are not exceeded.

(ii) Multiple unit organization and management will be established where possible to minimize the number of instructors required, thus reducing the cost of operation to the schools and to the Air Force.

(b) *Application.* Personnel interested in AFJROTC instructor positions should request information and an application from AFROTC/JRI, Maxwell Air Force Base, Ala. 36112. Upon receipt of a completed application and associated documents, applicants will be considered for nomination to the instructor position of their choice. AFROTC will nominate the best qualified of those applicants interested in a vacancy. When possible, several applicants are nominated to schools for each instructor vacancy. The nominated applicants then contact the schools to negotiate for the position. The host school is the hiring authority. The school will send to AFROTC, for approval, the names of instructor personnel.

(c) *Uniform.* Retired personnel will wear the Air Force uniform as prescribed by AFM 35–10 while conducting the AFJROTC program and at such other times as considered appropriate.

(d) *Orientation.* The Air University may conduct orientation programs and workshops for instructors and school officials.

13. Section 872.18 is revised to read as follows:

§ 872.18 Employment status.

AFJROTC instructors are employees of the school. The senior instructor is responsible to the school principal or headmaster for the conduct of the AFJROTC program. The assistant instructors are responsible to the senior instructor. All instructors must meet Air Force and school requirements, maintain standards acceptable to the Department of the Air Force and be accountable to the Air Force for the success or failure of their units.

14. Section 872.19 is revised to read as follows:

§ 872.19 Instructor duties.

(a) Retired Air Force personnel employed under this part are primarily responsible for conducting the AFJROTC program. Normally, a department (or comparable office) of aerospace education or AFJROTC will be established in the school. The senior instructor will be the head of that department (or comparable office). As such, he may serve on committees and perform other duties normally performed by other department or comparable office heads. Assistant AEIs may serve on committees or perform other extra curricular duties normally performed by other faculty members. The performance of any duties desired by the institution in addition to those connected with instruction, operation, and administration of the AFJROTC program must be contracted separately between the school and the individual AFJROTC instructor at no cost to the Air Force.

(b) If an individual employed as an AFJROTC instructor enters into a contract with the institution to provide services that are not part of the AFJROTC instruction, these services must be performed outside the scope and hours prescribed for the AFJROTC duties. The institution is responsible for advising the Air University of any change of employment status of AFJROTC instructors employed at that institution.

15. Section 872.20 is revised to read as follows:

§ 872.20 AF Form 1256, "Certification of Training."

(a) A Certificate of Completion of AFJROTC will be presented to each student who successfully completes all of a prescribed AFJROTC program.

(b) A Certificate of Training (AF Form 1256) will be presented to each student who successfully completes 2 years of the AFJROTC program.

16. Section 872.21 is amended by revising paragraph (a) to read as follows:

§ 872.21 Credit for training.

(a) A Professor of Aerospace Studies (PAS) may waive either year of the General Military Course (GMC) of Senior AFJROTC for a student who possesses a Certificate of Completion of junior ROTC. A PAS may waive the entire GMC or any portion of it for a student who has completed 4 years of junior ROTC at a military school. A PAS may waive one academic term of the GMC for a student who possesses a Certificate of Training from junior ROTC.

* * * * *

17. Section 872.25 is revised to read as follows:

§ 872.25 Shipping and other costs.

Charges for shipment of Government property to and from the institution, including packaging and handling, will be paid by the Air Force, except for surplus Government property acquired in accordance with § 872.26. All costs incident to maintenance and local storage and safeguarding of the property will be paid by the institution.

18. Section 872.26 is revised to read as follows:

§ 872.26 Acquisition of surplus Government property.

(a) *DOD property.* HQ USAF/DPPEA prepares nominations to the Secretary of Defense to designate AFJROTC units as educational activities of special interest to the Armed Forces. Upon approval by the Secretary of Defense, such designation permits officials of AFJROTC host schools to complete donation agreements allowing their AFJROTC units to obtain certain categories of surplus DOD property for training purposes.

(1) The Defense Supply Agency (DSA) automatically sends donation agreements to approved host schools for signature. (A new AFJROTC unit should expect a delay of several months from the time of activation until a blank donation agreement is received.) Upon receipt of the signed agreement, DSA notifies surplus property disposal agents of DOD and other Government agencies that the AFJROTC unit is eligible to receive surplus property.

(2) For each transaction involving acquisition of surplus DOD property, the AFJROTC host school will be required to submit SF 123, "Application for Donation of Surplus Personal Property."

(3) Air University will annually inspect the property administration of AFJROTC host schools participating in the DOD surplus property programs to ensure the compliance with the donation agreement. The inspection will be performed by personnel responsible for conducting normal visits to AFJROTC units. Additional manning will not be authorized for this purpose. The inspection will specifically include a review of the categories and quantities of property received through donation to assure that only the type and quantity of property actually needed is acquired. Excess or unauthorized property will be reported to appropriate agencies in accordance with the donation agreement. The names of schools violating the donation agreement will be sent to HQ USAF/DPPEA, Washington, DC 20330, with Air University's recommendation for action.

(b) *Other property.* Schools desiring to acquire other surplus Government property must process requests on SF 123. Submit requests through the State surplus property agencies according to Department of Health, Education, and Welfare (DHEW) procedures. Property obtained through DHEW becomes institutional property and does not require the accountability records prescribed for DOD property.

19. A new § 872.27 is added to read as follows:

§ 872.27 Visits to Air Force installations.

Groups of AFJROTC cadets under control of an AEI or assistant AEI are authorized to participate in visits to Air Force installations to enhance or supplement the institutional training program. Such visits serve as motivational activities for cadets and provide educational experiences in addition to the theoretical knowledge supplied in the academic curriculum. AEIs are authorized to coordinate visits directly with local installation commanders. Air Force support and services may include, but are not limited to:

(a) Available housing, bedding, and messing facilities. Cadets will be charged for rations consumed. Commanders of Air Force activities will be prepared to furnish any reasonable assistance to AFJROTC students.

(b) Hospitalization and medical care in emergencies occurring while cadets are participating in AFJROTC sponsored visits to Air Force installations. Hospitalization beyond the period of emergency or medical care at other than Air Force medical facilities is not authorized at Air Force expense.

(c) Local orientation flights in Air Force aircraft and transportation by military motor vehicles, when available, under applicable provisions of AFM 77–1 and Department of Defense regulations.

20. A new § 872.28 is added to read as follows:

§ 872.28 Project officers.

Base commanders at Air Force installations near AFJROTC units are encouraged to appoint an AFJROTC Project Officer, on an additional duty basis, to coordinate support of the AFJROTC program.

(10 U.S.C. 9012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-73 Filed 1-5-73;8:45 am]

SUBCHAPTER I—MILITARY PERSONNEL

PART 889—DESERTION AND UNAUTHORIZED ABSENTEEISM

Part 889, Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is retitled and revised to read as follows:

Sec.
889.1 Purpose.
889.2 Criteria for administrative classification of deserters.
889.3 Authority to apprehend.
889.4 Rewards and reimbursements.
889.5 Cooperation of Armed Forces and civil law enforcement agencies.
889.6 Deserter information system.
889.7 Amplification of actions required.
889.8 Transfer from civilian to military jurisdiction.
889.9 Disposition when unauthorized absence has been terminated.

AUTHORITY: The provisions of this Part 889 issued under 10 U.S.C. 8012.

§ 889.1 Purpose.

(a) This part establishes uniform policies and standard procedures for the management of desertion and unauthorized absenteeism, to: (1) Minimize the occurrence of desertion and unauthorized absenteeism, (2) foster the development of effective deterrent programs, (3) enhance apprehension efforts, and (4) provide for accurate and timely reporting of cases of desertion and unauthorized absenteeism. This part applies to all military personnel serving on or ordered to report to active duty in the U.S. Air Force and members of the Reserve components serving on active duty or active duty for training.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 889.2 Criteria for administrative classification of deserters.

For administrative purposes, an absentee will be classified as a deserter and a DD Form 553, "Absentee Wanted by the Armed Forces," will be prepared when any of the following conditions exist:

(a) A member of the Air Force is absent without authority regardless of the length of absence, and the facts and circumstances include:

(1) Duty/travel restrictions have been imposed under the provisions of AFR 30–24; or

(2) Access within the past 12 months to top secret information or to secret or confidential information for which special access authority and procedures have been established.

(b) A member has been absent without leave for 30 consecutive days. (For administrative purposes date of departure is first day of a.w.o.l. and a.w.o.l. status continues through 2400 hours on 30th day of continued absence. Desertion starts at 0001 hour on the 31st day of continued absence.)

(c) A member has been absent without authority without regard to length of absence and has gone to or remains in any foreign country and while in such foreign country has requested or applied for, or accepted any type of asylum or residence permit from such country or any governmental agency thereof.

NOTE: When an unauthorized absence occurs and the member falls within the criteria of paragraphs (a) and (c) of this section, immediate action must be taken by the commander to notify the appropriate unit/agency.

(d) A member who absents himself without leave or escapes from custody before appropriate action is taken as a result of previous unauthorized absence.

(e) A member who is a prisoner and escapes.

(f) A member who as a result of preliminary inquiry has been charged in accordance with the Uniform Code of Military Justice (UCMJ) for a serious offense in addition to being absent without leave (a.w.o.l.).

§ 889.3 Authority to apprehend.

Apprehension of absentees and deserters may be accomplished by such personnel as specified in the following paragraphs.

(a) *Members of Armed Forces.* Absentees and deserters may be apprehended by members of the Armed Forces under the circumstances prescribed by Article 7(b) of the Uniform Code of Military Justice and paragraph 19 of Manual for Courts-Martial, 1969 (Revised Edition).

(b) *Civil officers.* Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or Possession, or the District of Columbia may summarily apprehend a deserter and deliver him into the custody of the Air Force.

(c) *United States authorities.* United States authorities may apprehend absentees and deserters in foreign countries only when authorized by an international agreement with the country concerned or by agreement with appropriate local authorities when such an agreement is within the purview of an existing international agreement. In these cases, careful consideration must be given to possible international implications and adverse foreign reaction. Where apprehension cannot be accomplished under these circumstances, or in any case where doubt exists, as to apprehension authority, a report of the facts will be made to AFMPC/DPMAKE, with an information copy to the major command, for submission through channels to the Assistant Secretary of Defense (M&RA) for resolution.

§ 889.4 Rewards and reimbursements.

(a) Any authorized communication, oral or written, from a military or Federal law enforcement official or agency, requesting active cooperation in the apprehension or delivery to military control of an absentee or deserter wanted by the Air Force, will constitute the basis for a reward. Subsequent to such communication, persons or agencies apprehending, detaining, or delivering absentees, deserters, or escaped military prisoners to military control will be rewarded or reimbursed (but not both) as follows:

(1) Payment of a reward of $15 for the apprehension and detention of absentees, deserters, or escaped military prisoners until the military authorities take them under control.

(2) Payment of a reward of $25 for the apprehension and delivery to military control of absentees, deserters, or escaped military prisoners.

(3) Under circumstances where persons or agencies who apprehend/return absentees and deserters to military control may not be paid a reward; reimbursement for reasonable and actual expenses may be made not to exceed $25 for any one case.

(b) Payments authorized by paragraph (a) of this section and cost of travel of guards assigned to the absentees or deserters will be charged to the military personnel appropriation of the Air Force. These costs will not be reimbursed by the absentee or deserter. Costs associated with an absentee's or deserter's own transportation for return to military control will be charged to the pay accounts of the individual member as prescribed in the Joint Travel Regulation, volume I, chapter 5.

§ 889.5 Cooperation of Armed Forces and civil law enforcement agencies.

(a) Notices about members wanted for unauthorized absence or desertion from a command located in the jurisdiction of the United States will be given expeditious selective circulation among Armed Forces and civil law enforcement agencies deemed most useful in apprehending a particular absentee. Notification to the Federal Bureau of Investigation and the Selective Service System or any branch thereof, and Department of State (in the case of noncitizen deserters) will be made only by AFMPC/DPMAKE. The standard format of this notice will be the Department of Defense (DD) Form 553.

(b) Major commands located outside the jurisdiction of the United States will take initial actions such as the local situation may warrant, within the primacy of international agreements, to secure cooperation in apprehension of members absent without leave.

(c) In the absence of other specific prearrangements among Military Service Commands, when one of the military services makes a pickup of absentees or deserters from civil authorities anywhere in the continental United States, all such individuals—regardless of the military service to which they belong—will be picked up when practicable, at the same time and delivered to the nearest military installation having facilities to process absentees or deserters. When such pickup is not accomplished, the apprehending authorities will notify the military service(s) of the individuals remaining in civilian custody preferably prior to these authorities' departure from the civilian confinement facility.

(d) Apprehension of absentees who seek sanctuary in a church or other public building.

(1) When AFMPC/DPMAKE has furnished the Federal Bureau of Investigation (FBI) with a request to locate a deserter (DD Form 553), for return to military control, the FBI will assume responsibility and apprehend a deserter.

(2) When a number of airmen are involved, some of whom are absent without leave and some in a deserter status, responsibility will remain with the U.S. Air Force since it has the authority to apprehend both categories of personnel.

(3) In all other situations, the U.S. Air Force will assume responsibility for apprehending its absentees.

(4) Maximum cooperation will be solicited from local civil authorities in the apprehension of absentees not falling under FBI jurisdiction. If civil authorities decline to apprehend a U.S. Air Force absentee seeking sanctuary in a church or public building, all facts will be reported to HQ USAF/IGS, via OPREP 3 Report, in accordance with Joint Chiefs of Staff (JCS) PUB 6, volume V, before military apprehension is attempted.

NOTE: This does not preclude the U.S. Air Force from continuing to exercise its responsibility in "nonsanctuary" situations. For example, it does not preclude Air Force personnel from entering a building to apprehend an absentee in a "hot pursuit" situation or in other instances in which an absentee happens to be in a church or public building but is making no claim of sanctuary.

§ 889.6 Deserter information system.

(a) AFMPC/DPMAKE is the central focal point to provide for the control, accounting, and dissemination of information concerning Air Force members administratively classified as deserters and as warranted for those absent without leave for less than 30 days.

(b) To provide the means for making timely and complete deserter information available to civil law enforcement agencies, the Air Force has access to a terminal for direct entry to the FBI National Crime Information Center (NCIC) computer. Every deserter must be listed with the NCIC no later than 7 days after being administratively declared a deserter. Minimizing this time interval and increasing the reliability and utilization of this information source will be a primary consideration.

(c) The primary source of information to the NCIC will be from the DD Form 553, and DD Form 616, "Report of Return of Absentee Wanted by the Armed Forces." Upon initial receipt of deserter information, AFMPC/DPMAKE will make, as soon as possible, the requisite entries to the NCIC. Subsequently, AFMPC/DPMAKE will make

the necessary adjustments to update and purify NCIC records of deserter information. On the 60th day of continuous absence, AFMPC/DPMAKE will forward a copy of DD Form 553 to the FBI. (Distribution to the FBI will not be made by any other Air Force agency.)

§ 889.7 Amplification of actions required.

The actions which require possible further amplification are explained in the paragraphs below.

(a) *Notification of next of kin or payees of allotments.* (1) A letter, signed by the unit commander or the squadron section commander, must be forwarded without delay at the time required to the absentee's next of kin (including those who are aliens residing in a foreign country) under the following circumstances, whichever occurs first:

(i) When substantial information exists which shows that the member had planned or announced his intention to absent himself without authorization, or

(ii) When the member has been in an unauthorized absence status for 10 consecutive days, or

(iii) When the member is administratively declared a deserter.

(2) The letter will state that:

(i) The member is considered in an administrative status of an unauthorized absentee (or deserter, if appropriate), as his whereabouts is unknown to military authorities.

(ii) Continued absence may result in conviction of desertion; loss of pay, allowances, Government insurance; reduction in grade; bad conduct or dishonorable discharge (dismissal, if he is a commissioned officer); and confinement at hard labor.

(iii) They should urge the absentee to return to military control.

(iv) They should notify the nearest military installation if they have knowledge of his whereabouts, and

(v) Dependents will become ineligible for medical care and other benefits and privileges when the sponsor's status changes to desertion.

(vi) The payee of allotments must be notified that continued absence will result in benefits being discontinued.

(3) A copy of the letter to the next of kin will be furnished the Consolidated Base Personnel Office (CBPO) records unit.

(b) *Report of inquiry.* The losing unit commander will prepare the report of inquiry, based on actions he has taken, and will include information as to whether member was pending administrative discharge or court-martial action prior to a.w.o.l. Include duty status prior to a.w.o.l. If leave, furnish leave address, or if reassigned, furnish gaining unit and delay en route leave address. Report will be submitted to CBPO for distribution.

(c) *Preparation and distribution of DD Form 553.* DD Form 553 will show leave address or gaining unit (para (b) of this section) in the remarks section. This form will be prepared, and distributed (all copies will reflect the complete distribution made) to:

(1) AFMPC/DPMAKE—An original, capable of reproduction, and 3 legible copies.

(2) Major command of absent member, major command of CBPO.

(3) Base commander.

(4) Commander of the Army area where unit of assignment is located.

(5) Security Police of base near member's hometown and/or city where member is likely to go.

(6) Law enforcement agencies for addresses listed in items 31 and 33, DD Form 553, and to the place where absentee is likely to go.

(7) Air Force and Army finance and base exchange officers in the unit area and area where absentee is likely to go.

(8) Armed Forces Police Detachment, if such agency is located in geographical area where absentee is likely to go.

(9) Law enforcement agencies of foreign countries only where apprehension can be effected when absence occurs within the oversea command, and limited to countries within the area as determined by the oversea commander.

(10) Field Record Group of absentee.

(11) AFAFC/MPPPC/MPPR, 3800 York Street, Denver CO 80205.

§ 889.8 Transfer from civilian to military jurisdiction.

(a) Absentees and deserters being detained temporarily in the hands of civil authorities will be returned to military control as soon as possible after responsible military officials are informed of their whereabouts and the civil authorities are ready to release them. After receiving notification of the absentee/deserter's whereabouts, military authorities must make every reasonable effort to accomplish return to military control within 48 hours. Apprehension and detention of absent members by civil authorities are accomplished as a service to the military departments. Continuation of this essential support from civil authorities requires mutual cooperation.

(b) The commander of the unit to which the individual was assigned prior to his unauthorized absence is responsible for completing the required action when report of arrest is received. Actions as outlined in AFM 39–12, paragraph 2–23, September 1, 1966, apply when an absentee is serving a sentence to confinement imposed by a civil court. Actions as described in AFM 39–12, paragraph 2–32, apply when an absentee is reported to be in civil confinement and is not available for immediate return to military control. The commander is also responsible for lodging a detainer with civil authorities, and preparing AF Form 2098 to reflect the changed status.

§ 889.9 Disposition when unauthorized absence has been terminated.

Upon termination of unauthorized absence, disposition may be taken as follows:

(a) The immediate commander will make an administrative determination as to whether the absence was avoidable or unavoidable. In making this determination, he will be guided by the instructions in Department of Defense Pay Manual, table 1–3–3, and AFMs 177–373 and 30–3. Absences that are determined to have been unavoidable will be excused. In these cases the previously reported absence will be revoked by AF Form 2098 and the absence charged as leave unless otherwise authorized.

(b) Absences are not chargeable to leave when caused by the member's mental incapacity, or when he is detained, tried, and acquitted by civil authorities and later excused as unavoidable.

(c) When a member dies during a period of unauthorized absence, the commander of member's unit of assignment will make an administrative determination as to whether the member was in absence without leave, absence over leave, desertion, or duty status (DODPM, paragraphs 10212 and 40505c).

(d) When an absence is excused as unavoidable, it will not be counted as time lost. Appropriate entries on AF Form 1226 must be made, as provided in AFM 35–14.

(e) When it is determined that a person has been erroneously reported as an unauthorized absentee or deserter, the servicing CBPO will void all record entries pertaining to the alleged absence and will forward a DD Form 616 to all addressees of the original DD Form 553 and will include a full explanation of the erroneous report in the "Remarks" section. If a letter has been forwarded previously to the next of kin or allotment payee in regard to the member's absence, another letter will be forwarded immediately to all previous addressees explaining the erroneous report in full.

(f) Upon a determination that an absence was avoidable, the immediate commander must consider the appropriateness of disciplinary punishment.

(g) A member who is in an unauthorized absence for more than 31 consecutive days automatically loses his Servicemen's Group Life Insurance (SGLI) coverage. When he returns to Air Force control after an unauthorized absence of more than 31 days, the responsible Personal Affairs Section of the servicing CBPO must counsel the member on the loss of his insurance. When the member is returned to duty with pay, his SGLI coverage in force before his unauthorized absence is automatically restored and the accounting and finance office should resume deductions accordingly (AFR 211–5).

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The

[FR Doc.73–71 Filed 1–5–73;8:45 am]

SUBCHAPTER J—CIVILIAN PERSONNEL

PART 890—EMPLOYMENT POLICIES

Miscellaneous Amendments

Part 890, Subchapter J of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 890.1 is revised to read as follows:

§ 890.1 Purpose.

(a) This part contains information needed by commanders, civilian personnel offices, staff offices, and supervisors of civilian personnel. It does not apply to the employment of non-U.S. citizens in foreign areas or Guam or to the employment of local civilians in the Canal Zone.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

1a. Section 890.4 is amended by expanding the title and revising paragraph (a) to read as follows:

§ 890.4 Restrictions on employing non-Air Force candidates in competitive positions.

* * * * *

(a) Entitled to priority placement in accordance with § 890.8.

* * * * *

2. A new § 890.8 is added to read as follows:

§ 890.8 List of priorities.

Priority order	Category	Must be selected	Must be considered and may be selected	Conditions to be observed	Remarks
A	Employee with enforceable assignment rights or to be mandatorily placed as a corrective or remedial action.	Yes.	NA.	NA.	None.
B	Activity employee identified for demotion or separation due to reduction in force (RIF), failure to accept a functional transfer offer or for other reasons beyond his control which entitle him to RIF placement.	Yes, at same or lower acceptable grade.			
C	AF employee of another activity in commuting area identified for demotion or separation due to RIF.				Requirement to place applies whether or not employee is registered in DOD Priority Placement Program (PPP).
D	Employee entitled to noncompetitive priority consideration as corrective action for failure to be given proper consideration under the Air Force Merit Promotion Program (AFMPP).	No.	For grade no higher than that improperly denied consideration.		None.
E	Downgraded employee entitled to special consideration for repromotion.		Any downgraded AF employee may be selected. All downgraded employees serviced by CCPO must be considered.		
F	AF employee on Reemployment Priority List (RPL) for commuting area due to RIF.	Yes, position at grade no higher than previously held.	NA.	NA.	Includes current and former employees.
G	AF employee on RPL for commuting area due to failure to accept an offer of functional transfer.				
H	Employee of the major command identified for demotion or separation due to RIF.	Yes, at same or lower acceptable grade.			None.
I	Priority 1 employee on Stopper List.	Yes, at same or lower acceptable grade. See conditions.		DOD 1400.20-1-M, Part 1, Ch 3, V H and L provides guidelines to CCPO.	
J	Priority 2 employee on Stopper List.				

Priority order	Category	Must be selected	Must be considered and may be selected	Conditions to be observed	Remarks
K	Priority 3 employee on Stopper List.			DOD 1400.20-1-M, Part I, Ch 3, V H and L provides guidelines to CCPO.	AFR 40-922 contains an explanation of placement to positions GS-15 and above.
L	Status quo employee in an Air Force Reserve Technician (ART) position.	Yes, at same or lower acceptable grade.		NA.	This category of employee will be registered in the DOD PPP as Priority 3 under special provisions of DOD 1400.20-1-M.
M	Activity employee whose position is to be downgraded to correct classification error or because of application of new or revised standards. Also employee with permanent physical disability no longer able to perform full range of duties of current position.	Yes, at same grade or grades intervening current and proposed as appropriate.			FPM Ch 752, App A and FPM Ch 306, Subch 8 provide guidelines to CCPO.
N	Candidates eligible for competitive consideration under AFMPP.	No, except for downgraded employee. See conditions.	All AFMPP eligibles must be considered to extent required by AFR 40-300.	Selection of downgraded employee mandatory to extent required by AFMPP guidelines (AF Suppl to FPM 355).	Outside candidates (categories Q-T) are also considered when required by FPM 355 and AF Suppl Priority T conditions must be observed.
O	Air Force employee eligible for noncompetitive in-service placement not covered by higher priorities.	No.	Considered at CCPO option.	NA.	None.
P	RPL registrant of other DOD components for commuting area.	Yes, position at grade no higher than previously held.	NA.		
Q	All RPL registrants for positions at grade higher than those from which separated.	No.	Only if within reach for competitive AFM-PP selection.	Rank with currently employed AFM-PP candidates.	
R	Priority 4 employee on Stopper List.	Yes.	Currently employed AF registrant in categories R and S may be selected before categories P and Q.	NA.	
S	Priority 5 employee on Stopper List.				
T	All other sources (includes transfers, reinstatements not covered in higher priority).	No.	Must be considered when required by FPM 355 and AF Supplementation.	Cannot be selected if categories P, Q, R, and S candidates available. Selection also subject to AFR 40-300 restrictions.	

NOTE: Priority order N-T, consider concurrently—note special provisions.

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-72 Filed 1-5-73;8:45 am]

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 905—MEDICAL SERVICE OFFICER PROCUREMENT PROGRAMS FOR IN-SERVICE TRAINING

Part 905, Subchapter K of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 905.0 is revised to read as follows:

§ 905.0 Purpose.

(a) This part outlines the requirements each applicant must meet to participate in one of the following Air Force medical officer training programs; the civilian medical intern program; the military medical and dental intern program; the senior medical student program, the biomedical sciences training program, or the registered nurses training program.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 905.6 [Amended]

1a. Section 905.6 is amended by changing the office symbol from "USAFMPC (AFMSMB)" to "USAFMPC/SGPSSS."

§ 905.8 [Amended]

2. Section 905.8 is amended by changing the office symbol from "USAFMPC (AFMSMB)" to "USAFMPC/SGPSSS."

3. Section 905.10 is revised to read as follows:

§ 905.10 Participating in a medical, dental and veterinary education program for regular or reserve officers.

Part 908 of this subchapter tells how to participate in the regular program.

4. A new § 905.13 is added to read as follows:

§ 905.13 Participating in the military intern program for medical or dental students.

To be eligible for this training, the applicant must:

(a) Be a graduate or prospective graduate of a medical or dental school acceptable to the Surgeon General, U.S. Air Force.

(b) Participate in the national intern and resident matching program if he is applying for a medical internship.

5. Section 905.24 is revised by adding new paragraphs (c) and (d) to read as follows:

§ 905.24 Assignment and reappointment.

* * * * *

(c) Each participant in the sponsored optometry training program is reappointed in the Reserve of the Air Force Biomedical Science Corps (BSC), upon graduation from optometry school.

(d) Each new participant (not previously commissioned) in the sponsored military internship program is appointed in the Reserve of the Air Force (Medical Corps) upon his graduation from medical school.

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-74 Filed 1-5-73;8:45 am]

PART 907—DELAYED ENLISTMENT PROGRAM (DEP)

Part 907, Subchapter K of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 907.1 is revised to read as follows:

§ 907.1 Purpose.

(a) This part authorizes the program for enlisting qualified applicants in the U.S. Air Force Reserve (USAFR) under 10 U.S.C. 511(b) and 10 U.S.C. 672(d). It states the policies and procedures governing a delayed enlistment program whereby applicants in the 50 States and the District of Columbia who enlist in the USAFR will enter on extended active duty or enlist in the Regular Air Force.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 907.2 [Amended]

1a. Section 907.2 is amended by changing the period of time in the first sentence from "120 days" to "180 days".

2. Section 907.3 is amended by changing the period of time in paragraph (a) (1) from "120 days" to "180 days", by revising paragraphs (a) (2), (b) (4), and (b) (5) to read as follows:

§ 907.3 Enlistment criteria.

* * * * *

(a) * * * (1) Who is a high school student within 180 days of graduation.

(2) For assignment as a performing member of any Air Force band.

(b) * * *

(4) Who requires a preenlistment security investigation in accordance with Part 888 of Subchapter I of this chapter.

(5) Who is a prior service applicant as explained in Part 888 of Subchapter I of this chapter.

3. Section 907.4 is amended by revising paragraph (a) and by deleting paragraph (d) to read as follows:

§ 907.4 Category of enlistment.

* * * * *

(a) *Regular DEP.* For a male applicant scheduled to enter the Regular Air Force under procedures other than in paragraph (c) of this section.

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AUTHORITY: 10 U.S.C. 8012.

By order of the Secretary of the Air Force.

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

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Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

TERMS AND CONDITIONS FOR TRANSPORTATION CONTRACTS

This amendment of the Federal Procurement Regulation prescribes procedures and contract provisions for freight transportation services. A new Subpart 1-7.7, Transportation Contracts, prescribes the contract clauses for use in transportation contracts. Certain clauses from Standard Forms 33 and 33A are incorporated by reference, while certain other clauses in those forms have been modified appropriately to apply more directly to transportation contracts. Subpart 1-16.5 is amended to prescribe forms for use in transportation contracts. A new Subpart 1-19.7, Supplemental Provisions (Transportation Contracts), is added which sets forth procedures and additional supplemental contract provisions and clauses covering situations peculiar to the procurement of transportation services.

PART 1-7—CONTRACT CLAUSES

The table of contents for Part 1-7 is amended to provide for the addition of new entries, as follows:

Subpart 1-7.7—Transportation Contracts

Sec.	
1-7.700	Scope of subpart.
1-7.701	Solicitation of offers for transportation services.
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1-7.703-16	Utilization of concerns in labor surplus areas.
1-7.703-17	Contract not affected by oral agreement.
1-7.703-18	Service Contract Act of 1965.
1-7.703-19	Termination for convenience of the Government.
1-7.703-20	Moving contracts for the relocation of a Federal office.
1-7.704	[Reserved]

Subpart 1-7.7 is added, as follows:

Subpart 1-7.7—Transportation Contracts

§ 1-7.700 Scope of subpart.

This subpart sets forth clauses for use in formally advertised and negotiated contracts for freight transportation services (including local drayage) by rail, motor (including bus), domestic freight forwarder, and domestic water carriers (including inland coastwise, and intercoastal). This subpart does not apply to the procurement of transportation services by domestic or international air carriers or by international ocean carriers, and it does not apply to the procurement of transportation services which are contracted for by bill of lading or when negotiating for reduced rates under the authority of sections 22, 217(b), 306(c), and 405(c) of the Interstate Commerce Act, 49 U.S.C. 22, 317(b), 906(c), and 1005(c).

§ 1-7.701 Solicitation of offers for transportation services.

§ 1-7.701-1 Preparation of solicitations.

(a) When procurement of transportation services is by formal advertising, the solicitation shall be prepared in accordance with the requirements of Part 1-2 to the extent applicable and not otherwise inconsistent with the requirements set forth in this Subpart 1-7.7.

(b) When procurement of transportation services is by negotiation, the solicitation shall be prepared in accordance with Part 1-3 to the extent applicable and not otherwise inconsistent with the requirements set forth in this Subpart 1-7.7. In addition, the solicitation shall include the requirements of § 1-2.201 to the extent applicable and not otherwise inconsistent with Part 1-3 and this Subpart 1-7.7.

§ 1-7.701-2 Representations, certifications, and acknowledgments in transportation contracts.

In addition to the representations, certifications, and acknowledgments on the reverse of Standard Form 33, the solicitations covering transportation services shall contain the following certification to be executed by the offeror when regulated transportation is involved:

PERMITS, AUTHORITIES, OR FRANCHISES

The offeror certifies that he does [ ], does not [ ], hold authorization from the Interstate Commerce Commission or other cognizant regulatory body. If authorization is held, reference thereto is as follows:

(Name of regulatory body)

(Authorization No.)

The offeror shall furnish to the Government copies of such authorization prior to the movement of the material under any contract awarded, if requested. In addition, the various permits, franchises, licenses, and other authorities issued by State and local agencies in such instances shall be secured and maintaind at his expense.

§ 1–7.702 Solicitation instructions and conditions for transportation contracts.

The solicitation instructions and conditions set forth in Standard Form 33A shall be modified as follows:

(a) When the solicitation for transportation services is limited to local storage, drayage, and/or hauling services, the following paragraph, completed by the contracting officer, shall be substituted for paragraph 13, Contractor's Invoices:

CONTRACTOR'S INVOICES

The Contractor shall submit itemized and certified invoices (*Contracting Officer to insert time period*) direct to the Government agency ordering services under this contract or as otherwise instructed by that agency. Each invoice shall be annotated with the contract number.

(b) When the solicitation for transportation services is for line-haul services and may or may not include local storage, drayage, and/or hauling services in connection with such line-haul services, the following paragraph, completed by the contracting officer, shall be substituted for paragraph 13, Contractor's Invoices:

CONTRACTOR'S INVOICES

The Contractor shall submit invoices, Standard Form 1113, Public Voucher for Transportation Charges, in accordance with instruction 7 on the reverse of the original Government bill of lading. Invoices should be submitted to the "Charges to be billed to" address shown on the face of the Government bill of lading.

(c) The following paragraphs shall be included as additional solicitation instructions and conditions:

(1) *Financial statement.*

FINANCIAL STATEMENT

The offeror shall, upon request, promptly furnish the Government with a current certified statement of its financial condition and such data as the Government may request with respect to its operations, in order to determine its ability to perform under the contract and its financial responsibility. Failure to comply with such request will be a factor in considering possible rejection of the offer on responsibility grounds.

(2) *Familiarization with conditions.*

FAMILIARIZATION WITH CONDITIONS

The offeror shall acquaint itself with all available information regarding difficulties which may be encountered and the conditions, including safety precautions, under which the work must be accomplished under the contract. The offeror will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein because of its failure to investigate the conditions or to become acquainted with all information concerning the services to be performed.

§ 1–7.703 Required clauses in transportation contracts.

The clauses set forth in this section shall be used in transportation contracts in the manner provided.

§ 1–7.703–1 Definitions.

Insert the clause set forth in § 1–7.101–1.

§ 1–7.703–2 Changes.

CHANGES

The Contracting Officer may, at any time, by a written order and without notice to the sureties, if any, make changes within the general scope of the contract in any one or more of the following: (a) Specifications, (b) work or services, (c) the place of origin, (d) the place of delivery, (e) tonnage to be shipped, or (f) amount of Government-furnished property. If any such change causes an increase or decrease in the cost of, or in the time required for, performance of any part of the work or services under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price, or time of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

§ 1–7.703–3 Extras.

Insert the clause set forth in § 1–7.101–3.

§ 1–7.703–4 Inspection.

INSPECTION

All services, facilities, and equipment shall be subject to inspection and test by representatives of the Government. The Contractor shall, at all reasonable times, allow inspectors and other Government personnel free access to its facilities, equipment, and operations for this purpose, and shall provide such reasonable facilities and assistance as may be required for this work.

§ 1–7.703–5 Payments.

PAYMENTS

The Contractor shall be paid, upon the submission of proper invoices or vouchers, the amount due for services rendered and accepted, less deductions, if any, as herein provided. Submission of invoices should be in accordance with the requirements set forth in paragraph 13, Standard Form 33A, as modified herein.

§ 1–7.703–6 Assignment of claims.

Insert the clause set forth in § 1–30.703 under the conditions contained therein.

§ 1–7.703–7 Examination of records by Comptroller General.

Insert the clause set forth in § 1–7.101–10 under the conditions contained therein.

§ 1–7.703–8 Default.

DEFAULT

(a) The Government may, subject to the provisions of paragraph (c), below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(1) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of (*time to be inserted*), or such longer period as the Contracting Officer may authorize in writing, after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, services similar to those so terminated, and the Contractor shall be liable to the Government for any excess costs of such similar services: *Provided, however,* That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(d) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(e) In case of termination while the Contractor has the Government goods covered by this contract in its possession, the Contractor shall surrender the goods to the Government or its agent on demand.

(f) The rights and remedies of the Government provided in this clause shall not be

exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(g) The term "subcontractor" as used in this clause means subcontractor at any tier.

§ 1–7.703–9 Disputes.

Insert the clause set forth in § 1–7.101–12.

§ 1–7.703–10 Convict labor.

Insert the clause set forth in § 1–12.203.

§ 1–7.703–11 Equal opportunity.

Insert the clause set forth in § 1–12.803–2 under the conditions contained in § 1–12.803–1.

§ 1–7.703–12 Officials not to benefit.

Insert the clause set forth in § 1–7.101–19.

§ 1–7.703–13 Covenant against contingent fees.

Insert the clause set forth in § 1–1.503.

§ 1–7.703–14 Utilization of small business concerns.

Insert the clause set forth in § 1–1.710–3(a) under the conditions and in the manner prescribed therein.

§ 1–7.703–15 Federal, State, and local taxes.

Insert either the clause in § 1–11.401–1 or the clause in § 1–11.401–2 and, when appropriate, insert the supplementary clause in § 1–11.401–3(a), in accordance with the conditions contained in those sections.

§ 1–7.703–16 Utilization of concerns in labor surplus areas.

Insert the clause set forth in § 1–1.805–3(a) under the conditions and in the manner prescribed therein.

§ 1–7.703–17 Contract not affected by oral agreement.

CONTRACT NOT AFFECTED BY ORAL AGREEMENT

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications herein stated. All modifications to the contract must be made in writing by the Government's Contracting Officer or his authorized representive.

§ 1–7.703–18 Service Contract Act of 1965.

Insert either the clause set forth in § 1–12.904–1 or the clause in § 1–12.904–2 in accordance with the conditions contained in those sections.

§ 1–7.703–19 Termination for convenience of the Government.

Insert either the clause set forth in § 1–8.705–1 under the conditions prescribed in § 1–8.700–2(a)(2).

§ 1–7.703–20 Moving contracts for the relocation of a Federal office.

To insure that a prospective contractor is properly authorized and competent to perform a moving contract involving the relocation of a Federal office, whether a move of this type takes place between States including the District of Columbia (i.e., an interstate move), or wholly within the borders of one State or the District of Columbia (i.e., an intrastate move), the following provisions shall be included in each such invitation and in the resulting contract:

PERFORMANCE CAPABILITY

(a) If the move specified herein is to be performed by the Contractor as a carrier within the borders of more than one State, including the District of Columbia (i.e., an interstate move), the Contractor shall have obtained and hold appropriate and current operating authority from the Interstate Commerce Commission.

(b) If the move specified herein is to be performed by the Contractor as a carrier wholly within the borders of one State or the District of Columbia (i.e., an intrastate move), the Contractor shall, when required by the State or the District of Columbia in which the move is to take place, have obtained and hold appropriate and current operating authority from such jurisdiction, in the form of a certificate, permit, or equivalent license to operate, or if no such authority to operate is required by the State or the District of Columbia in which the move is to take place, then the Contractor as carrier shall maintain facilities, equipment, and a business address within the jurisdiction in which the move is to take place: *Provided*, That if the move is to originate and/or terminate within an area of one State, or the District of Columbia, which comprises a part of a recognized Commercial Zone (see 49 CFR Part 1048), whose boundaries encompass portions of more than one State or the District of Columbia, it shall be sufficient if the Contractor as carrier maintains facilities, equipment, and a business address within the Commercial Zone and holds appropriate operating authority, if required, from the jurisdiction within which he maintains such facilities, equipment, and business address.

(c) If the move specified herein will not be performed by the Contractor as carrier it must be performed for the Contractor by a carrier operating under a subcontract with the Contractor. In such instance, the Contractor shall not be subject to the requirements of paragraphs (a) and (b), above, but it shall be the responsibility of the Contractor to require and insure that the subcontractor carrier complies with such requirements in every respect.

(d) There shall be compliance with the applicable requirements of this clause at least 14 days before the date on which performance of the contract shall commence under the terms and conditions herein specified: Except that, if the period from the date of award of the contract to the date that performance shall commence is less than 28 days, the Contractor need only comply with the applicable requirements of this clause midway between the time of award and the time of commencement of performance.

§ 1–7.704 [Reserved]

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)

1. Section 1–16.500 is revised, as follows:

§ 1–16.500 Scope of subpart.

This subpart prescribes forms for use in advertised and negotiated transportation and other nonpersonal service contracts (other than construction and architect-engineer contracts).

2. Section 1–16.501 is revised, as follows:

§ 1–16.501 Contract forms.

(a) *Transportation contracts.* Pending issuance of standard forms for use in those contracts for freight transportation services enumerated in § 1–7.700, Standard Form 33, Solicitation, Offer, and Award, and Standard Form 33A, Solicitation Instructions and Conditions (both illustrated at Subpart 1–16.9), shall be used for transportation contracts; however, the forms shall be modified to include the clauses prescribed for use by Subpart 1–7.7. In addition, the clauses prescribed in § 1–7.703 shall be assembled under the heading "General Provisions (Transportation Contracts)," and made an attachment to Standard Form 33. Standard Form 32, General Provisions (Supply Contract), referred to in Block 9 on the face of Standard Form 33, should be cited as not being applicable. The appropriate information, terms, and conditions prescribed in Subpart 1–19.7 shall be assembled separately under the heading of "Supplemental Provisions (Transportation Contracts)" and made an attachment to Standard Form 33. Titles for the subheadings, paragraphs, and subparagraphs in the supplemental clauses shall be those of the applicable subsections, paragraphs, and subparagraphs in Subpart 1–19.7.

(b) *Other nonpersonal service contracts.* The forms prescribed in §§ 1–16.101 and 1–16.201 for advertised and negotiated supply contracts are suitable for use in many advertised and negotiated nonpersonal service contracts (other than transportation, construction, and small purchases). Agencies are encouraged to require the use of these forms in advertised and negotiated nonpersonal service contracts where appropriate and practicable.

PART 1–19—TRANSPORTATION

The table of contents for Part 1–19 is amended by revising the entry for § 1–19.110 and adding a new Subpart 1–19.7 as follows:

Sec.
1–19.110 [Reserved]

Subpart 1–19.4—1–19.6 [Reserved]

Subpart 1–19.7—Supplemental Provisions (Transportation Contracts)

1–19.700 Scope of subpart.
1–19.701 General.
1–19.702 Supplemental provisions.
1–19.702–1 Scope and duration of contract.
1–19.702–2 Transportation service requirements.
1–19.702–3 Determination of weights.
1–19.702–4 Liability of contractor.
1–19.702–5 Insurance requirements.
1–19.702–6 Annotation and distribution of shipping documents.
1–19.702–7 Additional contractor responsibilities.

Sec.
1–19.702–8 Government responsibilities.
1–19.702–9 Inspection of shipping and receiving facilities.
1–19.702–10 Rates and charges.

Section 1–19.110 is revised to delete the caption and the text and to indicate that the section is reserved.

§ 1–19.110 [Reserved]

Subpart 1–19.7 is added, as follows:

Subpart 1–19.7—Supplemental Provisions (Transportation Contracts)

§ 1–19.700 Scope of subpart.

This subpart sets forth supplemental provisions for transportation contracts entered into either by formal advertising or by negotiation (for other than small purchases as defined in Subpart 1–3.6).

§ 1–19.701 General.

(a) In addition to the required clauses set forth in Subpart 1–7.7, the solicitation and resultant contract shall contain a separate attachment to be entitled "Supplemental Provisions (Transportation Contracts)," hereafter referred to as "Supplemental Provisions" which provide (1) a clear and accurate description of the services required, (2) a basis for submitting rates or charges, and (3) the basis on which bids or proposals will be evaluated.

(b) The supplemental provisions shall be in such terms as to permit full and free competition among all modes of transportation, consistent with the law and safety regulations. Circumstances may exist which will limit competition to a particular mode or method of transportation. For example, the movement of certain dangerous commodities or highly specialized or scientific equipment or paraphernalia might require the services of specialized carriers. Provisions which tend to limit competition may be used where the need for specalized services is established, provided: (1) The requirements for service cannot reasonably be met in any other manner, and (2) a written justification for so limiting competition is included in the contract file.

(c) The information, terms, and conditions set forth in §§ 1–19.702–1 through 1–19.702–10 shall be included in the supplemental provisions for the procurement of transportation services, to the extent that they are applicable. Additional information, terms, and conditions, may be included, but only when such additions do not conflict with other contract provisions.

§ 1–19.702 Supplemental provisions.

§ 1–19.702–1 Scope and duration of contract.

(a) A provision shall be included to indicate the scope of the contract and the length of time the contract will remain in effect. The following points shall be covered by the supplemental provisions used, varying as necessary in accordance with the circumstances of each case.

(1) *Origin of shipments.* Full details shall be furnished regarding the location of the property to be transported. For example, the name of the shipper and the street address (not post office box), city, and State where the shipper is located, when the location is definite; a detailed description of the area, including boundaries, when indefinite or multiple shippers are involved, as in the case of drayage contracts and group movements of Government employees' household goods.

(2) *Destination of shipments.* Full details on the delivery point or points shall be included in each solicitation. For example, the name of the consignee and the street address (not post office box), city, and State where the consignee is located, when the destination is definite; a detailed description of the area, including boundaries, when indefinite or multiple consignees are involved.

(3) *Description of property.* The solicitation must contain a clear and concise description of the property to be transported, using freight classification descriptions, when available, or nontechnical descriptions when classification descriptions are unavailable. The solicitation shall include, when appropriate, a description of packing (i.e., whether domestic, export, etc.), dimensions and/or weight of items of unusual size, identification of items of unusual value, and any other details necessary to insure that offers will be submitted on a realistic basis. Particularly with respect to the supplemental provisions for drayage contracts, any commodities or types of shipments which would be subject to exclusion under the contract should be clearly identified by a separate clause entitled "Exclusion," for example:

EXCLUSION

Excluded from the scope of this contract are shipments which can be more advantageously or economically moved via parcel post or small package carrier, shipments of unusual value, explosives and other dangerous articles, household goods, commodities in bulk, commodities injurious or contaminating to other lading, and shipments which the Government may elect to move in Government-owned vehicles.

(4) *Quantity.* A statement of the actual weight, or a reasonably accurate estimate of the weight, of property to be transported is required. If the services are required for an extended period of time, a schedule should be provided of the actual or estimated tonnage or number of items which are to be moved during the week, month, or other appropriate period of time. In the case of group movements of household goods, an estimate of the aggregate weight and the basis for determining the aggregate weight shall be provided. Unless the services are required for a one-time move, or the requirements are known to be irrevocable, the following clause shall be included:

ESTIMATED WEIGHT

The above estimated weight is not to be construed as a guarantee of actual weight, as the Government does not guarantee any particular volume of traffic described herein. However, to the extent services are required, as described herein, and in accordance with the terms of this contract, orders for such services will be placed with the carrier awarded any contract hereunder.

(5) *Duration of contract.* A statement shall be included with respect to the period of time during which services will be required by the Government, either by establishing an expiration date (month, day, and year) or by stating the period of time during which the contract will remain in effect (usually commencing from the date of award).

(b) When the scope or duration of a contract is subject to exceptions, such exceptions shall be clearly stated. For example, when the contractor will not be obligated to transport all shipments tendered by the Government, regardless of size, the supplemental clauses shall indicate minimum and maximum weights of shipments, below and above which the contractor will not be required to provide services.

§ 1–19.702–2 Transportation service requirements.

(a) All service requirements shall be listed, so that offers can be prepared on a realistic basis. Care should be taken to make a distinction between what would be considered normal services and those services which would be considered "extra." If "extra" services such as inside delivery, are required only occasionally, the supplemental provisions shall so indicate and provide for separate charges for such services. The following details shall be provided:

(1) *Pickup service.* The solicitation shall contain a statement of the days of the week and the hours of the day during which pickup service will be expected and shall specify what advance notice will be furnished to the contractor that service is required. If special, emergency, or priority shipments will be involved, the shorter time for advance notice shall also be stated.

(2) *Delivery service.* The solicitation shall set forth the maximum time allowed for accomplishing delivery, and the following clause shall be added:

PICKUP AND DELIVERY SERVICE

Pickup and delivery services under this contract must be performed within the period set forth herein. Failure to comply may result in termination of the Contractor's right to proceed by reason of default. (See the "Default" clause in the General Provisions (Transportation Contracts) attached to Standard Form 33.)

(3) *Type of equipment.* The type and size of equipment shall be specified when appropriate. Otherwise, a statement to the effect that the contractor shall furnish clean and sound closed-type equipment of sufficient size to accommodate the shipment shall be included.

(b) Under certain types of transportation contracts, particularly for group movements of Government employees' household goods and personal effects, additional services, which otherwise would be considered accessorial services, are required to be performed by the contractor. Such additional services shall be

specified, and the following clauses, in substantially the same language, shall be used as applicable:

SUPERVISION, LABOR, MATERIALS, AND EQUIPMENT

The Contractor shall furnish adequate supervision, labor, materials, supplies, and equipment necessary to perform all the services contemplated under this contract in an orderly, timely, and efficient manner.

PACKING AND/OR CRATING AND PADDING

The Contractor shall perform all of the packing and/or crating and padding necessary for the protection of the property to be transported. All packing containers, including, but not limited to barrels, boxes, wardrobes, and cartons; all crating materials; and all padding materials and equipment, shall be furnished by the Contractor. The Contractor shall also furnish or cause to be furnished, when necessary, padding or other protective material for the interior of the buildings, including elevators, from and to which the property shall be moved under this contract. All containers and materials shall be clean and of quality sufficient to insure protection of the property.

DISASSEMBLING AND REASSEMBLING OF PROPERTY AND PREPARING APPLIANCES

The disassembling of property, such as beds and sectional bookcases, and the preparing of appliances, such as washers, driers, and record players, for shipment shall be performed by the Contractor. When it is necessary to disassemble property for shipment, such property shall be reassembled by the Contractor upon delivery at the new location.

UNPACKING AND/OR UNCRATING AND PLACEMENT OF PROPERTY

The Contractor shall perform all unpacking and/or uncrating of property which was packed and/or crated for movement under the provisions of this contract. The Contractor shall also place the property in the new location as instructed by the owner of the property or his authorized representative and shall remove all packing and similar or related material from the premises as requested by the owner.

§ 1–19.702–3 Determination of weights.

(a) The method of determining weights of shipments will vary, depending upon the commodities to be transported, the type of service required, whether shipments will move in load or less-than-load lots, and other factors. The following clauses concerning the determination of the weights of shipments of other than household goods and office furniture and equipment shall be used as applicable, depending on whether the shipment is to move on agreed weights or whether the contractor is responsible for establishing the net weights:

AGREED WEIGHT

The shipping activity will determine the weight of each shipment. Such weight will be shown on the covering bill of lading and will be accepted by the Contractor as the agreed weight.

NET WEIGHTS

The net weight of the shipment shall be determined by deducting the tare weight of the vehicle (determined by having the empty vehicle weighed by a certified weighmaster, on a certified scale, with a full tank of fuel) from the gross weight of the vehicle (determined by having the loaded vehicle weighed by a certified weighmaster, on a certified scale, with a full tank of fuel).

(b) When the contract is for group movements of Government employees' household goods and for relocation of Government offices, the contractor is responsible for determining the net weight of the shipments. The following provisions shall be used as applicable:

FULL LOADS

The net weight of the shipment shall be determined by deducting the tare weight of the vehicle (determined by having the empty vehicle weighed by a certified weighmaster, on a certified scale, with the driver and a full tank of fuel, and all blankets, pads, chains, dollies, hand trucks, and all other necessary equipment inside the vehicle, but without the crew) from the gross weight of the vehicle (determined by having the fully loaded vehicle weighed by a certified weighmaster, on a certified scale, with the driver and a full tank of fuel, but without the crew, prior to arrival at destination).

PART LOADS

The net weight of the first part load shall be determined in the same manner as specified for a full load. The net weight of the second part load shall be determined by using as the tare weight of the vehicle the gross weight of the vehicle containing the first part load and deducting the weight from the new gross weight (determined by having the loaded vehicle weighed again, in the same manner as specified for the full load). The same procedure will apply for each succeeding part load.

SCALES NOT AVAILABLE

If certified scales are not available at origin, at any point en route, or at destination, a constructive weight based on 7 pounds per cubic foot of properly loaded van space may be used as the net weight of the shipment. Such constructive weight also may be used for a part load when its weight could not be obtained at origin, en route, or at destination, without first unloading it or other part loads being transported in the same vehicle.

§ 1–19.702–4 Liability of contractor.

The liability of the contractor for loss, damage, and injury to persons and property during the course of performing under the contract shall be spelled out in detail. Where no specific provisions are incorporated, the usual measure of liability is set forth in section 20(11) of the Interstate Commerce Act, 49 U.S.C. 20 (11). The following are examples of provisions which are to be used for the type of service indicated:

(a) *Transportation of property other than household goods.* The following clause shall be used when liability for the property is not limited to a released or declared value. When the contractor's liability for property is limited to declared or released value only so much of the clause as relates to property shall be used. The clause set forth in (b), below, shall be added with any references to "property" and "property damage" deleted.

TRANSPORTATION OF PROPERTY OTHER THAN HOUSEHOLD GOODS

The Contractor shall assume full liability for any and all property lost or damaged in the movement covered by this contract, except when such loss or damage arises out of causes beyond the control of, and without the fault or negligence of, the Contractor. Such causes may include, but are not restricted to, acts of God or the public enemy, the authority of law, or the act or default of the shipper; but in every case the loss or damage must be beyond the control of, and without the fault or negligence of, the Contractor. In addition, the Contractor shall be responsible for and reimburse the U.S. Government for any and all damage caused by the Contractor, his employees, or his agents to the interior or exterior of the buildings from and to which the property will be moved. Also, the Contractor shall save harmless and indemnify the Government, and assume responsibility for any and all damage or injury to persons or property resulting from the use or operation of his vehicles or other equipment by, or the action of, the Contractor, his employees, or his agents, in the performance of this contract. The Government shall in no event be liable or responsible for damage or injury to persons or property resulting from the use or operation of any vehicle or other equipment by, or the action of, the Contractor, his employees, or his agents, in performing under this contract.

(b) *Transportation of household goods.* The following clause applies to damage or injury to property other than the household goods being transported. A separate clause is required to establish the extent to which the contractor will be liable for loss or damage to the household goods.

TRANSPORTATION OF HOUSEHOLD GOODS

The Contractor assumes responsibility for all damage or injury to persons or property occasioned through the use and operation of his vehicles or other equipment by or the action of the Contractor, his employees, and agents, and the Contractor at his own expense shall maintain adequate public liability and property damage insurance during the continuance of this contract, insuring himself against all claims for injury or damage. The Contractor shall also maintain Workmen's Compensation and other legally required insurance with respect to his own employees and agents. The Government shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use or operation of any vehicles or other equipment by or the action of the Contractor, his employees, and agents in performing under this contract.

§ 1–19.702–5 Insurance requirements.

The amount of insurance the contractor shall be required to maintain will depend upon the type of service required and the value of the property to be transported. Except when the shipments move under rates subject to released valuation or declared value, the contractor shall be required to maintain sufficient cargo insurance to cover the value of each vehicle load. In every instance where the contract is with a motor carrier, the contractor shall be required to carry an appropriate amount of vehicular liability insurance. In addition, all contractors shall be required to carry an appropriate amount of general public liability insurance and any other insurance required by law. The clauses set forth below shall be used in substantially the same language (the appropriate amounts and the

name and address of the agency to be inserted by the contracting officer at the time the solicitation is issued):

CARGO INSURANCE

The Contractor, at his own expense, agrees to provide and maintain, during the continuance of this contract, cargo liability insurance in the amount of $------ per vehicle to cover the value of property on each vehicle and in the amount of $------ to cover the total value of the property in the shipment. All insurance shall be written on companies acceptable to the (insert name of agency) and policies shall include such terms and conditions as may be required by the (insert name of agency). As evidence of insurance maintained, a complete duplicate certified copy of the cargo liability insurance policy or policies shall be furnished to the (insert name of agency). Evidence of acceptable cargo insurance must be furnished prior to commencing operations under this contract. Each cargo insurance policy shall include the following provision:

It is a condition of this policy that the Company shall furnish written notice to the (insert name of agency), at the address shown on the face sheet of this contract, 30 days in advance of the effective date of any reduction in or cancellation of this policy.

A complete duplicate certified copy of any renewal policy shall be furnished to the (insert name of agency) not less than 15 days prior to the expiration of any current policy on file with the (insert name of agency).

OTHER INSURANCE

The Contractor, at his own expense, agrees to maintain, during the continuance of this contract, vehicular liability and general public liability insurance with limits of liability for bodily injury of not less than $------ for each person and $------ for each occurrence and property damage limits of liability of not less than $------ for each accident and $------ in the aggregate. The Contractor also agrees to maintain Workmen's Compensation and other legally required insurance with respect to his own employees and agents.

§ 1–19.702–6 Annotation and distribution of shipping documents.

The contractor's responsibilities with respect to annotating and distributing shipping documents shall be set forth, in detail, in accordance with the provisions of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, title 5, Transportation, to the extent such provisions are applicable. Also, the contracting agency's requirements and, when appropriate, the consignee's requirements shall be set forth. Of particular importance is the cross-referencing of bills of lading in mass movements of property made available to the contractor at one time, so that the Government will receive the benefit of the applicable volume rates.

§ 1–19.702–7 Additional contractor responsibilities.

Additional responsibilities of the contractor will vary, depending upon the commodities to be transported, the type of service required, whether shipments will move in load or less-than-load lots, and other pertinent matters. The following clauses, to the extent they are appropriate, shall be included in the supplemental provisions:

RECEIPT OF SHIPMENT

The Contractor will diligently count, examine, and receipt for all property tendered for shipment and make appropriate written exception for any and all property not in apparent good order.

LOADING AND UNLOADING

Unless otherwise specified herein to cover store-door or inside delivery, loading and unloading of shipments will be performed by the Contractor at no additional expense to the Government. The Government or its agent will place or receive freight at the tailgate of the Contractor's vehicle. Tailgate delivery, for purposes of this contract, is defined as that which enables a forklift truck or similar equipment, with operator only, to place or remove cargo from the tailgate of Contractor's vehicle.

BLOCKING AND BRACING

When loading is the responsibility of the Contractor, the Contractor shall perform all shoring, blocking, and bracing. Dunnage shall be provided by, and at the expense of, the Contractor.

RETURN OF UNDELIVERED FREIGHT

When, through no fault of the Contractor, a shipment cannot be delivered, the Contractor shall contact the shipper for disposition instructions. If such shipment is ordered returned to the origin point, the charges assessed for the return trip shall be the same as the charges assessed for the outbound trip. A record will be maintained of material which, through no fault of the Contractor, could not be delivered and is returned to the shipper. If, at a future date, such returned material is determined to be related to a claim against the Contractor, the claim will be adjusted accordingly. If, on the other hand, through the fault of the Contractor, a shipment cannot be delivered, the shipment shall be returned to the origin point and no charge shall be assessed by the Contractor; however, any charges incurred for redelivery, which are in excess of the charges that would have been incurred under this contract, shall be for the Contractor's account in accordance with the "Default" clause in the General Provisions (Transportation Contracts) attached to Standard Form 33.

§ 1–19.702–8 Government responsibilities.

Normally, the Government has certain responsibilities which have a direct bearing on the contractor's performance under the contract, including giving notice to the contractor of dangerous and inherent vices of the property, to insure that such shipments are properly placarded. Therefore, such responsibilities shall be made a part of the supplemental provisions. The following clauses shall be used as appropriate:

ADVANCE NOTIFICATION

The Government will notify the Contractor —— hours in advance as to the number of pieces and weight of all normal shipments and the time the shipment will be available for pickup. On other than normal shipments the Government will furnish such additional information, such as dimension of oversized pieces, etc., as necessary to determine the amount of equipment and/or manpower needed to perform the required services.

GOVERNMENT EQUIPMENT

The Government will provide forklifts or other heavy lifting equipment at (insert origin, destination, or both) to assist in (insert loading, unloading, or both), when required.

SUPERVISION AND MARKING

The agency being moved will tag or mark property, showing floor, room number, and location where property is to be placed within the new building. The agency will provide sufficient personnel to supervise and direct Contractor's personnel in the placement of the property at destination.

§ 1–19.702–9 Inspection of shipping and receiving facilities.

To insure the receipt of realistic bids, inspection of the shipping and receiving facilities should be permitted and should be encouraged. Therefore, a schedule shall be provided showing the dates (and hours, if appropriate) when the shipping facilities at origin and the receiving facilities at destination will be available for inspection by prospective bidders. Also, if appropriate, the supplemental clauses shall include the names, addresses, titles, and telephone numbers of the Government representatives to be contacted at origin and destination to make arrangements for inspecting the facilities.

§ 1–19.702–10 Rates and charges.

(a) A provision shall be included permitting the offeror to insert prices for items bid upon in accordance with the appropriate basis or bases set forth below. Such basis may be on an hourly rate, a rate per specified unit of weight, a total charge for all services required, or on a combination of factors. Certain other requirements relating to rates, as set forth below, shall be considered in connection with each solicitation, and the indicated provisions shall be used under the specified conditions.

(1) The following clause shall be used in all solicitations:

CHARGES

In no event are charges to be assessed under this contract in excess of charges based on the Contractor's lowest regular applicable rate available to the general public or in excess of charges based on rates otherwise tendered to the Government by the Contractor for the same type of service.

(2) When there are various types of services to be provided under one contract and the basis for assessing charges varies with the service, the supplemental provisions shall set forth the basis for submitting bids or proposals on each type of service.

(3) Whenever rates are requested on an hourly basis, a provision shall be made for charging for fractions of an hour; for example, a period of 30 minutes or less would be charged at one-half the hourly rate, and a period of more than 30 minutes but less than an hour would be charged at the full hourly rate.

(4) When shipments will vary in weight; e.g., under 1,000 pounds to over 40,000 pounds, rates shall be requested on a graduated basis, and an appropriate reference shall be made to the table of graduated weights which would be pro-

vided in the section in the supplemented provisions entitled "Rates and charges."

(5) The supplemental provisions shall set forth the basis on which the rates and/or charges will be evaluated; i.e., the formula to be used by the contracting officer to determine the lowest overall price quoted or offered. When multiple origins and/or destinations are involved, and the quantities or weights to be shipped between each origin and destination cannot be redetermined, estimated quantities or weights shall be established for the purpose of evaluating bids or proposals and an appropriate clause, in substantially the following language, shall be included:

ESTIMATED WEIGHT

For the purpose of evaluating bids, and for no other purpose, the following estimated quantities or weights will be considered as the quantities or weights to be shipped between each origin and destination listed: (Insert origin, destination, and estimated quantity or weight.)

(6) When procurement of transportation services is by negotiation, provision shall be made for accepting the most favorable proposal without further negotiation. A clause, in substantially the following language, shall be included:

ACCEPTANCE OF LOWEST OFFER

If it is determined by the Government that the most favorable proposal received in response to this request is fair and reasonable, award may be made to the carrier submitting such proposal without further negotiation. Accordingly, proposals should be submitted on the most favorable terms, from both a price and technical standpoint, which the offeror can initially submit to the Government.

(7) When it is anticipated that labor, in addition to that of the driver, will be required for loading or unloading shipments which, because of bulk or weight, are beyond the ability of the driver alone to handle, or when other circumstances will require services of the contractor which are not included in the basic rate, the conditions under which payment will be made for additional services shall be stated.

(b) When a solicitation involves multiple origins and/or destinations, detailed information shall be provided as to whether rates should be quoted for all origins and destinations or whether rates can be quoted for specific groups of origins and/or destinations.

(c) When multiple shipments will be tendered at one time from one origin to two or more consignees at the same destination or to various destinations along the one route, provision shall be made for charging the rate applicable to the aggregate weight; and, if otherwise appropriate, when more than one destination is involved, provision shall be made for payment of a stopoff charge for each of the intermediate destinations. The following clauses shall be included, as applicable:

MULTIPLE SHIPMENTS

When multiple shipments are tendered at one time to the Contractor for movement from one origin to multiple consignees at the same destination, the rate charged for each shipment will be the rate applicable to the aggregate weight.

STOPPING IN TRANSIT FOR PARTIAL UNLOADING

When multiple shipments are tendered at one time to the Contratcor for movement from one origin to two or more consignees along the route between the origin and the last destination, the rate charged will be the rate applicable to the aggregate weight, plus a charge of $_____ for each shipment unloaded at an intermediate point en route to the last destination.

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

Effective date. This amendment is effective with respect to solicitations issued after January 29, 1973, but may be observed earlier.

Dated: December 29, 1972.

ARTHUR F SAMPSON,
Acting Administrator of General Services

[FR Doc.73-323 Filed 1-5-73;8:45 am]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 82—PROCEDURAL RULES FOR PROCEEDINGS CONDUCTED PURSUANT TO ENFORCEMENT OF EXECUTIVE ORDER 11246, AND RULES, REGULATIONS, AND ORDERS THEREUNDER

Pursuant to delegated authority and in accordance with Executive Order 11246, and rules, regulations, and orders thereunder, the Secretary of Health, Education, and Welfare hereby adopts the following amendments and revisions to Part 82 of Title 45 of the Code of Federal Regulations. These rules are not subject to the public participation procedures of the Administrative Procedure Act, 5 U.S.C. 553, nor are they subject to the Secretary's statement of policy concerning public participation in rule making, 32 FR 2532 (Feb. 5, 1971). Therefore, these rules shall be immediately effective upon publication in the FEDERAL REGISTER (1-8-73).

1. Section 82.2 is amended to read as follows:

§ 82.2 Scope of rules.

These rules govern the practice and procedure for proceedings conducted by the Department precedent to the imposition of sanctions under section 209(a)(5) and (6) of Executive Order 11246, for violations of Executive Order 11246, for violations of Executive Order 11246, and rules, regulations, and orders thereunder.

2. Section 82.4(b) is amended to read as follows:

§ 82.4 Definitions.

* * * * *

(b) "Notice" means notice of proposed cancellation, termination, or ineligibility.

* * * * *

3. Section 82.6(a)(3) is amended to read as follows:

§ 82.6 Participation by interested persons.

(a) * * *

(3) Any person or organization wishing to participate as a party under this paragraph shall file and serve upon the hearing officer and all parties a petition within 14 days after the notice has been filed. Such petition shall concisely state: (i) Petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitoner intends to present witnesses.

* * * * *

4. Section 82.10 is amended to read as follows:

§ 82.10 Service-how made.

Service shall be made by personal delivery of one copy to each person to be served, or by mailing by first-class mail, properly addressed with postage prepaid. The notice shall be served upon the last known address of the respondent by registered mail, return receipt requested.

5. Section 82.14 is revised to read as follows:

§ 82.14 Notice of proposed cancellation, termination or ineligibility.

Proceedings are commenced by the mailing of a written notice of proposed cancellation, termination, or ineligibility to the last known address of the respondent by registered mail, return receipt requested. The notice shall contain a concise jurisdictional statement, a short and plain statement of the matters furnishing a basis for the imposition of sanctions, an enumeration of the sanctions being requested, and a citation of the provisions of the order and regulations pursuant to which the requested action may be taken. The notice shall also indicate that respondent may request a hearing on the matters alleged.

6. Section 82.15 is revised to read as follows:

§ 82.15 Answer to notice.

(a) Within fourteen (14) days from receipt of the notice, respondent may file with the hearing officer, or if no hearing officer has been designated, with the Reviewing Authority, an answer to the notice and may request a hearing. The request for a hearing shall be included as a separate paragraph of the answer.

(b) The answer shall admit or deny specifically and in detail the matters set forth in each allegation of the notice unless respondent is without knowledge, in which case the answer shall so state, and the statement shall be deemed a denial. Matters alleged as affirmative defenses shall be separately stated and numbered.

(c) If respondent fails to file an answer, request a hearing, or otherwise formally contest the allegations in the notice within the 14-day period following receipt of the notice, the matters

alleged in the notice are deemed admitted and respondent's opportunity for hearing is deemed waived. The Director, Office for Civil Rights, may then cancel, suspend or terminate any one or more contracts or subcontracts, or parts thereof, held by respondent, or enter an order declaring such contractor or subcontractor ineligible for further contracts, subcontracts, or extensions or other modification of existing contracts, until the contractor or subcontractor has satisfied the Secretary of Labor that it has established and will carry out personnel and employment policies and practices in compliance with the order.

(d) In response to respondent's request for a hearing, respondent shall be advised by the reviewing authority that a hearing officer has been designated and that the matter has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause.

7. Section 82.22 is amended to read as follows:

§ 82.22 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. A hearing for the reception of evidence will be held only in case issues of fact must be resolved in order to determine whether respondent has failed to comply with one or more applicable requirements of Executive Order 11246, and rules, regulations, and orders thereunder. In case it appears from respondent's answer to the notice of hearing, from his failure timely to answer, or from his admissions or stipulations, that there are no matters of material fact in dispute, the hearing officer or the reviewing authority may enter an order so finding, vacating the hearing date, and fixing the time for filing briefs under § 82.35. Thereafter the proceedings shall go to conclusion in accordance with §§ 82.35 through 82.43. Within 10 days of its issuance, an order vacating the hearing date may be appealed to the reviewing authority, and the reviewing authority shall affirm, modify, or set aside such order within 28 days thereafter.

Dated: December 28, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.73-342 Filed 1-5-73;8:45 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-1200]

PART 0—COMMISSION ORGANIZATION

Subpart D—Public Availability of Classified Material

A new Subpart D is added to Part 0 of the FCC rules to codify that portion of security regulations pertaining to the public availability of classified material.

This action is taken to comply with Executive Order 11652 (37 FR 5209, Mar. 10, 1972) and the National Security Council Directive of May 17, 1972 (37 FR 10053, May 19, 1972). The prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) do not apply inasmuch as the new rules will benefit the public by clarifying procedures concerning access to classified documents, compliance with the prior notice and deferred effective date provisions of the APA (5 U.S.C. 553) would be contrary to the public interest.

The Interagency Classification Review Committee has approved the new regulations from which this material was extracted. Accordingly, *it is ordered*, That the rules as set forth below are adopted effective January 5, 1973.

Adopted: December 22, 1973.

Released: December 27, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended to add a new Subpart D to read as follows:

GENERAL

Sec.
0.501 Purpose.
0.502 Classification Review Committee.
0.503 Administrative enforcement.
0.504 Limitation of authority for original classification.

DOWNGRADING AND DECLASSIFICATION

0.521 Introduction.
0.522 General Declassification Schedule.
0.523 Exemption from General Declassification Schedule.
0.524 Applicability of the General Declassification Schedule to previously classified material.
0.525 Declassification of classified information or material after 30 years.
0.526 Systematic reviews.
0.527 Classification Review Committee.
0.528 Review of classified material over 30 years old.
0.529 Availability of declassified material.
0.530 Classification review requests.

ACCESS TO CLASSIFIED MATERIALS

0.541 Access by historical researchers.
0.542 Access by former Presidential appointees.

AUTHORITY: The provisions of this Subpart D issued under Executive Order 11652 (37 FR 5209, Mar. 10, 1972) and National Security Council Directive of May 17, 1952 (37 FR 10053, May 19, 1972).

GENERAL

§ 0.501 Purpose.

Pursuant to Executive Order 11652, the Commission prescribes the following regulations to insure that classified information and material is protected, but only to the extent and for such period as is necessary. The regulations identify the information to be protected, prescribe classification, downgrading, declassification and safeguarding procedures to be followed, and establish a monitoring system to ensure the regulations' effectiveness.

§ 0.502 Classification Review Committee.

The Executive Director has been assigned the responsibility for ensuring effective compliance with and implementation of these regulations. He will chair the Commission's Classification Review Committee which shall have authority to act on all suggestions and complaints with respect to the Commission's administration of these regulations. The General Counsel, or a senior member of his staff designated by him, and the Security Officer will serve as members of the Committee. All suggestions and complaints including those regarding overclassification, failure to classify, or delay in declassifying not otherwise resolved, shall be referred to the Committee for resolution. In addition, the Committee shall review all appeals of requests for records under section 522 of Title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under Executive Order 11652.

§ 0.503 Administrative enforcement.

The Classification Review Committee shall have responsibility for recommending to the chairman appropriate administrative action to correct abuse or violation of any provision of these regulations, including notifications by warning letters, formal reprimand, and to the extent permitted by law, suspension without pay and removal. The committee will maintain a record of the action taken.

§ 0.504 Limitation of authority for original classification.

The Commission's authority for original classification of natural security information or material under these regulations is limited to "Secret" and "Confidential." It shall be exercised only by (a) the Chief Engineer, (b) the Chief of the Field Engineering Bureau (FEB), and (c) the Executive Director. The Chief Engineer and the Chief, FEB shall exercise authority for original classification of information or material originated by their respective offices. The Executive Director shall exercise authority for the original classification of all other information or material originated by the FCC.

DOWNGRADING AND DECLASSIFICATION

§ 0.521 Introduction.

Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the provisions of §§ 0.522–0.530.

§ 0.522 General Declassification Schedule.

Classified information and material shall be declassified as soon as there are no longer any grounds for continued classification within the classification

[1] Commissioner H. Rex Lee absent.

category definitions. At the time of origination the classifier shall, whenever possible, clearly mark on the information or material a specific date or event upon which downgrading or declassification shall occur. Such dates or events shall be as early as is permissible without causing damage to the national security. Whenever earlier dates or events cannot be determined, the General Declassification Schedule set forth below shall apply. If the information or material is exempted under § 0.523, the classifier shall clearly mark the material to show that it is exempt and indicate the applicable exemption category. Unless impossible, the exempted information or material shall be assigned and clearly marked by the classifier with a specific date or event upon which declassification shall occur. Downgrading and declassification dates or events established in accordance with the foregoing, whether scheduled or non-scheduled, shall to the extent possible be carried forward and applied whenever the classified information or material is incorporated in other documents or material. When classified information or material from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded or declassified in the manner prescribed herein as applicable to the information requring the greatest protection.

(a) *Top secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated and declassified at the end of the 10th full calendar year following the year in which it was originated.

(b) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

§ 0.523 Exemption from General Declassification Schedule.

Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. The Commission is not authorized to grant such exemption for any information it originated; however, it may receive exempted information from officials of Departments or Agencies having such authority. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(a) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(b) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(d) Classified information or material the disclosure of which would place a person in immediate jeopardy.

§ 0.254 Applicability of the General Declassification Schedule to previously classified material.

Information or material classified before June 1, 1972, and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order 10964, shall be subject to the General Declassification Schedule. All other information or material classified before June 1, 1972, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of these regulations, as set forth in § 0.522. The Office of the Executive Director is hereby designated as the office to which members of the public or Departments may direct requests for mandatory review for declassification under this provision. This office shall, in turn, assign the request to the appropriate office for action. In each instance, receipt of the request will be acknowledged in writing immediately by the office which has been assigned action. Thereafter, that office shall make a determination within 30 days of receipt, or shall explain why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Commission Committee, established by Section 0.502 of these regulations, for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in § 0.523 continued classification is required, the requester shall be promptly notified, and, whenever possible, provided with a brief statement as to the reasons for denying the request. The requester may appeal any such determination to the Commission Committee and the notice of determination shall advise him of his right. If the requester requires the rendering of services for which fair and equitable fees should be charged pursuant to Title 5 of the Independent Offices Appropriations Act 1952, 65 Stat. 290, 31 U.S.C. 483a, the requester shall be so notified.

§ 0.525 Declassification of classified information or material after 30 years.

All classified information or material which is 30 years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

(a) All information and material classified after June 1, 1972, shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(b) All information and material classified before June 1, 1972, and more than 30 years old is systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist separates and keeps protected only such information or material as is specifically identified by the head of the Department in accordance with paragraph (a) of this section. In such case, the head of the Department shall also specify the period of continued classification.

§ 0.526 Systematic reviews.

All information and material classified after the effective date of these regulations and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by each Bureau or Office for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under this section. During each calendar year each Bureau or Office shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Commission, or the Archives of the United States, if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

§ 0.527 Classification Review Committee.

The Committee shall establish procedures to review and act within 30 days

upon all applications and appeals regarding requests for declassification. The Commission acting through the Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the Committee determines that continued classification is required under the criteria of § 0.522, it shall promptly so notify the requester and advise him that he may file an application for review with the Commission and thereafter may appeal to the Interagency Classification Review Committee.

§ 0.528 Review of classified material over 30 years old.

A request by a member of the public or by a Department under § 0.525 to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist, together with the Commission, review the requested documents for declassification. Classifications shall be continued in either case only where the Chairman makes at that time the personal determination required by § 0.525. The Archivist notifies the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

§ 0.529 Availability of declassified material.

Upon a determination under §§ 0.524, 0.525, 0.526, or 0.528, that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of Title 5 U.S.C. (Freedom of Information Act) or other provision of law.

§ 0.530 Classification review requests.

A request for classification review must describe the document with sufficient particularity to enable the Commission to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

ACCESS TO CLASSIFIED MATERIALS

§ 0.541 Access by historical researchers.

Persons outside the executive branch engaged in historical research projects may be authorized access to classified information or material provided that the Commission determines that:

(a) The project and access sought conform to the requirements of section 12 of Executive Order 11652.

(b) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(c) The historical researcher agrees to safeguard the information or material in a manner consistent with the order and directives thereunder.

(d) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein. An authorization for access shall be valid for the period required but no longer than 2 years from the date of issuance unless renewed under Commission regulations.

§ 0.542 Access by former Presidential appointees.

Persons who previously occupied policymaking positions to which they were appointed by the President, may be authorized access to classified information or material which they originated, reviewed, signed or received while in public office. Upon the request of any such former official, such information and material as he may identify shall be reviewed for declassification.

[FR Doc.73-346 Filed 1-5-73;8:45 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 72-238R]

SUBCHAPTER C—UNINSPECTED VESSELS

PART 25—REQUIREMENTS

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

PART 184—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS EQUIPMENT

Light Intensity Standards

Sections 25.05-15(d) and 184.15-5(d) require compliance with certain intensity standards for new navigation lights installed and replacements of existing lights made on or after January 1, 1973. This date for compliance was predicated on the development and the issuance prior to that date of approval specifications for navigation lights. It now appears that these approval specifications cannot be developed and issued prior the present date. The amendments in this document extend the effective date for compliance with these light intensity standards from January 1, 1973, to January 1, 1974, in order to provide additional time for the development and issuance of these approval specifications.

Since the approval specifications for navigation lights have not yet been determined, compliance with §§ 25.05-15 (d) and 184.15-5(d) is not required, and since these amendments provide additional time for such a determination, imposing no additional burden on any person, notice and public procedure thereon are unnecessary and the amendments may be made effective in less than 30 days.

In consideration of the foregoing Parts 25 and 184 of Title 46 of the Code of Federal Regulations are amended as follows:

1. Section 25.05-15 is amended in paragraph (d) by revising the date of compliance as follows:

§ 25.05-15 Light intensity standards.

* * * * *

(d) The light intensity standards of this section shall apply to new navigation lights installed and replacement of existing lights made on or after January 1, 1974. Such lights shall be of an approved type.

2. Section 184.15-5 is amended in paragraph (d) by revising the date of compliance as follows:

§ 184.15-5 Light intensity standards.

* * * * *

(d) The light intensity standards of this section shall apply to new navigation lights installed and replacement of existing lights made on or after January 1, 1974. Such lights shall be of an approved type.

(Sec. 17, 54 Stat. 166, sec. 3, 70 Stat. 152, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 526p, 390(b), 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date: January 10, 1973.

Dated: January 2, 1973.

C. R. BENDER,
Admiral,
U.S. Coast Guard, Commandant.

[FR Doc.73-334 Filed 1-5-73;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

[Docket No. R72-222]

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

SPECIAL HAZARD AREA IDENTIFICATION

Temporary Discontinuance

It has been the practice of the Federal Insurance Administration to temporarily designate as a flood plain area having special flood hazards the entire area of each community becoming eligible for the sale of flood insurance under the emergency flood insurance program authorized under section 1336 of the National Flood Insurance Act of 1968.

This temporary designation previously effective on the date the community became eligible for the sale of flood insurance under the emergency program, would then be superseded by a designation based upon the issuance of a flood hazard boundary map or flood insurance rate map that delineate the actual boundaries of the special hazard areas in the community. This map was issued or approved upon completion of a flood hazard evaluation or ratemaking study in the community usually at the time the community was converted to participation in the regular flood insurance program.

The purpose of the temporary designation was to warn the community that certain of its areas, not yet identified with precision, were seriously flood-prone, and that subsequent new construction in the community should only be built using construction methods and practices that will minimize flood damage.

Under section 1308(c) of the Act, 42 U.S.C. 4015, any new construction or substantial improvement of property that is begun after the area in which it is located has been identified as a flood plain area having special flood hazards is not eligible for flood insurance at subsidized rates and may be insured only at actuarial rates established for the community as a result of the formal ratemaking study. Because such rates have yet to be established in most of the communities participating in the flood insurance program, the effect of temporarily designating entire communities as special hazard areas has been to deny flood insurance to all new construction undertaken in these communities.

It was anticipated that this denial would not continue for very long, on the assumption that the necessary ratemaking study for each participating community could be completed without undue delay. However, experience to date indicates that the various Federal agencies competent to undertake such ratemaking studies are heavily burdened with other duties, and that substantial delays are being encountered in converting many communities from the emergency to the regular program. This problem has been compounded by Hurricane Agnes, which has imposed an even greater workload on the agencies concerned, with the result that it may in some cases take 3 to 5 years to obtain the detailed data needed to establish actuarial rates for a given community.

Rather than deny flood insurance to all new construction within emergency program communities during this interim period, the Administrator has determined that it is in the public interest to discontinue the temporary designation of these communities as areas of special flood hazards while awaiting completion of the ratemaking study. The burden of the unforeseen delay, in the agency's view, should be borne by the Federal Government, rather than by the participating communities. In addition, it is anticipated that an agreement will soon be worked out with the U.S. Geological Survey which will result in the early development of flood hazard boundary maps identifying specific special flood hazard areas in participating communities.

In the interim, the following regulation modifies existing policy to permit communities to enter the emergency flood insurance program without the necessity of being designated special flood hazard areas at the time of such entry. New as well as existing construction will be permitted to obtain subsidized flood insurance under the emergency program until specific special flood hazard areas are identified. Once the flood hazard boundary map has been issued, however, subsequent new construction in special flood hazard areas will not be eligible for flood insurance except at actuarial rates and therefore must await completion of the ratemaking study to obtain such insurance.

This modification necessitates a revision of the table which appears in 24 CFR 1915.3, in which special hazard area identifications are published. Therefore, another purpose of these amendments is to publish a revised table of communities in which special flood hazard areas have been identified in conformity with the modified procedure.

Since, under this revision, identification of special hazard areas will become effective only upon the issuance or approval of a flood hazard boundary map or flood insurance rate map, the effective date of the applicable map will also be the effective date of such identification. Thus, prior listed effective dates of identification of special hazard areas not based on the issuance of a flood hazard boundary map or flood insurance rate map are being repealed and are not listed in the table below. (In addition, for communities with respect to which no flood hazard boundary map has been issued, the identifications of areas of special hazards and the effective dates of such identifications, which were listed in prior entries to the table, are not listed in the table below and are hereby repealed.)

As of December 31, 1972, there were effective identifications of areas of special hazards only for the communities listed in the following table. For each community listed in the table a flood hazard boundary map or flood insurance rate map has been issued or approved on the date listed for the community in the last column of the table, which therefore is the correct effective date of the identification of special hazard areas in the community.

To accomplish these purposes, the following amendments to Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations (1) revise the language of 24 CFR 1914.3 to state the modified procedure of designating areas of special hazards only upon their specific identification and (2) revise the table which appears in 24 CFR 1915.3 to conform all prior identifications of special hazards areas to the modified procedure.

It has been determined that comment and public procedure are impracticable and that, in order to permit new construction in eligible communities to be protected by flood insurance as quickly as possible, these changes shall be effective upon publication.

Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE

1. The introductory sentence of paragraph (a) of § 1910.3 is revised to read as follows:

§ 1910.3 Required land use and control measures for flood-prone areas.

* * * * *

(a) When the Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and/or has not provided sufficient data to identify the floodway or coastal high hazard area, the community must—

* * * * *

2. The introductory sentence of paragraph (a) of § 1910.4 is revised to read as follows:

§ 1910.4 Required land use and control measures for mudslide areas.

* * * * *

(a) When the Administrator has determined that a community is subject to mudslides but has not yet identified any area within the community as an area having special mudslide hazards, the community must—

* * * * *

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

3. Section 1914.3 is revised to read as follows:

§ 1914.3 Procedures under the emergency program.

(a) In order to expedite a community's qualification for flood insurance under the emergency program, the Administrator may authorize the sale of such insurance without first designating either the entire community or any part thereof as a flood plain area having special flood

hazards and/or a mudslide area having special mudslide hazards, provided the community has previously adopted land use and control measures meeting the requirements of § 1910.3(a) or § 1910.4(a) of this subchapter. When the Administrator has obtained sufficient technical information to delineate the special flood or mudslide hazard areas with reasonable accuracy, he may delineate, or he may request the community to delineate subject to his approval, the proposed boundaries of the specific areas having special flood or mudslide hazards on a flood hazard boundary map. The local map or plat used to prepare the flood hazard boundary map must be of sufficient scale to show the location of building sites.

(b) After the issuance or approval of the flood hazard boundary map, flood insurance will be available at chargeable rates for newly constructed or substantially improved properties only if they are located outside of the areas then delineated as having special flood or mudslide hazards. Newly constructed or substantially improved properties located within the delineated areas having special flood or mudslide hazards will be able to obtain flood insurance (at actuarial rates) only upon the completion of a ratemaking study for the community and the subsequent issuance by the Administrator of a flood insurance rate map.

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

4. The table which appears in § 1915.3 is revised to read as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alabama	Baldwin	Gulf Shores	H 01 003 1493 03 H 01 003 1493 04	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, AL 36104. Alabama Insurance Dept., Room 453, Administrative Bldg., Montgomery, Ala. 36104.	Town Hall, Gulf Shores, Ala. 36542	July 10, 1971.
Do	Mobile	Unincorporated areas.	H 01 097 0000 04 through H 01 097 0000 40.	do	County Engineer's Office, County Courthouse, 101 Government St., Mobile, AL 36601.	Jan. 8, 1972.
Do	do	Bayou La Batre	H 01 097 0250 01	do	Office of the City Clerk, City of Bayou La Batre, City Hall Bldg., Bayou La Batre, Ala. 36509.	Mar. 18, 1972.
Do	do	Chickasaw	H 01 097 0670 02	do	Office of the City Clerk, Chickasaw City Hall, 224 North Craft Highway, Chickasaw, AL 36611.	Apr. 27, 1972.
Do	do	Mobile	H 01 097 2100 08 through H 01 097 2100 41.	do	Office of the City Clerk, City Hall, Post Office Box 1827, Mobile, AL 36601.	Sept. 15, 1972.
Do	Coffee	Elba	H 01 031 1010 01 through H 01 031 1010 04.	do	City Hall, Elba, Ala. 36323. Coffee County Courthouse, Elba, Ala. 36323.	Oct. 11, 1972.
Alaska	Greater Anchorage Borough.	Chester and Campbell Creeks.	H 02 020 0130 01 through H 02 020 0130 06.	The Local Affairs Agency, Office of the Governor—Pouch AB, Juneau, Alaska 99801. Alaska Division of Insurance, Room 410, Goldstein Bldg., Pouch D, Juneau, Alaska 99801.	Planning Department, Greater Anchorage Area Borough, 104 West Northern Lights Blvd., Anchorage, AK 99503.	June 20, 1970.
Do	Greater Juneau Borough.		H 02 110 0000 01 through H 02 110 0000 06.	do	Greater Juneau Borough, 210 Admiral Way, Juneau, AK 99801.	May 22, 1970.
Do		Nenana	H 02 040 1760 01	do	Office of the City Clerk, City of Nenana, Nenana, Alaska 99760.	June 9, 1972.
Do	Fairbanks North Star Borough.	Fairbanks and vicinity.	H 02 020 0770 01	do	Fairbanks North Star Borough Planning Division, Post Office Box 1267, Fairbanks, AK 99701. City of Fairbanks Engineering Department, Post Office Box 790, Fairbanks, AK 99701.	June 25, 1969.
Do	do	North Pole	H 02 020 1895 01	do	do	May 15, 1970.
Do		Skagway	H 02 000 2370 02 H 02 000 2370 03	do	Office of the City Clerk, City Hall, Skagway, Alaska 99840.	Sept. 9, 1970.
Arkansas	Pope	Russellville	H 05 115 3450 03 through H 05 115 3450 09.	Division of Soil and Water Resources, State Dept. of Commerce, State Capitol Bldg., Little Rock, Ark. 72201. Arkansas Insurance Dept., 400 University Tower Bldg., Little Rock, Ark. 72204.	Office of the City Building Official, City of Russellville, Russellville, Ark. 72801.	July 18, 1970.
Do	Sebastian	Fort Smith	H 05 131 1370 08 through H 05 131 1370 14.	do	City Clerk's Office, Municipal Bldg., City of Fort Smith, Fort Smith, Ark. 72901.	Aug. 28, 1971.
California	Contra Costa	Concord	H 06 013 0820 02 through H 06 013 0820 23.	Dept. of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Dept., 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	City Hall, 1950 Parkside Ave., Concord, CA 94520.	Dec. 30, 1971.
Do	do	El Cerrito	H 06 013 1100 03 through H 06 013 1100 05.	do	City Hall, 10890 San Pablo Ave., El Cerrito, CA 94530.	Oct. 17, 1972.
Do	do	Lafayette	H 06 013 1779 09 through H 06 013 1779 14.	do	Office of the City Manager, City of Lafayette, 975 Oakland St., Lafayette, CA 94549.	July 13, 1972.
Do	do	Martinez	H 06 013 2090 09 through H 01 013 2090 16.	do	Office of the City Engineer, 525 Henrietta St., Martinez, CA 94553.	Aug. 7, 1971.
Do	do	Walnut Creek	H 06 013 4070 16 through H 06 013 4070 28.	do	Public Works Department, 1501 North California Blvd., Walnut Creek, CA 94596.	Nov. 9, 1971.
Do	Del Norte	Lower Klamath River Watershed, Zone 4.	H 06 015 0000 02	do	Del Norte County Flood Control District, Courthouse, Crescent City, Calif. 95531.	Sept. 2, 1970.
Do	Fresno	Unincorporated areas.	H 06 019 0000 26 through H 06 019 0000 49.	do	Land Development Division, Fresno County, Department of Public Works, 4499 East Kings Canyon Rd., Fresno, CA 93702.	Dec. 28, 1971.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Do.	Lake	Lakeport	H 06 033 1800 01 through H 06 033 1800 03.	do	Office of the Director of Public Works, City of Lakeport, City Hall Annex, Lakeport, Calif. 94553.	Oct. 26, 1972.
Do.	Los Angeles	Arcadia	H 06 037 0120 05 H 06 037 0120 06	do	Office of the City Clerk, City Hall, Post Office Box 60, Arcadia, CA 91006.	June 26, 1971 and Nov. 27, 1971.
Do.	do	Azusa	H 06 037 0230 03 through H 06 037 0230 06.	do	Office of the Director of Public Works, City of Azusa, 213 East Foothill Blvd., Azusa, CA 91702.	Dec. 23, 1971.
Do.	do	Burbank	H 06 037 0480 02 through H 06 037 0480 10.	do	City Hall, 275 East Olive Ave., Burbank, CA 91502.	June 26, 1971.
Do.	do	Covina	H 06 037 0890 03 H 06 037 0890 04	do	Office of the City Clerk, 125 East College St., Covina, CA 91722.	Sept. 18, 1971.
Do.	do	Glendale	H 06 037 1430 03 through H 06 037 1430 11.	do	Civil Defense Office, City Hall, 613 East Broadway, Glendale, CA 91205.	Mar. 10, 1972.
Do.	do	Glendora	H 06 037 1440 03 through H 06 037 1440 05.	do	Office of the City Clerk, Glendora City Hall, 116 East Foothill Blvd., Glendora, CA 91740.	Apr. 20, 1972.
Do.	do	Hawaiian Gardens	H 06 037 1552 02	do	Hawaiian Gardens City Hall, 12134 Tilbury St., Hawaiian Gardens, CA 90716.	May 14, 1971.
Do.	do	Industry	H 06 037 1692 05 through H 06 037 1692 12.	do	Office of the City Clerk, City of Industry, Post Office Box 3366, Industry, CA 91744.	June 16, 1972.
Do.	do	Inglewood	H 06 037 1700 02 through H 06 037 1700 05.	do	Public Works Department Office, City of Inglewood, Civic Center, 105 East Queen St., Inglewood, CA 90301.	Oct. 17, 1972.
Do.	do	La Puente	H 06 037 1845 03 H 06 037 1845 04.	do	Office of the City Clerk, City Hall, 15900 East Main St., La Puente, CA 91744.	June 26, 1971.
Do.	do	Monrovia	H 06 037 2220 05 through H 06 037 2220 13.	do	Public Works Department, City of Monrovia, 415 South Ivy Ave., Monrovia, CA 91016.	Sept. 15, 1971.
Do.	do	Monterey Park	H 06 037 2260 03 through H 06 037 2260 06.	do	Office of the City Engineer, 320 West Newmark Ave., Monterey Park, CA 91754.	Apr. 20, 1972.
Do.	do	Paramount	H 06 037 2684 05 H 06 037 2684 06.	do	Office of the City Clerk, 16420 South Colorado Ave., Paramount, CA 90723.	Mar. 31, 1972.
Do.	do	Pasadena	H 06 037 2700 04 through H 06 037 2700 13.	do	Office of the City Clerk, City of Pasadena, Room 218, City Hall, 100 North Garfield Ave., Pasadena, CA 00000.	May 5, 1972.
Do.	do	San Marino	H 06 037 3380 01 H 06 037 3380 02.	do	City Hall, City of San Marino, 2200 Huntington Dr., San Marino, CA 91108.	Mar. 18, 1972.
Do.	do	Sierra Madre	H 06 037 3620 01 H 06 037 3620 02.	do	City Hall, 55 West Sierra Madre Blvd., Sierra Madre, CA 91024.	Mar. 22, 1972.
Do.	do	South Pasadena	H 06 037 3020 01	do	Department of Public Works, 1414 Mission St., South Pasadena, CA 91030.	Apr. 18, 1972.
Do.	do	Walnut	H 06 037 4060 05 H 06 037 4060 06.	do	Office of the City Manager, City of Walnut, 20550 East Carrey Road, Walnut, CA 91789.	Nov. 27, 1971.
Do.	Marin	Corte Madera	H 06 041 0870 02 through H 06 041 0870 08.	do	Corte Madera Town Hall, Tamalpias and Willow Ave., Corte Madera, Calif. 94925.	Aug. 17, 1971.
Do.	do	Larkspur	H 06 041 1850 02	do	Larkspur City Hall, 400 Magnolia Ave., Larkspur, CA 94939.	July 31, 1971.
Do.	do	San Rafael	H 06 041 3410 15 through H 06 041 3410 28.	do	Public Works Office, Room 301, City Hall, 1400 5th Ave., San Rafael, CA 94902.	July 31, 1971.
Do.	Monterey	King City	H 06 053 1760 03 through H 06 053 1760 06.	do	City Hall, City of King City, 212 South Vanderhurst, King City, CA 93930.	June 26, 1971.
Do.	Orange	Huntington Beach.	H 06 059 1660 01 through H 06 059 1660 06.	do	Office of the City Engineer, City Hall, City of Huntington Beach, Post Office Box 190, Huntington Beach, CA 92648.	Sept. 15, 1972.
Do.	San Bernardino	Upland	H 06 071 4000 05 through H 06 071 4000 08.	do	City Administrative Offices, 123 East D St., Upland, CA 91786.	Apr. 20, 1972.
Do.	San Diego	Chula Vista	H 06 073 0710 06 through H 06 073 0710 12.	do	Engineering Dept., City of Chula Vista, Chula Vista, CA 92012.	Oct. 17, 1972.
Do.	San Mateo	Burlingame	H 06 081 0490 01 through H 06 081 0490 06.	do	Office of the City Clerk, 1st Floor, City Hall, 501 Primrose Rd., Burlingame, CA 94010.	Nov. 10, 1972.
Do.	do	South San Francisco.	H 06 081 3730 07 H 06 081 3730 08.	do	Office of the City Clerk, City Hall, 400 Grand Ave., South San Francisco, CA 94070.	July 1, 1970.
Do.	Sonoma	Guerneville and vicinity.	H 06 097 0000 01 H 06 097 0000 02.	do	Sonoma County Water Agency, Sonoma County Administration Bldg., 2555 Mendocino Ave., Santa Rosa, CA 95401.	June 17, 1970.
Do.	Tehama	Red Bluff	H 06 103 2940 03 through H 06 103 2940 06.	do	Office of the City Clerk, 555 Washington St., Red Bluff, CA 96080.	Oct. 23, 1971.
Do.	Tulare	Unincorporated areas.	H 06 107 0000 02 through H 06 107 0000 37.	do	Tulare County Planning Department, County Civic Center, Room 107 Courthouse, Visalia, Calif. 93277.	Dec. 23, 1971.
Do.	do	Woodlake	H 06 107 4250 02 through H 06 107 4250 04.	do	Office of the City Clerk, City of Woodlake, 350 North Valencia Blvd., Woodlake, CA 93286.	Nov. 10, 1972.
Do.	Ventura	Camarillo	H 06 111 0538 05 through H 06 111 0538 11.	do	Office of the Planning Director, 67 Palm Dr., Post Office Box 248, Camarillo, CA 93010.	Sept. 30, 1972.
Do.	do	Port Hueneme	H 06 111 2890 01 H 06 111 2890 02.	do	Office of the Director of Public Works, City Hall, 220 North Market St., Port Hueneme, CA 93041.	July 28, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Colorado	Adams and Jefferson.	Arvada	H 08 059 0080 01 through H 08 059 0080 05.	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, CO 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	Office of the City Engineer, City of Arvada, 8101 Ralson Rd., Arvada, CO 80002.	July 13, 1972.
Do	Arapahoe	Englewood	H 08 005 0740 03 H 08 005 0740 04.	do	Planning Office, City of Englewood, 3400 South Elati St., Englewood, CO 80110.	Feb. 9, 1972.
Do	Jefferson	Lakewood	H 08 059 1435 01 through H 08 059 1435 03.	do	City Engineer's Office, City of Lakewood, 1580 Yarrow St., Lakewood, CO 80215.	July 21, 1972.
Do	do	Wheat Ridge	H 08 059 2555 01 through H 08 059 2555 03.	do	Office of the City Clerk, Post Office Box 610, 7470 West 38th Ave., Wheat Ridge, CO 80033.	May 26, 1972.
Connecticut	Hartford	Hartford	H 09 003 0280 02 through H 09 003 0280 06.	Department of Environmental Protection, Director of Water and Related Resources, Room 225, State Office Bldg., Hartford, Conn. 06115. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, CT 06115.	Commission of the City Plan, 4th Floor, Municipal Bldg., 550 Main St., Hartford, CT 06103.	July 1, 1970.
Do	do	West Hartford	H 09 003 0823 03 through H 09 003 0823 09.	do	Office of the Town Clerk, Town Hall, West Hartford, Conn. 06107.	Sept. 25, 1971.
Do	Litchfield	Torrington	H 09 005 0760 02 through H 09 005 0760 13.	do	Municipal Bldg., City of Torrington, Torrington, Conn. 06790.	July 1, 1970.
Delaware	New Castle	Elsmere, Newark, and New Castle.	H 10 003 0000 04 through H 10 003 0000 12.	Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control, Tatnall Bldg., Capital Complex, Dover, Del. 19901. Delaware Insurance Department, 21 The Green, Dover, DE 19901.	Drainage Division, Department of Public Works, New Castle County Engineering Bldg., Post Office Box 165, Wilmington, DE 19899.	June 5, 1970.
Do	do	Except Elsmere, Newark and New Castle.	do	do	do	Dec. 7, 1971.
Florida	Alachua	Gainesville	H 12 001 1130 02 through H 12 001 1130 12.	Department of Community Affairs, 309 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Office of the City Manager, City Hall, Post Office Box 490, Gainesville, FL 32601.	Oct. 13, 1971.
Do	Brevard	Unincorporated areas.	H 12 009 0000 04 through H 12 009 0000 36.	do	Office of the Clerk of the Circuit Courthouse, 506 Palm Ave., Titusville, FL 32780.	Sept. 27, 1972.
Do	do	Cape Canaveral	H 12 009 0454 01 H 12 009 0454 02.	do	Building Official's Office, City Hall, 105 Polk Ave., Cape Canaveral, FL 32920.	Sept. 30, 1972.
Do	do	Cocoa Beach	H 12 009 0630 04 through H 12 009 0630 06.	do	Building Inspection Department, City of Cocoa Beach, Post Office Box 280, Cocoa Beach, FL 32931.	June 16, 1972.
Do	do	Indialantic	H 12 009 1483 01	do	Office of the Town Manager, Town of Indialantic, 216 4th Ave., Indialantic, FL 32901.	Aug. 18, 1972
Do	do	Indian Harbour Beach.	H 12 009 1471 01 H 12 009 1471 02.	do	City Hall, 40 Cheyenne Ct., Indian Harbour Beach, FL 32937.	June 16, 1972.
Do	do	Melbourne Beach	H 12 009 2000 02	do	Town Hall, Ocean Ave., Melbourne Beach, Fla. 32951.	Nov. 25, 1972.
Do	do	Titusville	H 12 009 3000 09 through H 12 009 3000 14.	do	Office of the City Engineer, City Hall, Titusville, Fla. 32780.	June 16, 1972.
Do	Broward	Unincorporated areas.	H 12 011 0000 02 through H 12 011 0000 04	do	Broward County Engineering Department, Room 365, County Courthouse, Fort Lauderdale, Fla. 33301.	Oct. 26, 1972.
Do	do	Deerfield Beach	H 12 011 0790 01 H 12 011 0790 02	do	City Engineer's Office, City of Deerfied Beach, 150 Northeast 2d Ave., Post Office Drawer AH, Deerfield Beach, FL 33441.	Nov. 10, 1972.
Do	do	Fort Lauderdale	H 12 011 1050 05 through H 12 011 1050 08.	do	Department of Engineering, City of Fort Lauderdale, 100 North Andrews Ave., Fort Lauderdale, FL 33302.	Nov. 7, 1972.
Do	do	Hallandale	H 12 011 1280 01 H 12 011 1280 02	do	City Hall, City of Hallandale, Hallandale, Fla. 33009.	Nov. 25, 1972.
Do	do	Hollywood	H 12 011 1420 01 through H 12 011 1420 03.	do	Department of Engineering, City of Fort Lauderdale, 100 North Andrews Ave., Fort Lauderdale, FL 33302.	Nov. 7, 1972.
Do	do	Lauderdale-by-the-sea.	H 12 011 1780 02	do	Town Hall, 4501 Ocean Dr., Lauderdale-by-the-Sea, FL 33308.	Oct. 27, 1972.
Do	do	Lighthouse Point	H 12 011 1826 01	do	City Hall, City of Lighthouse Point, Post Office Box 5100, 2200 38th St., Lighthouse Point, FL 33064.	Nov. 7, 1972.
Do	do	Wilton Manors	H 12 011 3250 01 through H 12 011 3250 03.	do	Office of the City Administrator, 525 North 21st Ct., Wilton Manors, FL 33444.	Oct. 27, 1972.
Do	Collier	Everglades	H 12 021 0970 02	do	Office of the City Clerk, City of Everglades, Everglades, Fla. 33929.	Oct. 11, 1972.
Do	Dade		H 12 025 0000 02 through H 12 025 0000 55.	do	Public Works Department, 1351 Northwest 12th St., Miami, FL 33125.	Sept. 30, 1972.
Do	Escambia	Navarre Beach	H 12 033 0000 02	do	Santa Rosa County Beach Administration, Route 1, Box 372, Gulf Breeze, FL 32561.	June 9, 1972.
Do	do	Pensacola Beach	H 12 033 2494 01 through H 12 033 2494 03.	do	Santa Rosa Island Authority No. 1, Via de Luna, Pensacola Beach, Fla. 32561.	May 26, 1970.
Do	Lee	Unincorporated areas.	H 12 071 0000 03 through H 12 071 0000 60.	do	Public Works Office, Lee County, Fort Myers, Fla. 33902.	Sept. 3, 1971.
Do	do	Fort Myers	H 12 071 1070 05 through H 12 071 1070 08.	do	Building and Zoning Department, City Hall, Post Office Drawer 2217, Fort Myers, FL 33902.	Apr. 9, 1971.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	Monroe	Unincorporated areas.	H 12 087 0000 01 through H 12 087 0000 03.	do.	Office of the Zoning County Courthouse, Key West, Fla. 33040.	June 20, 1970.
Do.	do.	Key Colony Beach.	H 12 087 1569 02	do.	Office of the City Clerk, City of Key Colony Beach, Key Colony Beach, Fla. 33051.	Do.
Do.	Okaloosa	Okaloosa Island Beaches, Holiday Isle.	H 12 091 3320 07	do.	Okaloosa Island Authority, 105 Santa Rosa Blvd., Okaloosa Island Beaches, Fort Walton Beach, FL 32548. Clerk of the Circuit Court, Okaloosa County Courthouse, Crestview, Fla. 32536.	Aug. 7, 1970.
Do.	do.	Okaloosa Island Beaches.	H 12 091 3328 05 H 12 091 3328 06.	do.	do.	May 22,1970.
Do.	do.	Valparaiso	H 12 091 3040 01 through H 12 091 3040 04.	do.	Valparaiso City Hall, 44 Southview Avenue, Valparaiso, FL 32580.	June 17, 1970.
Do.	Palm Beach	Unincorporated areas.	H 12 099 0000 05	do.	Board of County Commissioners, Palm Beach County, 301 North Olive Ave., West Palm Beach, FL 33401.	Do.
Do.	do.	Delray Beach	H 12 099 0820 05 through H 12 099 0820 08.	do.	Office of the City Engineer, City Hall, 100 Northwest 1st Ave., Delray Beach, FL 33444.	Apr. 9, 1970.
Do.	do.	Gulf Stream	H 12 099 1260 01	do.	Office of the Town Manager, Gulf Stream Town Hall, Post Office Box 255, Delray Beach, FL 33444.	Nov. 25, 1972.
Do.	do.	Highland Beach	H 12 099 1350 03 H 12 099 1350 04.	do.	Town of Highland Beach, 3612 South Ocean Blvd., Delray Beach, FL 33444.	Oct. 17, 1970.
Do.	do.	Jupiter	H 12 099 1560 01 through H 12 099 1560 05.	do.	Jupiter Town Hall, Town Hall Road Jupiter, Fla. 33458.	Sept. 27, 1972.
Do.	do.	Jupiter Inlet Colony.	H 12 099 1563 01	do.	Office of the Town Manager-Clerk, Town of Jupiter Inlet Colony, Box 728, Jupiter, FL 33458.	Sept. 27, 1972.
Do.	do.	Ocean Ridge	H 12 099 2280 02 H 12 099 2280 03	do.	Town Hall, 6450 North Ocean Blvd., Ocean Ridge, FL 33444.	Sept. 18, 1970.
Do.	do.	Palm Beach Shores.	H 12 099 2432 02	do.	Office of the Town Engineer, Town Hall, 247 Edwards Lane, Palm Beach Shores, FL 33404.	April 27, 1970 and June 26, 1971.
Do.	do.	Riviera Beach	H 12 099 2660 01 H 12 099 2660 02	do.	Office of the City Engineer, City of Riviera Beach, Post Office Box 9757, Riviera Beach, FL 33404.	Sept. 27, 1972.
Do.	Pinellas	Unincorporated areas.	H 12 103 0000 04 through H 12 103 0000 06.	do.	Pinellas County, Department of Planning, 315 Haven St., Clearwater, FL 33516.	June 18, 1971.
Do.	do.	Belleair	H 12 103 0200 02	do.	Town of Belleair, Town Hall, 901 Ponce de Leon Rd., Belleair, Clearwater, FL 33516.	May 14, 1971.
Do.	do.	Belleair Beach	H 12 103 0201 02	do.	Municipal Bldg., City of Belleair Beach, 444 Causeway Blvd., Belleair Beach, FL 33535.	Do.
Do.	do.	Belleair Shore	H 12 103 0202 02	do.	Office of the Mayor-Commissioner, 1740 Gulf Blvd., Belleair Shore, FL 33535.	Do.
Do.	do.	Clearwater	H 12 103 0570 05 through H 12 103 0570 08.	do.	City Hall Lobby, Clearwater City Hall, Clearwater, FL 33518.	June 9, 1971.
Do.	do.	Dunedin	H 12 103 0860 03 H 12 103 0860 04	do.	Planner's Office, City Hall, 755 Milwaukee Ave., Dunedin, FL 33528.	May 14, 1971.
Do.	do.	Gulfport	H 12 103 1250 02	do.	City Hall, 2401 53d St. South, Gulfport, FL 33707.	May 21, 1971.
Do.	do.	Indian Rocks Beach, South Shore.	H 12 103 1479 02	do.	Municipal Office, 19305 Gulf Blvd., Indian Rocks Beach, South Shore, FL 33535.	May 22, 1970.
Do.	do.	Largo	H 12 103 1770 02 through H 12 103 1770 05.	do.	Town Manager's Office, 225 1st Ave. SW., Largo, FL 33540.	May 28, 1971.
Do.	do.	Madeira Beach	H 12 103 1880 03 H 12 103 1880 04	do.	Office of the City Clerk, Municipal Bldg., 300 Municipal Dr., Madeira Beach, FL 33708.	June 5, 1970.
Do.	do.	North Redington Beach.	H 12 103 2236 02	do.	Municipal Office Bldg., 190 173d Ave., St. Petersburg, FL 33708.	May 22, 1970.
Do.	do.	Redington Beach	H 12 103 2650 02	do.	Town Hall, 105 164th Ave., Redington Beach, St. Petersburg, FL 33708.	May 15, 1970.
Do.	do.	Redington Shores	H 12 103 2652 02	do.	Office of the Town Clerk, Municipal Bldg., 17798 Gulf Blvd., Redington Shores, FL 33708.	May 8, 1971.
Do.	do.	Safety Harbor	H 12 103 2680 03 H 12 103 2680 04.	do.	Office of the City Clerk, City Hall, 709 Main St., Safety Harbor, FL 33572.	May 14, 1971.
Do.	do.	St. Petersburg	H 12 103 2730 05 through H 12 103 2730 08.	do.	Department of Buildings, City of St. Petersburg, 650 16th St. North, St. Petersburg, FL 33713.	May 28, 1971.
Do.	do.	St. Petersburg Beach.	H 12 103 2740 02	do.	Municipal Bldg., 7701 Boca Ciega Dr., St. Petersburg Beach FL 33706.	May 22, 1970.
Do.	do.	South Pasadena	H 12 103 2873 02	do.	Town Hall, Town of South Pasadena, South Pasadena, Fla. 33707.	June 17, 1970.
Do.	do.	Treasure Island	H 12 103 3010 05 through H 12 103 3010 08.	do.	Office of the City Manager, 120 108th Ave., Treasure Island, FL 33706.	May 8, 1971.
Do.	St. Johns	St. Augustine	H 12 109 2690 03	do.	Office of the City Manager, City of St. Augustine, St. Augustine, Fla. 32084.	Oct. 11, 1972.
Do.	do.	St. Augustine Beach.	H 12 109 2691 02	do.	Office of the Town Clerk, Town Bldg., No. 7, St. Augustine Beach, Fla. 32084.	Sept. 30, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	Sarasota	Unincorporated areas.	H 12 115 2780 05 through H 12 115 2780 08.	do.	Office of the Clerk to the County Commission, Sarasota County Courthouse, Room 21, Sarasota, Fla. 33578.	July 31, 1971.
Do.	do.	Venice	H 12 115 3050 02 through H 12 115 3050 05.	do.	Office of the City Clerk, City Hall, 401 West Venice Ave., Venice, FL 33595.	do.
Georgia	Chatham	Savannah	H 13 051 4910 03 through H 13 051 4910 06.	Bureau of State Planning and Community Affairs, 270 Washington St. SW., Atlanta, GA 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Department of Inspections, Post Office Box 1027, Savannah, GA 31401.	May 21, 1971.
Do.	do.	Savannah Beach	H 13 051 4920 03 through H 13 051 4920 06.	do.	Office of the City Clerk, Post Office Box 128, Savannah Beach, GA 31328.	Jan. 14, 1972.
Do.	De Kalb	Unincorporated areas.	H 13 089 0000 01 through H 13 089 0000 07.	do.	De Kalb County Planning Department, Room 340, De Kalb Annex Bldg., 556 North McDonough St., Decatur, GA.	June 5, 1970.
Do.	do.	Decatur	H 13 089 1610 03 H 13 089 1610 04	do.	Office of the City Clerk, City of Decatur, Post Office Box 220, Decatur, GA 30030.	June 11, 1971.
Do.	De Kalb and Fulton.	Atlanta	H 13 121 0280 11 through H 13 121 0280 21.	do.	City Planning Department, Room 700, City Hall, Atlanta, Ga. 30303.	Oct. 14, 1971.
Do.	Fulton	Unincorporated areas.	H 13 121 0000 15 through H 13 121 0000 48.	do.	Fulton County Planning Department, Room 305, 165 Central Ave., SW., Atlanta, GA 30303.	Nov. 2, 1971.
Do.	Muscogee	Columbus	H 13 215 1280 07 through H 13 215 1280 17.	do.	Office of the Building Official, City of Columbus, Post Office Box 1340, Columbus, GA 31902.	Oct. 30, 1970.
Hawaii	Hawaii	Hilo and vicinity	H 15 001 1900 05 through H 15 001 1900 08.	Board of Land and Natural Resources, Department of Land and Natural Resources, Box 621, Honolulu, HI 96809. Hawaii Insurance Division, Box 3614, Honolulu, HI 96811.	County of Hawaii Planning Department, 25 Aupuni St., Hilo, HI 96720.	June 5, 1970.
Do.	do.	Honolulu and vicinity.	H 15 003 2400 01 through H 15 003 2400 15.	do.	Office of the City Clerk, City Hall, Honolulu, Hawaii 96813.	Do.
Illinois	Greene	Rock Island	H 17 161 7470 01 through H 17 161 7470 09.	Department of Local Government Affairs, 325 West Adams St., Room 406, Springfield, IL 62706. Illinois Insurance Department, 525 West Jefferson St., Springfield, IL 62702.	Rock Island City Planning Department, Rock Island City Hall, 1528 3d Ave., Rock Island, IL 61201.	June 9, 1972.
Indiana	Jay	Portland	H 18 075 4040 01 H 18 075 4040 02	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Office of the City Clerk Treasurer, City Hall, Portland, Ind. 47871.	May 13, 1972.
Do.	Lake	Highland	H 18 089 2090 01 H 18 089 2090 02.	do.	Town Hall, 3333 Ridge Rd., Highland, IN 46322.	May 19, 1972.
Do.	do.	Griffith	H 18 089 1970 03 through H 18 089 1970 05.	do.	Office of the Clerk Treasurer, Town of Griffith, 111 North Broad St., Griffith, IN 46319.	Apr. 18, 1972.
Iowa	Clayton	Marquette	H 19 043 5310 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Office of the Town Clerk, Town of Marquette, Marquette, Iowa 52158.	Jan. 19, 1972.
Do.	do.	McGregor	H 19 043 5080 01	do.	Office of the Town Clerk, Town of McGregor, McGregor, Iowa 52157.	Do.
Do.	Dubuque	Dubuque	H 19 061 2430 03 through H 19 061 2430 12.	do.	City Engineering Department, City Hall, Dubuque, Iowa 52001.	May 15, 1970.
Do.	Webster	Fort Dodge	H 19 187 3020 07 through H 19 187 3020 12.	do.	City Clerk's Office, Municipal Bldg., Fort Dodge, Iowa 50501.	Apr. 8, 1971.
Kansas	Finney	Garden City	H 20 055 1950 01	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	City Hall, 116 East Chestnut, Garden City, KS 67846.	Mar. 3, 1972.
Do.	Ford	Dodge City	H 20 057 1370 01 H 20 057 1370 02	do.	Office of the City Manager, 705 1st Ave., Dodge City, KS 67801.	May 19, 1972.
Do.	Johnson	Fairway	H 20 091 1770 03	do.	Fairway City Hall, 5244 Norwood Rd., Shawnee Mission, KS 66205.	June 20, 1970.
Do.	Shawnee	Topeka	H 20 177 5400 05 through H 20 177 5400 19.	do.	City Engineering Department, City Hall, 7th and Quincy Sts., Topeka, Kans. 66603.	Oct. 23, 1971.
Kentucky	Bell	Middlesboro	H 21 013 2220 03 H 21 013 2220 04	Division of Water, Kentucky Department of Natural Resources, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Office of the City Clerk, City Hall, City of Middlesboro, North 20th St. and Lothbury Ave., Middlesboro, Ky. 40965.	May 27, 1971.
Do.	Perry	Hazard	H 21 193 1470 03 H 21 193 1470 04	do.	City Hall, City of Hazard, High St., Hazard, Ky. 41701.	Mar. 10, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Louisiana	Acadia Parish	Crowley	H 22 001 0520 01 through H 22 001 0520 04.	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, LA 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, LA 70804.	City Hall, Corner of Avenue F and 5th St., Crowley, La. 70526.	July 1, 1972.
Do	East Baton Rouge Parish.	Baton Rouge and vicinity.	H 22 033 0150 01 through H 22 033 0150 16.	do	Office of the Chief Engineer, Room 406, Municipal Bldg., Baton Rouge, La. 70821.	June 20, 1970.
Do	do	Baker	H 22 033 0100 01	do	Office of the City Clerk, City Hall, Post Office Box 308, Baker, LA 70714.	Sept. 9, 1970.
Do	Cameron Parish		H 22 023 0000 06 through H 22 023 0000 09.	do	Office of the Parish Treasurer, Police Jury Annex, Cameron, La. 70631.	June 20, 1970.
Do	Jefferson Parish	Metarie	H 22 023 1545 01	do	Jefferson Parish Department of Sanitation, 648 Helois St., Metairie, LA 70005.	June 25, 1969.
Do	do	Terrytown and vicinity.	H 22 051 2246 02 through H 22 051 2246 14.	do	do	Mar. 13, 1970.
Do	do	Remainder	do	do	do	Oct. 13, 1971.
Do	do	Grand Isle	H 22 051 0920 03 H 22 051 0920 04.	do	Office of the Town Clerk, Town Hall, Oleander Ave., Grand Isle, La. 70358.	Oct. 20, 1970.
Do	do	Gretna	H 22 051 0950 03 H 22 051 0950 04.	do	City Hall, Hughy P. Long Ave. and 2d St., Gretna, La. 70053.	June 18, 1971.
Do	do	Kenner	H 22 051 1190 05 through H 22 051 1190 08.	do	Regulatory Department, 1801 Williams Blvd., Kenner, LA 70062.	June 26, 1971.
Do	Lafourche Parish	Unincorporated areas.	H 22 057 0000 03 H 22 057 0000 04.	do	Lafourche Parish Courthouse, Thibodaux, La. 70301.	May 8, 1971.
Do	do	Golden Meadow	H 22 057 0850 02	do	Mayor's Office, 313 North Bayou Dr., Golden Meadow, LA 70357.	Nov. 20, 1970.
Do	Orleans Parish	Inner harbor and citrus area.	H 02 071 0000 02 through H 02 071 0000 30.	do	City Planning Commission, Room 4W04 City Hall, 1300 Perdido St., New Orleans, LA 70112.	Mar. 13, 1970.
Do	do	Except inner harbor and citrus area.	do	do	do	Oct. 19, 1971.
Do	St. Bernard's Parish.	Verret to Hopedale-Delacroix.	H 22 087 0000 01	do	Office of the Parish Engineer, St. Bernard's Parish Courthouse, Chalmette, La. 70043.	Mar. 12, 1970.
Do	do	Violet to Verret	H 22 087 0000 02	do	do	Do.
Do	do	Orleans-St. Bernard Parish line to Violet.	H 22 087 0000 03 through H 22 087 0000 07.	do	do	Mar. 31, 1970.
Do	St. Tammany Parish.	Unincorporated areas.	H 22 103 0000 13 through H 22 103 0000 28.	do	Department of Planning and Engineering, Suite M3, Courthouse, Covington, La. 70433.	Apr. 27, 1971.
Do	Terrebonne Parish.	Unincorporated areas.	H 22 109 0000 05 through H 22 109 0000 08.	do	Office of the Secretary-Treasurer, Terrebonne Parish, Post Office Box 367, Houma, LA 70360.	Nov. 20, 1970.
Maryland	Prince George's	Except Laurel	H 24 033 0000 10 through H 24 033 0000 79.	Department of Water Resources, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 301 West Preston St., Baltimore, MD 21201.	Department of Inspections and Permits, County Service Bldg., Hyattsville, Md. 20781.	Aug. 4, 1972.
Do	Worcester	Ocean City	H 24 047 1150 03 H 24 047 1150 04.	do	Office of the City Engineer, Town of Ocean City, Ocean City, Md. 21842.	July 1, 1970.
Massachusetts	Bristol	Somerset	H 25 005 1185 03 through H 25 005 1185 07.	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, MA 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, MA 02202.	Office of the Board of Selectmen, Town Office Bldg., Somerset, Mass. 02726.	Mar. 18, 1972.
Do	do	Swansea	H 25 005 1268 05 through H 25 005 1268 10.	do	Office of the Board of Selectmen, Town Hall, Main St., Swansea, Mass 02777.	June 20, 1970 and Aug. 7, 1971.
Do	do	Westport	H 25 005 1441 02 H 25 005 1441 03.	do	Town Office Bldg., Main Rd., Westport, Mass. 02790.	July 16, 1971.
Do	Norfolk	Holbrook	H 25 021 0488 02	do	Office of the Planning Board, Town Hall, Holbrook, Mass. 02343.	Apr. 28, 1972.
Do	do	Norfolk	H 25 021 0877 02 through H 25 021 0877 05.	do	Office of the Town Clerk, Town Hall, Norfolk, Mass. 02056.	Aug. 7, 1970.
Do	Plymouth	Wareham	H 25 023 1360 02 through H 25 023 1360 05.	do	Selectmen's Office, Memorial Town Hall, Wareham, Mass. 02571.	May 27, 1971.
Minnesota	Blue Earth	Unincorporated areas.	H 27 013 0000 01 through H 27 013 0000 14.	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	City-County Planner, City Hall, 202 East Jackson St., Mankato, MN 56001.	Nov. 25, 1972.
Do	do	Mankato	H 27 013 4480 03 H 27 013 4480 04.	do	Mankato City Engineering Dept., 202 East Jackson St., Mankato, MN 56001.	Dec. 22, 1972.
Do	Carver	Carver	H 27 019 1090 01 H 27 019 1090 02.	do	Carver Village Hall, Main St., Carver, Minn. 55315.	Sept. 12, 1972.
Do	do	Chaska	H 27 019 1180 03 H 27 019 1180 04.	do	Chaska City Hall, 205 East 4th St., Chaska, MN 55318.	Do.
Do	Chippewa	Montevideo	H 27 023 4840 01 H 27 023 4840 02.	do	Montevideo City Hall, 103 Canton Ave., Montevideo, MN 56265.	May 26, 1972.
Do	Clay	Unincorporated areas.	H 27 027 0000 02 through H 27 027 0000 21.	do	Office of the Codes Administrator, Clay County Planning Commission, Post Office Box 533, Moorhead, MN 56560.	May 5, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	do.	Moorhead	H 27 027 4880 01 H 27 027 4880 02.	do.	Office of the City Engineer, Box 779, Moorhead, MN 56560.	Feb. 18, 1972.
Do.	Hennepin	Bloomington	H 27 053 0675 03 through H 27 053 0675 06.	do.	Planning Department, City of Bloomington, 2215 West Shakopee Rd., Bloomington, MN 55431.	Sept. 12, 1972.
Do.	Mower	Austin	H 27 099 0290 06 through H 27 099 0290 10.	do.	Office of the City Engineer, Municipal Bldg., 500 Northeast 4th Ave., Austin, MN 55912.	May 14, 1971.
Do.	Nicollet	North Mankato	H 27 103 5280 02	do.	City of North Mankato Municipa Bldg., 1001 Belgrade Ave., North Mankato, MN 56001.	Apr. 28, 1972.
Do.	Olmsted	Rochester	H 27 109 5060 02 through H 27 109 5060 05.	do.	Office of the City Clerk, City Hall, Rochester, Minn. 55901.	Mar. 30, 1970 and Mar. 27, 1971.
Do.	Washington	Afton	H 27 163 0040 02 through H 27 163 0040 05.	do.	Afton Village Hall, Afton, Minn. 55001.	Apr. 20, 1972.
Do.	do.	Bayport	H 27 163 0430 01	do.	Office of the Village Clerk, Village Hall, Bayport, Minn. 55003.	May 13, 1972.
Do.	do.	Lakeland	H 27 163 3940 01	do.	Village Hall, Village of Lakeland, Lakeland, Minn. 55043.	Feb. 9, 1972.
Do.	do.	Lakeland Shores	H 27 163 3950 01	do.	Office of the Mayor, Village of Lakeland Shores, Lakeland, Minn. 55043.	Apr. 28, 1972.
Do.	do.	Lake St. Croix Beach.	H 27 163 3976 01	do.	Office of the Village Clerk, 482 Maple St., Lake St. Croix Beach, MN 55001.	Feb. 18, 1972.
Do.	do.	St. Mary's Point	H 27 163 6314 01	do.	Office of the Mayor, Village of St. Mary's Point, Route 1, Lakeland, Minn. 55043.	Feb. 28, 1972.
Do.	Wilkin	Breckenridge	H 27 167 0790 02	do.	Office of the City Clerk, City of Breckenridge, City Hall, Breckenridge, Minn. 56520.	Sept. 2, 1970.
Do.	Winona	Winona	H 27 169 7660 03 through H 27 169 7660 07.	do.	Office of the Planning Director, Room 8, Municipal Bldg., Winona, Minn. 55987.	Apr. 30, 1972.
Mississippi	Forrest	Hattiesburg	H 28 035 1050 01	Mississippi Research and Development Center, Post Office Drawer 2470, Jackson, MS 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., Post Office Box 79, Jackson, MS 39205.	Office of the City Clerk, City Hall, Hattiesburg, Miss. 39402.	Apr. 3, 1970.
Do.	Hancock	Unincorporated areas, southern part.	H 28 045 0000 01 through H 28 045 0000 07.	do.	Office of the Chancery Clerk, Hancock County Courthouse, Bay St. Louis, Miss. 39520.	Sept. 9, 1970.
Do.	do.	Bay St. Louis	H 28 045 0130 02	do.	City Hall, City of Bay St. Louis, South 2d St., Bay St. Louis, Miss. 39520.	July 1, 1970.
Do.	do.	Waveland	H 28 045 2740 02	do.	Office of the Town Clerk, Town Hall, Waveland, Miss. 39576.	Do.
Do.	Harrison	Unincorporated areas, southern part.	H 28 047 0000 03 through H 28 047 0000 08.	do.	Clerk of the Board of Supervisors, Harrison County, Post Office Drawer CC, Gulfport, MS 39501.	Sept. 18, 1970.
Do.	do.	Biloxi	H 28 047 0230 03 H 28 047 0230 04.	do.	Office of the Building Official, City Hall, 216 Lamuse St., Biloxi, MS 39530.	July 1, 1970.
Do.	do.	Gulfport	H 28 047 1020 03 H 28 047 1020 04.	do.	Office of the City Clerk, City of Gulfport, City Hall, Post Office Box 1780, Gulfport, MS 39501.	May 26, 1970.
Do.	do.	Long Beach	H 28 047 1380 02	do.	Office of the City Clerk, City Hall, Long Beach, Miss. 39560.	June 17, 1970.
Do.	do.	Pass Christian	H 28 047 1910 02	do.	Temporary City Hall, 111 Helm Ave., Pass Christian, MS 39571.	May 26, 1970.
Do.	Jackson	Unincorporated areas, southern part.	H 28 059 0000 03 through H 28 059 0000 07.	do.	Jackson County Planning Commission Office, Courthouse, Pascagoula, Miss. 39567.	Sept. 18, 1970.
Do.	do.	Moss Point	H 28 059 1080 01 through H 28 059 1080 05.	do.	Office of the Building Inspector, Denny and Harris Sts., Moss Point, Miss. 39563.	Do.
Do.	do.	Ocean Springs	H 28 059 1810 02	do.	City Hall, 1010 Porter Ave., Ocean Springs, MS 39564.	Sept. 9, 1970.
Do.	do.	Pascagoula	H 28 059 1900 05 through H 28 059 1900 08.	do.	Office of the City Clerk, City of Pascagoula, Post Office Drawer 908, Pascagoula, MS 39567.	Sept. 18, 1970.
Missouri	Audrain	Mexico	H 29 007 5170 01 through H 29 007 5170 06.	Water Resources Board, Post Office Box 271, Jefferson City, MO 65101. Division of Insurance, Post Office Box 690, Jefferson City, MO 65101.	City Engineering Department, City Hall, Mexico, Mo. 65265.	May 26, 1972.
Do.	Boone	Columbia	H 29 019 1800 06 through H 29 019 1800 25.	do.	Office of the City Clerk, Municipal Bldg., Columbia, Mo. 65201.	Aug. 28, 1971.
Do.	Cass	Pleasant Hill	H 29 037 6360 01 through H 29 037 6360 03.	do.	Office of the Mayor, City of Pleasant Hill, City Hall, 203 Paul St., Pleasant Hill, MO 64080.	Sept. 15, 1972.
Do.	Clay	Smithville	H 29 047 7370 02	do.	Smithville City Hall, 108 South Bridge St., Smithville, MO 64089.	June 5, 1970 and May 21, 1971.
Do.	Jefferson	De Soto	H 29 099 2200 03 H 29 099 2200 04.	do.	Office of the City Manager, City of De Soto, 413 Second St., De Soto, MO 63020.	May 26, 1972.
Do.	Phelps	Newberg	H 29 161 5610 01	do.	Office of the City Clerk, City of Newburg, City Hall, Newburg, Mo. 65550.	Apr. 28, 1972.
Nebraska	Douglas	Omaha	H 31 055 3620 03 H 31 055 3620 04.	Nebraska Natural Resources Commission, State Capitol Bldg., Lincoln, Nebr. 68509. Nebraska Insurance Department, 1335 L St., Lincoln, NE 68509.	Planning Department, City of Omaha, 603 City Hall, 108 South 18th St., Omaha, NE 68102.	May 8, 1971.
Do.	Lancaster	Lincoln	H 31 109 2830 07 through H 31 109 2830 15.	do.	Salt Valley Watershed District, Federal Securities Bldg., Lincoln, Nebr. 68509.	Apr. 27, 1971.
Do.	Sarpy	Papillion	H 31 153 3800 01	do.	Office of the Mayor, City of Papillion, 146 North Adams, Papillion, NE 68046.	Aug. 18, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Nevada	Clark	Las Vegas	H 32 003 0120 01 through H 32 003 0120 08, H 31 109 2830 15.	Division of Water Resources, Department of Conservation and Natural Resources, Nye Bldg., Carson City, Nev. 89701. Nevada Insurance Division, Department of Commerce, Nye Bldg., Carson City, Nev. 89701.	Public Works Department, 821 Las Vegas Blvd. North, Las Vegas, NV 89101.	Dec. 2, 1972.
New Jersey	Atlantic	Atlantic City	H 34 001 0000 03, H 34 001 0000 04.	Division of Water Resources, Department of Environmental Protection, Post Office Box 1390, Trenton, NJ 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Office of the City Engineer, Room 603, City Hall, Atlantic City, N.J. 08401.	June 18, 1971.
Do.	do.	Brigantine	H 34 001 0440 02	do.	Office of the City Clerk, 1417 West Brigantine Ave., Brigantine, NJ 08203.	May 15, 1970.
Do.	do.	Longport Borough.	H 34 001 1770 03	do.	Borough Clerk's Office, Borough Hall, 2301 Atlantic Ave., Longport, NJ 08403.	Aug. 12, 1970.
Do.	do.	Margate City	H 34 001 1830 02	do.	Office of the City Clerk, Washington and Ventnor Aves., Margate City, N.J. 08402.	June 18, 1971.
Do.	do.	Ventnor City	H 34 001 3440 02, H 34 001 3440 03.	do.	Office of the City Engineer, City Hall, Ventnor City, N.J. 08406.	Do.
Do.	Bergen	Oakland	H 34 003 2330 01	do.	Borough Clerk's Office, Municipal Bldg., Oakland, N.J. 07436.	July 1, 1970.
Do.	Burlington	Burlington	H 34 005 0480 02 through H 34 005 0480 05.	do.	Office of the City Clerk, City Hall, 432 High St., Burlington, NJ 08016.	July 23, 1971.
Do.	Cape May	Avalon	H 34 009 0130 03, H 34 009 0130 04.	do.	Office of the Borough Clerk, Borough Hall, 33d and Dune Dr., Avalon, N.J. 08202.	Apr. 17, 1970.
Do.	do.	Cape May City	H 34 009 0530 06 through H 34 009 0530 08.	do.	Office of the Building Inspector, Cape May City Hall, Cape May, N.J. 08240.	Aug. 7, 1970.
Do.	do.	Cape May Point Borough.	H 34 009 0550 02	do.	Office of the Cape May Point Building Insepctor, Borough Pump House, Light House Ave., Cape May Point, N.J. 08212.	July 1, 1970.
Do.	do.	North Wildwood	H 34 009 2280 02	do.	Office of the Tax Collector, City of North Wildwood, 901 Atlantic Ave., North Wildwood, NJ 08260.	Mar. 6, 1971.
Do.	do.	Ocean City	H 34 009 2370 02	do.	Office of the City Engineer, City Hall, 9th St. and Asbury Ave., Ocean City, N.J. 08226.	Apr. 17, 1970.
Do.	do.	Sea Isle City	H 34 009 3000 03, H 34 009 3000 04.	do.	Office of the City Clerk, City Hall, 4416 Landis Ave., Sea Isle City, NJ 08243.	June 17, 1970.
Do.	do.	Stone Harbor	H 34 009 3260 03, H 34 009 3260 04.	do.	Borough Clerk's Office, Municipal Bldg., 95th and 3d Ave., Stone Harbor, N.J. 08247.	Jan. 8, 1971.
Do.	do.	West Wildwood	H 34 009 3630 02	do.	Borough of West Wildwood, 701 West Glenwood Ave., West Wildwood, NJ 08260.	Do.
Do.	do.	Wildwood	H 34 009 3670 02	do.	Office of the Treasurer, City of Wildwood, Municipal Bldg., 4400 New Jersey Ave., Wildwood, NJ 08260.	June 5, 1970.
Do.	do.	Wildwood Crest	H 34 009 3680 03, H 34 009 3680 04.	do.	Borough Hall, 6101 Pacific Ave., Wildwood Crest, NJ 08260.	Feb. 26, 1971.
Do.	Hunterdon	Lebanon Borough.	H 34 019 1660 01 through H 34 019 1660 08.	do.	Office of the Borough Clerk, Municipal Offices, Sammis Bldg., Lebanon N.J. 08833.	Aug. 18, 1972.
Do.	do.	Stockton Borough.	H 34 019 3250 01	do.	Borough Hall, Main St., Stockton, N.J. 08559.	June 16, 1972.
Do.	Mercer	Ewing Township.	H 34 021 0935 02 through H 34 021 0935 07.	do.	Office of the Township Clerk, Township Municipal Bldg., 1872 Pennington Rd., Trenton, NJ 08618.	Aug. 25, 1972.
Do.	do.	Trenton	H 34 021 3380 03 through H 34 021 3380 06.	do.	City Engineer's Office, City Hall, East State St., Trenton, N.J. 08608.	Dec. 7, 1971.
Do.	Middlesex	Middlesex Borough.	H 34 023 1920 02 through H 34 023 1920 06.	do.	Borough Clerk's Office, Municipal Bldg., 1200 Mountain Ave., Middlesex, NJ 08846.	July 10, 1971.
Do.	do.	Woodbridge Township.	H 34 023 3705 06 through H 34 023 3705 14.	do.	Division of Engineering, Woodbridge Township, 1 Main St., Woodbridge, NJ 07095.	June 3, 1972.
Do.	Monmouth	Belmar Borough.	H 34 025 0250 01	do.	Office of the Municipal Clerk, Borough of Belmar, Belmar, N.J. 07719.	May 13, 1972.
Do.	do.	Highlands Borough.	H 34 025 1390 02	do.	Office of the Borough Clerk, Borough of Highlands, 171 Bay Ave., Monmouth County, NJ 07732.	Sept. 3, 1971.
Do.	do.	Manasquan Borough.	H 34 025 1800 03	do.	Office of the Borough Clerk, Borough Hall, 15 Taylor Ave., Manasquan, NJ 08736.	May 13, 1972.
Do.	do.	Sea Bright	H 34 025 2980 02, H 34 025 2980 03	do.	Office of the Borough Clerk, Borough of Sea Bright, Monmouth County, 1099 East Ocean Ave., Monmouth County, NJ 07760.	Oct. 14, 1971.
Do.	Morris	Denville Township.	H 34 027 0745 03, H 34 027 0745 04.	do.	Township Clerk's Office, Municipal Bldg., 95 East Main St., Denville, NJ 07834.	June 26, 1971.
Do.	do.	Dover Township	H 34 027 0750 05 through H 34 027 0750 08.	do.	Township Clerk's Office, Town Hall, 33 Washington St., Toms River, NJ 08753.	Mar. 22, 1972.
Do.	do.	Lincoln Park Borough.	H 34 027 1690 05 through H 34 027 1690 08.	do.	Borough Clerk's Office, Municipal Bldg., Lincoln Park, N.J. 07035.	Sept. 15, 1971.
Do.	do.	Pequannock Township.	H 34 027 2567 02	do.	Office of the Township Clerk, Township of Pequannock, Municipal Bldg., 530 Turnpike, Pompton Plains, NJ 07444.	May 21, 1971.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	do.	Rockaway Borough.	H 34 027 1850 04 through H 34 027 1850 06.	do.	Borough Clerk's Office, Municipal Bldg., Borough of Rockaway, 1 East Main St., Rockaway, NJ 07866.	Sept. 3, 1971.
Do.	Ocean	Barnegat Light Borough.	H 34 029 0150 02.	do.	Borough Hall, Borough of Barnegat Light, West 10th St., Barnegat Light, NJ 08006.	June 5, 1970.
Do.	do.	Bay Head	H 34 029 0180 02.	do.	Office of the Borough Clerk, Borough Hall, 67 Bridge Ave., Bay Head, NJ 08742.	Aug. 17, 1971.
Do.	do.	Beach Haven Borough.	H 34 029 0200 02.	do.	Office of the Borough Clerk, Municipal Bldg., Bay and Engleside Ave., Beach Haven, N.J. 08008.	June 17, 1970.
Do.	do.	Brick Township.	H 34 029 0416 03 through H 34 029 0416 14.	do.	Town Hall, Brick Township, 609 Brick Blvd., Laurelton, Brick Township, NJ 08723.	Aug. 4, 1972.
Do.	do.	Harvey Cedars Borough.	H 34 029 1320 02.	do.	Borough Hall, 76th and Boulevard, Harvey Cedars, N.J. 08040.	May 26, 1970.
Do.	do.	Lavallette	H 34 029 1630 03 H 34 029 1630 04.	do.	Borough Hall, Lavallette, N.J. 08735.	June 11, 1971.
Do.	do.	Long Beach Township.	H 34 029 1755 05 through H 34 029 1755 08.	do.	Office of the Municipal Clerk, Township of Long Beach, 6805 Long Beach Blvd., Brant Beach NJ 08008.	May 26, 1970.
Do.	do.	Point Pleasant	H 34 029 2650 02 through H 34 029 2650 05.	do.	Office of the Borough Clerk, Borough Hall, 2233 Bridge Ave., Point Pleasant, NJ 08742.	July 7, 1972.
Do.	do.	Seaside Park	H 34 029 3020 03 H 34 029 3020 04.	do.	Municipal Bldg., Central and 5th Aves., Borough of Seaside Park, Ocean County, NJ 08752.	Aug. 17, 1971.
Do.	do.	Ship Bottom Borough.	H 34 029 3060 02.	do.	Office of the Borough Clerk, Borough Hall, 17th and Boulevard, Ship Bottom, N.J. 08008.	May 26, 1970.
Do.	do.	Stafford Township.	H 34 029 3270 01 through H 34 029 3270 02.	do.	Office of the Township Clerk, 775 East Bay Ave., Manahawkin, NJ 08050.	Sept. 2, 1970.
Do.	do.	Surf City Borough.	H 34 029 3300 02.	do.	Office of the Borough Clerk, Borough Hall, Surf City, N.J. 08040.	May 26, 1970.
Do.	Passaic	Bloomingdale Borough.	H 34 031 0330 02 through H 34 031 0330 05.	do.	Office of the Borough Clerk, Municipal Bldg., Bloomingdale, N.J. 07403.	Mar. 10, 1972.
Do.	do.	Pompton Lakes	H 34 031 2670 02.	do.	Municipal Bldg., Borough of Pompton Lakes, 25 Lenox Ave., Pompton Lakes, NJ 07442.	June 5, 1970.
Do.	Somerset	North Plainfield	H 34 035 2250 03 H 34 035 2250 04.	do.	Office of the Borough Engineer, 263 Somerset St., North Plainfield, NJ 07060.	Aug. 20, 1971.
Do.	Union	Clark Township	H 34 039 0616 02 through H 34 039 0616 05.	do.	Office of the Township Engineer, Municipal Bldg., Westfield Ave., Clark, N.J. 07066.	Dec. 28, 1971.
Do.	do.	Cranford	H 34 039 0705 02	do.	Office of the Township Engineer, Cranford Municipal Bldg., 8 Springfield Ave., Cranford, NJ 07016.	Sept. 2, 1970.
Do.	do.	Elizabeth	H 34 039 0860 02 through H 34 039 0860 05.	do.	Office of the City Clerk, City Hall, 50 West Scott Pl., Elizabeth, NJ 07201.	May 22, 1970, and May 8, 1971.
Do.	do.	Plainfield	H 34 039 2630 03 through H 34 039 2630 05.	do.	Office of the Director of Public Works and Urban Development, City Hall, 515 Watchung Ave., Plainfield, NJ 07061.	June 26, 1971.
Do.	do.	Rahway	H 34 039 2730 07 through H 34 039 2730 12.	do.	Office of the Planning Director, City Hall, 1470 Campbell St., Rahway, NJ 07065.	Dec. 23, 1971.
Do.	do.	Springfield	H 34 039 3207 02 through H 34 039 3207 04.	do.	Office of the Township Clerk, Municipal Bldg., Springfield, N.J. 07081.	Oct. 13, 1971.
New Mexico	Dona Ana	Las Cruces	H 35 013 0470 02 through H 35 013 0470 09.	State Engineer's Office, Bataan Memorial Bldg., Sante Fe, N. Mex. 87501. New Mexico Department of Insurance, Post Office Box 1269, Sante Fe, NM 87501.	City Hall, Planning Department, P.P.O. Box F 60, Las Cruces, N. Mex. 88003.	June 11, 1971.
New York	Chautauqua	Hanover	H 34 013 8000 03 H 34 013 8000 04	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, NY 10038, and 324 State St., Albany, NY 12210.	Town Clerk's Office, Town of Hanover, 239 Central Ave., Silver Creek, NY 14136.	Sept. 18, 1971.
Do.	Nassau	Long Beach	H 36 059 3360 02.	do.	City Hall, 1 West Chester St., Long Beach, NY 11561.	July 1, 1972.
Do.	Suffolk	Asharoken	H 36 103 0280 03 H 36 103 0280 04.	do.	Office of the Village Clerk, 545 Asharoken Ave., Northport, NY 11768.	Aug. 20, 1971.
Do.	do.	Brookhaven	H 36 103 0705 12 through H 36 103 0705 34.	do.	Town Clerk's Office, Town Hall, South Ocean Ave., Patchogue, N.Y. 11772.	Aug. 31, 1972.
Do.	do.	Islip	H 36 103 2920 11 through H 36 103 2920 32.	do.	Office of the Town Clerk, Brookwood Hall, 50 Irish Lane, East Islip, NY 11730.	Nov. 18, 1972.
Do.	do.	Ocean Beach	H 36 103 4400 04.	do.	Village Office, Bay Walk, Ocean Beach, N.Y. 11770.	May 5, 1970.
Do.	do.	Saltaire	H 36 103 5430 04.	do.	Village of Saltaire, Pomander Walk, Saltaire, N.Y. 11781.	May 22, 1970.
Do.	do.	Westhampton Beach.	H 36 103 6610 02.	do.	Village Office, Municipal Bldg., Sunset Ave., Westhampton Beach, N.Y. 11970.	July 1, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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North Carolina	Brunswick	Holden Beach	H 37 019 2212 01 through H 37 019 2212 08.	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611. North Carolina Insurance Department, Post Office Box 26387, Raleigh NC 27611.	Office of the Town Clerk, Town of Holden Beach, Holden Beach, N.C. 28462.	May 26, 1972.
Do	do	Long Beach	H 37 019 2696 02 through H 37 019 2696 05.	do	Town Hall, East Queen Highway, Long Beach, N.C. 28461.	Mar. 27, 1971.
Do	do	Ocean Isle Beach	H 37 019 3314 01 through H 37 019 3414 08.	do	Town Hall, Ocean Isle Realty Bldg., Ocean Isle Beach, Shalotte, N.C. 28459.	Nov. 18, 1972.
Do	do	Sunset Beach	H 37 019 4724 01 through H 37 019 4724 09.	do	Office of the Town Clerk, Town Hall, Sunset Beach, N.C. 28459.	Do.
Do	Cateret	Beaufort	H 37 031 0350 01 H 37 031 0350 02	do	Office of the Town Clerk, Town of Beaufort, Post Office Box 390, Beaufort, NC 28516.	Dec. 2, 1972.
Do	Dare	Southern Shores	H 37 055 0000 01 H 37 055 0000 02	do	Office of the Register of Deeds, Dare County Courthouse, Manteo, N.C. 27954.	May, 13 1972.
Do	do	Nag's Head	H 37 055 3235 01 through H 37 055 3235 08.	do	Office of the Town Clerk, Town of Nag's Head, Town Hall, Nag's Head, N.C. 27959.	Nov. 10, 1972.
Do	Forsyth	Unincorporated areas.	H 37 067 0000 01 through H 37 067 0000 29.	do	City-County Planning Board, City Hall, Winston-Salem, N.C. 27101.	Aug. 31, 1972.
Do	do	Winston-Salem	H 37 067 5120 01 through H 37 067 5120 18.	do	do	Do.
Do	Guilford	Greensboro	H 37 081 1940 06 through H 37 081 1940 14.	do	Office of the City Clerk, City Hall, Greensboro, N.C. 27402.	Mar. 31, 1970.
Do	Macon	Franklin	H 37 113 1710 03	do	Town Office, 70 West Main St., Franklin, NC 28734.	Feb. 23, 1971.
Do	New Hanover	Carolina Beach	H 37 129 0770 01 through H 37 129 0770 03.	do	Office of the Town Clerk, Town of Carolina Beach, Post Office Box 347, Carolina Beach, NC 28428.	May 26, 1972.
Do	do	Wrightsville Beach.	H 37 129 5180 03 through H 37 129 5180 06.	do	Town Hall, Town of Wrightsville Beach, 400 Waynick Blvd., Post Office Box 626, Wrightsville Beach, NC 28480.	June 20, 1970.
Do	Transylvania	Rosman	H 37 175 3990 01	do	Town Hall Bldg., Town of Rosman, Rosman, NC 28772.	June 3, 1972.
North Dakota	Cass	Unincorporated areas.	H 38 017 0000 01 through H 38 017 0000 10.	State Water Commission, State Office Bldg., 900 East Boulevard, Bismarck, ND 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	County Courthouse, Cass County, Fargo, N. Dak. 58102.	May 13, 1972.
Do	do	Fargo	H 38 017 1020 02 H 38 017 1020 03.	do	Office of the City Engineer, City Hall, Fargo, N. Dak. 58102.	Apr. 10, 1970.
Do	Pembina	Pembina	H 38 067 2500 02	do	City Hall, City of Pembina, Pembina, N. Dak. 58271.	June 20, 1970.
Do	Ransom	Enderlin	H 38 073 0970 04 through H 38 073 0970 06.	do	Office of the City Auditor, Enderlin, N. Dak. 58027.	June 18, 1971.
Do	Stark	Unincorporated areas.	H 38 089 0000 03 through H 38 089 0000 06.	do	City Auditor's Office, Stark County Courthouse, Dickinson, N. Dak. 58601.	Nov. 9, 1971.
Do	Stutsman	Jamestown	H 38 093 1600 01 through H 38 093 1600 04.	do	City Auditor's Office, City Hall, Jamestown, N. Dak. 58401.	May 26, 1972.
Do	Ward	Unincorporated areas.	H 38 101 0000 01 through H 38 101 0000 30.	do	Office of the County Bldg. Inspector, Ward County Courthouse, Minot, N. Dak. 58701.	Mar. 16, 1970 and Apr. 9, 1971.
Do	do	Minot	H 33 101 2170 08 through H 38 101 2170 13.	do	Office of the City Auditor, Civic Center, Minot, N. Dak. 58701.	Mar. 16, 1970.
Ohio	Cuyahoga	Garfield Heights	H 39 035 2840 02 through H 39 035 2840 05.	Ohio Department of Natural Resources, Ohio Departments Bldg., Columbus, Ohio 43215. Ohio Insurance Department, 115 East Rich St., Columbus, OH 43215.	Building Department, 5555 Turney Rd., Garfield Heights, OH 44125.	July 11 1971.
Do	do	Rocky River	H 39 035 7040 07 through H 39 035 7040 08.	do	Office of the Building Commissioner, City of Rocky River, 21012 Hilliard Blvd., Rocky River, OH 44116.	Sept. 18, 1971.
Do	Lorain	Brownhelm Township.	H 39 093 0710 02	do	Office of the Township Clerk, 8372 Claus Rd., Amherst, OH 44001.	Jan. 8, 1971.
Do	do	Vermilion	H 39 043 8400 03 through H 39 043 8400 05.	do	Office of the Clerk of Council, City Hall, Vermilion, Ohio 44089.	May 5, 1970.
Do	Lucas	Toledo	H 39 095 8120 07 through H 39 095 8120 12.	do	Division of Engineering and Construction, City of Toledo, 565 Erie St., Toledo, OH 43624.	Aug. 20, 1971.
Oklahoma	Canadian, Cleveland, and Oklahoma.	Oklahoma City	H 40 109 3550 01 through H 40 109 3550 14.	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Department of Public Works, 4th Floor, Municipal Bldg., 200 North Walker, Oklahoma City, OK 73102.	July 18, 1972.
Do	Osage and Tulsa	Tulsa	H 40 143 4780 10 through H 40 143 4780 19.	do	Office of the City Engineer, 200 Civic Center, Tulsa, Okla. 74103.	Aug. 17, 1971.
Do	Rogers	Unincorporated areas.	H 40 131 0000 02 through H 40 131 0000 27.	do	Metropolitan Area Planning Commission, City of Claremore-Rogers County, Rogers County Courthouse, Post Office Box 904, Claremore, OK 74017.	Nov. 9, 1971.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	do.	Claremore	H 40 131 0990 03 through H 40 131 0990 10.	do.	do.	Aug. 28, 1971.
Do.	Stephens	Comanche	H 40 137 1070 02 through H 40 137 1070 05.	do.	City Hall, City of Comanche, Comanche, Okla. 73529.	Dec. 28, 1971.
Oregon	Clakamas	Unincorporated areas.	H 41 005 0000 01 through H 41 005 0000 14.	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem OR 97310.	Clakamas County Planning Department, 940 Warner Milne Rd., Oregon City, OR 97045.	Aug. 25, 1972.
Do.	Jackson	Unincorporated areas.	H 41 029 0000 08 through H 41 029 0000 19.	do.	Jackson County Planning Department, Courthouse, Medford, Oreg. 97501.	Aug. 20, 1971.
Do.	Josephine	Unincorporated areas.	H 41 033 0000 11 through H 41 033 0000 20.	do.	Josephine County Planning Office, 130 Northwest B St., Grants Pass, OR 97526.	Sept. 15, 1971.
Do.	Lane	Unincorporated areas.	H 41 039 0000 06 through H 41 039 0000 22.	do.	Office of General Administration, Lane County Courthouse, 125 8th Ave., East, Eugene, OR 97401.	Dec. 30, 1971.
Do.	do.	Springfield	H 41 039 1960 04 through H 41 039 1960 06.	do.	Office of the City Manager, 223 North A, Springfield, OR 97477.	June 18, 1971.
Pennsylvania	Allegheny	Neville Township.	H 42 003 5745 01 through H 42 003 5745 03.	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Neville Township Municipal Bldg., Grand and Third St., Neville Island, Pittsburgh, Pa. 15225.	July 7, 1972.
Do.	Cumberland	Carlisle	H 42 041 1100 01 H 42 041 1100 02	do.	Carlisle Municipal Bldg., 53 West Second St., Carlisle, PA 17013.	Aug. 31, 1972.
Do.	Montgomery	Norristown	H 42 091 0000 01	do.	Public Works Department, City Hall, De Kalb and Airy Sts., Norristown, Pa. 19401.	Dec. 22, 1972.
Do.	do.	Springfield Township.	H 42 091 8163 01 through H 42 091 8163 04.	do.	Township Manager's Office, Springfield Township, 1510 Papermill Rd., Wyndmoor, PA 19118.	July 7, 1972.
Do.	Northumberland	Milton Borough	H 42 097 5330 01	do.	Municipal Bldg., 28 North Front St., Milton, PA 17847.	Mar. 10, 1972.
Do.	Schuylkill	Tamaqua	H 42 107 8350 03 H 42 107 8350 04	do.	Municipal Bldg., 320 East Broad St., Tamaqua, PA 18252.	Dec. 7, 1971.
Rhode Island	Bristol	Barrington	H 44 001 0013 02 H 44 001 0013 03	Rhode Island Statewide Planning Program, 265 Melrose St., Providence, RI 02907. Rhode Island Insurance Division, 169 Weybosset St., Providence, RI 02903.	Town Hall, 283 County Rd., Barrington, RI 02806.	May 15, 1970.
Do.	do.	Bristol	H 44 001 0030 02 H 44 001 0030 03	do.	Town Hall, 10 Court St., Bristol, RI 02809.	Dec. 2, 1972.
Do.	do.	Warren	H 44 001 0225 03 through H 44 001 0225 08.	do.	Office of the Town Clerk, Town Hall, Main St., Warren R.I. 02885.	July 28, 1972.
Do.	Newport	Jamestown	H 44 005 0100 03 H 44 005 0100 04.	do.	Office of the Town Clerk, Town of Jamestown, Jamestown, R.I. 02835.	Apr. 20, 1972.
Do.	do.	Middletown	H 44 005 0135 03 H 44 005 0135 04	do.	Town Hall, 350 East Main Rd., Middletown, R.I. 02840.	Apr. 9, 1971.
Do.	do.	Newport	H 44 005 0150 03 H 44 005 0150 04	do.	Engineer's Office, City Hall, Newport, RI 02840.	June 17, 1970.
Do.	Providence	Central Falls	H 44 007 0040 03 H 44 007 0040 04	do.	Office of the Director of Public Works, Municipal Garage, 77 Hunt St., Central Falls, RI 02863.	May 27, 1971.
Do.	do.	Cranston	H 44 007 0050 08 through H 44 007 0050 14.	do.	City Planning Commission Office, Room 311, City Hall, 829 Park Ave., Cranston, RI 02910.	Aug. 28, 1971.
Do.	do.	East Providence	H 44 007 0057 01	do.	Department of Planning and Urban Development, Weaver Memorial Bldg., 31 Grove Ave. East Providence, RI 02914.	June 5, 1970.
Do.	do.	Pawtucket	H 44 007 0180 06 through H 44 007 0180 16.	do.	Office of the City Engineer, City Hall, Roosevelt Ave., Pawtucket, R.I. 02860.	July 16, 1971.
Do.	do.	Providence	H 44 007 0190 03 H 44 007 0190 04.	do.	Graphics Section, Department of Planning and Urban Development, 410 Howard Bldg., 10 Dorrance St., Providence, R.I. 02903.	Dec. 15, 1970.
Do.	do.	Woonsocket	H 44 007 0260 05 through N 44 007 0260 08.	do.	Office of the City Engineer, City Hall, Main St., Woonsocket, R.I. 02895.	Oct. 13, 1971.
Do.	Washington	Charlestown	H 44 009 0045 02 through H 44 009 0045 09.	do.	Town Clerk's Office, Town Hall, South County Trail, Charlestown, R.I. 02813.	July 13, 1972.
Do.	do.	Narragansett	H 44 009 0137 04 through H 44 009 0137 06.	do.	Town Clerk's Office, Town Hall, 66 Rodman St., Narragansett, RI 02882.	Dec. 7, 1971.
Do.	do.	North Kingstown	H 44 009 0155 08 through H 44 009 0155 13.	do.	Department of Planning, 80 Boston Neck Rd., North Kingstown, RI 02852.	July 18, 1972.
Do.	do.	South Kingstown	H 44 009 0205 05 through H 44 009 0205 16.	do.	Town Hall, 66 High St., Wakefield, RI 02879.	July 13, 1972.
Do.	do.	Westerly	H 44 009 0240 02 through H 44 009 0240 10.	do.	Town Clerk's Office, Town Hall, Broad St., Westerly, R.I. 02891.	July 28, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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South Carolina	Charleston	Unincorporated areas.	H 45 019 0000 02 through H 45 019 0000 88.	South Carolina Water Resources Commission, 2414 Bull St., Columbia, SC 29201. South Carolina Insurance Department, 2711 Middleburg St., Columbia, SC 29204.	Office of the Planning Director, Charleston County Planning Board, 2 Courthouse Square, Charleston, S.C. 29401.	Apr. 27, 1971.
Do	do	Charleston	H 45 019 0410 02 through H 45 019 0410 13.	do	Office of the City Engineer, City Hall, Charleston, SC 29401.	Apr. 9, 1971.
Do	do	Edisto Beach	H 45 019 0763 03	do	Mayor's Office, Town of Edisto Beach, McConkie St., Edisto Island, S.C. 29438.	Do.
Do	do	Folly Beach	H 45 019 0875 02	do	Office of the Building Official, 17 Center St., Folly Beach, SC 29439.	Apr. 2, 1971.
Do	do	Isle of Palms	H 45 019 1225 03 H 45 019 1225 04	do	City Hall, City of Isle of Palms, 1301 Palm Blvd., Isle of Palms, SC 29451.	Do.
Do	do	Mount Pleasant	H 45 019 1710 02 H 45 019 1710 03	do	Office of the Clerk/Treasurer, The Town of Mount Pleasant, 305 Church St., Mount Pleasant, SC 29464.	Do.
Do	do	Sullivan's Island	H 45 019 2515 03	do	Office of the Township Clerk, Sullivan's Island Township Commission, 1610 Middle St., Sullivan's Island, SC 29482.	Do.
Tennessee	Anderson	Lake City	H 47 001 1340 05 H 47 001 1340 06	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, TN 37219.	City Hall, First St., Lake City, Tenn. 37769.	Feb. 26, 1971.
Do	do	Oak Ridge	H 47 001 1850 01 through H 47 001 1850 24.	do	Office of the City Clerk, Municipal Bldg., Post Office Box 1, Oak Ridge, TN 37830.	Oct. 27, 1972.
Do	Blount	Alcoa	H 47 009 0030 02 through H 47 009 0030 05.	do	Office of the City Recorder, Municipal Bldg., Alcoa, Tenn. 37701.	Jan. 8, 1972.
Do	do	Maryville	H 47 009 1570 03 through H 47 009 1570 08.	do	Office of the Building Official, City of Maryville, Municipal Bldg., Maryville, Tenn. 37801.	Dec. 7, 1971.
Do	Campbell	Jacksboro	H 47 013 1198 01	do	Town Hall, Town of Jacksboro, Post Office Box 75, Jacksboro, TN 37757.	Do.
Do	do	Jellico	H 47 013 1240 03	do	Office of the Mayor, City of Jellico, Jellico, Tenn. 37762.	June 18, 1971.
Do	do	LaFollette	H 47 013 1320 01 through H 47 013 1320 04.	do	Office of the City Recorder, La Follette, Tenn. 37766.	Dec. 23, 1971.
Do	Carter	Elizabethton	H 47 019 0760 01	do	Office of the Tax Assessor, City Hall, Elizabethton, Tenn. 37643.	Mar. 30, 1970.
Do	Claiborne	Tazewell	H 47 025 2375 03	do	City Hall, Town of Tazewell, Tazewell, Tenn. 37879.	Oct. 30, 1970.
Do	Cocke	Newport	H 47 029 1780 02 H 47 029 1780 03.	do	Office of the City Recorder, Post Office Box 300, Town of Newport, Newport, TN 37821.	Sept. 3, 1971.
Do	Hamilton	Collegedale	H 47 065 0448 01 through H 47 065 0448 04.	do	Collegedale City Office, Post Office Box 416, Collegedale, TN 37315.	Dec. 2, 1972.
Do	do	East Ridge	H 47 065 0750 01 through H 47 065 0750 04.	do	East Ridge City Hall, 1501 Tombras Ave., East Ridge, TN 37412.	Oct. 27, 1972.
Do	Jefferson	Jefferson City	H 47 089 1230 05 H 47 089 1230 06.	do	City Hall, Post Office Box 606, Jefferson City, TN 37760.	Apr. 9, 1971.
Do	Knox	Unincorporated areas.	H 47 093 0000 05 through H 47 093 0000 76.	do	Metropolitan Planning Commission, Bldg. A, City Hall Park, Knoxville, Tenn. 37902.	July 23, 1971.
Do	do	Knoxville	H 47 093 1300 05 through H 47 093 1300 27.	do	do	May 1, 1971.
Do	Loudon	Lenoir City	H 47 105 1370 02 through H 47 105 1370 05.	do	Office of the Mayor, City of Lenoir City, Lenoir City, Tenn. 37771.	July 21, 1972.
Do	Marion	Jasper	H 47 115 1220 01 through H 47 115 1220 05.	do	Town Hall, Town of Jasper, Jasper, Tenn. 37347.	Feb. 26, 1972.
Do	do	South Pittsburg	H 47 115 2300 01	do	City Hall, City of South Pittsburg, South Pittsburg, Tenn. 37380.	Apr. 18, 1972.
Do	Rhea	Spring City	H 47 143 2330 01 through H 47 143 2330 04.	do	Municipal Bldg., Town of Spring City, Spring City, Tenn. 37381.	Dec. 22, 1972.
Do	Roane	Harriman	H 47 145 1060 04 through H 47 145 1060 11.	do	Office of the City Treasurer, Post Office Box 305, Harriman, TN 37748.	Feb. 26, 1971.
Do	do	Rockwood	H 47 145 2070 02 H 47 145 2070 03.	do	City Hall, 306 West Rockwood St., Rockwood, TN 37854.	May 15, 1970.
Do	Sevier	Gatlinburg	H 47 155 0920 02 through H 47 155 0920 05.	do	City Hall, 175 Airport Rd., Gatlinburg, TN 37738.	Oct. 30, 1970
Do	do	Pigeon Forge	H 47 155 1948 01 through H 47 155 1948 03.	do	City Hall, Pigeon Forge, Tenn. 37862.	Aug. 31, 1971
Do	do	Sevierville	H 47 155 2170 02	do	City Recorder, Post Office Box 328, Sevierville, TN 37862.	Mar. 27, 1971
Do	Washington	Johnson City	H 47 179 1250 01 H 47 179 1250 02.	do	Johnson City Planning Department, City Hall, Johnson City, Tenn. 37601.	May 22, 1970.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Texas	Aransas	Unincorporated areas.	H 48 007 0000 03 H 48 007 0000 04.	Texas Water Development Board, Post Office Box 13087, Capitol Station, Austin, TX 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	County Clerk's Office, Aransas County Courthouse, Rockport, Tex. 78382.	Aug. 7, 1971.
Do	do	Rockport	H 48 007 5890 04 through H 48 007 5890 06.	do	City Hall, City of Rockport, Broadway St., Rockport, Tex. 78382.	July 2, 1971.
Do	Aransas, Nueces, and San Patricio.	Aransas Pass	H 48 355 0240 03 H 48 355 0240 04.	do	City Offices, City of Aransas Pass, Aransas Pass, Tex. 78336.	June 26, 1971.
Do	Brazoria	Unincorporated areas.	H 48 039 0000 07 through H 48 039 0000 12.	do	Office of the County Engineer, Brazoria County Courthouse, Angleton, Tex. 77515.	May 8, 1971.
Do	do	Alvin	H 48 039 0130 06 H 48 039 0130 07.	do	Office of the City Secretary, Post Office Box 1407, Alvin, TX 77511.	Feb. 19, 1972.
Do	do	Freeport	H 48 039 2490 03 H 48 039 2490 04.	do	Office of the City Manager, City of Freeport, 128 East 4th St., Freeport, TX 77541.	Nov. 17, 1970.
Do	do	Hillcrest Village	H 48 039 3202 02	do	105 West Crestmont Dr., Hillcrest Village, TX 77511.	Mar. 18, 1972.
Do	do	Lake Jackson	H 48 039 3800 05 H 48 039 3800 06.	do	City Manager's Office, 103 Parking Way, Lake Jackson, TX 77566.	July 7, 1972.
Do	do	Richwood	H 48 039 5765 01	do	Office of the City Secretary, City Hall City of Richwood, 215 Halbert St., Clute, TX 77531.	July 28, 1972.
Do	do	Sweeny	H 48 039 6710 03 through H 48 039 6710 07.	do	City Hall, 222 Pecan St., Sweeny, TX 77480.	Dec. 23, 1971.
Do	Cameron	Harlingen	H 48 061 3030 03 through H 48 061 3030 26.	do	City Hall, 118 East Tyler, Harlingen, TX 78550.	July 13, 1972.
Do	do	Laguna Vista	H 48 061 3792 01	do	Village Hall, Village of Laguna Vista, Laguna Vista, Tex. 78578.	July 21, 1972.
Do	Comal	New Braunfels	H 48 091 4870 05 through H 48 091 4870 20.	do	Office of Planning Director, City of New Braunfels, Post Office Box 644, New Braunfels, TX 78130.	Dec. 2, 1972.
Do	Dallas	Garland	H 48 113 259C 03 through H 48 113 2590 08.	do	Office of the City Engineer, City Hall, Post Office Box 189, Garland, TX 75040.	Apr. 16, 1971.
Do	do	Irving	H 48 113 3420 01	do	Office of the City Secretary, City Hall, 835 West Irving Blvd., Irving, TX 75060.	June 17, 1970.
Do	do	Mesquite	H 48 113 4530 03 through H 48 113 4530 07.	do	Mesquite Department of Public Works, Mesquite Municipal Bldg., Municipal Way at Galloway, Box 137, Mesquite, TX 77550.	July 31, 1971.
Do	Galveston	Dickerson area	H 48 167 1920 01 through H 48 167 1920 20.	do	Office of the County Clerk, Galveston County Courthouse, Galveston, Tex. 77550.	Apr. 15, 1970.
Do	do	Unincorporated areas.	H 48 167 0000 03 through H 48 167 0000 13.	do	do	Apr. 8, 1971.
Do	do	Clear Lake Shores.	H 43 167 1366 03	do	Clear Lake Shores City Hall, Clear Lake Rd. at South Shore Dr. and Cedar, Kemah, Tex. 77565.	Oct. 23, 1970.
Do	do	Friendswood	H 48 167 2505 02	do	City Hall, City of Friendswood, 109 Willowwick Ave., Friendswood, TX 77546.	June 5, 1970.
Do	do	Galveston	H 48 167 2570 02	do	Director of Public Works, City of Galveston, City Hall, 823 Rosenberg, Galveston, TX 77550.	May 26, 1970 and May 8, 1971.
Do	do	Hitchcock	H 48 167 3220 02	do	City Hall, City of Hitchcock, 6915 2d St., Hitchcock, TX 77563.	Nov. 17, 1970.
Do	do	Kemah	H 43 167 3607 02	do	City Hall, City of Kemah, 601 Texas Ave., Kemah, TX 77565.	June 5, 1970.
Do	do	La Marque	H 48 167 3850 03 H 48 167 3850 04.	do	Office of the City Clerk, City of La Marque, 322 Laurel, La Marque, TX 77568.	May 26, 1970.
Do	do	League City	H 48 167 3920 03 H 48 167 3920 04.	do	City Hall, City of League City, 516 3d St. League City, TX 77573.	June 5, 1970.
Do	do	Texas City	H 48 167 6860 03 H 48 167 6860 04.	do	Office of the Building Inspector, City Hall, 1801 9th Ave. N., Texas City, TX 77590.	Do.
Do	Grayson	Sherman	H 48 181 6350 03 through H 48 181 6350 14.	do	Office of Urban Affairs, 3d Floor, Municipal Bldg., Sherman, Tex. 75090.	May 22, 1970 and June 9, 1971.
Do	Guadalupe	Seguin	H 48 187 6290 03 H 48 187 6290 04.	do	Municipal Bldg., 205 North River St., Seguin, TX 78155.	June 18, 1971.
Do	Harris	Baytown: Lakewood, Wooster, and Brownwood additions.	H 48 201 0480 01	do	Office of the Planning Director, City Hall, 2401 Market St., Baytown, TX 77520.	Feb. 26, 1970.
Do	do	Clear Lake City	H 48 201 1365 03 through H 48 201 1365 06.	do	Clear Lake City Water Authority, 900 Bay Area Blvd., Houston, TX 77058.	May 26, 1970, and Mar. 10, 1972.
Do	do	El Lago	H 48 201 2178 02	do	City Hall, 1122 Cedar Lane, Seabrook, TX 77586.	July 2, 1971.
Do	do	La Porte	H 48 201 3890 02 H 48 201 3890 03.	do	Office of the City Clerk, 124 South Second St., La Porte, TX 77571.	Feb. 17, 1971.
Do	do	Nassau Bay	H 48 201 4821 02	do	City Hall, 18065 Upper Bay Road, Suite 250, Houston, TX 77058.	Nov. 17, 1970.
Do	do	Seabrook	H 48 201 6247 05 through H 48 201 6247 07.	do	Seabrook City Hall, 1700 1st St., Seabrook, TX 77586.	May 26, 1970.
Do	do	Shoreacres	H 48, 201 6370 03 H 48 201 6370 04.	do	Office of the Mayor, City Hall, 619 Shoreacres Blvd., La Porte, TX 77571.	Nov. 20, 1970.
Do	do	Taylor Lake	H 48 201 6247 02	do	Village of Taylor Lake, 815 Timber Cove Dr., Seabrook, TX 77586.	Nov. 17, 1970.
Do	do	Webster	H 48 201 7286 08 through H 48 201 7286 14.	do	City Hall, 311 Pennsylvania Ave., Webster, TX 77598.	May 19, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	do.	Pasadena (that area formerly known as Harris County Water Control District No. 60).	H 48 201 8000 02	do.	Harris County Water Control and Improvement District No. 60, 4000 NASA Rd. 1, Seabrook, TX 77586.	Nov. 17, 1970.
Do.	Hays	San Marcos	H 48 209 6170 03 through H 48 209 6170 10.	do.	Utilities and Tax Office, City Hall, San Marcos, Tex. 78666.	Aug. 28, 1971.
Do.	Hunt	Greenville	H 48 241 2860 08 through H 48 231 2860 16.	do.	Office of the Department of Community Development, City of Greenville, Greenville, Tex. 75401.	Aug. 17, 1971.
Do.	Jackson	Edna	H 48 239 2120 02 through H 48 239 2120 05.	do.	Edna City Hall, 105 North Allen, Edna, Tex. 77957.	Nov. 11, 1971.
Do.	Jefferson	Beaumont	H 48 245 0490 05 through H 48 245 0490 08.	do.	City Hall, 700 Pearl St., Beumont, TX 77704.	Sept. 2, 1970.
Do.	do.	Griffing Park	H 48 245 2880 02	do.	City Hall, Town of Griffing Park, 3101 Bernhardt Dr., Port Arthur, TX 77642.	Nov. 17, 1970.
Do.	do.	Groves	H 48 245 2905 03 H 48 245 2905 04.	do.	Building Official, City of Groves, Public Works Office Bldg., McKinley Ave. at Highway 366, Groves, Tex. 77619.	May 26, 1970.
Do.	do.	Lakeview	H 48 245 3830 03 H 48 245 3830 04.	do.	Office of the Town Clerk, Town of Lakeview, 640 Duff Dr., Port Arthur, TX 77640.	Do.
Do.	do.	Nederland	H 48 245 4840 02	do.	City Office Bldg., 1400 Boston Ave., Nederland, TX 77627.	Nov. 17, 1970.
Do.	do.	Pear Ridge	H 48 245 5250 05 through H 48 245 5250 08.	do.	Pear Ridge City Hall, 3540 9th Ave., Pear Ridge, TX 77640.	Do.
Do.	do.	Port Arthur	H 48 245 5430 03 H 48 245 5430 04.	do.	Office of Urban Development, 1st Floor, City Hall, 444 4th St., Port Arthur, TX 77640.	May 26, 1970.
Do.	do.	Port Neches	H 48 245 5470 02	do.	City Manager's Office, City Hall, 634 Avenue C., Port Neches, TX 77651.	Nov. 17, 1970.
Do.	Johnson	Cleburne	H 48 251 1370 01 through H 48 251 1370 06.	do.	City Engineer's Office, 302 West Henderson St., Cleburne, TX 76031.	July 13, 1972.
Do.	Jones and Taylor	Abilene	H 48 441 0030 07 through H 48 441 0030 12.	do.	Office of the City Engineer, City Hall, 555 Walnut St., Abilene, TX 79604.	July 23, 1971.
Do.	Karnes	Kenedy	H 48 255 3630 03 H 48 255 3630 04.	do.	City Hall, 222 Tilden St., Kenedy, TX 78119.	June 26, 1971.
Do.	Lavaca	Hallettsville	H 48 285 2970 01 through H 48 285 2970 04.	do.	Office of the Secretary, City Hall Bldg., Hallettesville, Tex. 77964.	July 7, 1972.
Do.	Live Oak	Three Rivers	H 48 297 6920 02	do.	City Hall, City Square, Three Rivers, Tex. 78071.	July 1, 1970.
Do.	Matagorda	Unincorporated areas.	H 48 321 0000 05 through H 48 321 0000 08.	do.	Office of the County Judge, Matagorda County Courthouse, Bay City, Tex. 77414.	May 1, 1971.
Do.	do.	Bay City	H 48 321 0470 05 through H 48 321 0470 08.	do.	City Hall, 1901 5th St., Bay City, TX 77414.	Apr. 23, 1971.
Do.	do.	Palacios	H 48 321 5160 02	do.	Office of the City Secretary, City Hall, 205 4th St., Palacios, TX 77465.	Nov. 17, 1970.
Do.	Nueces	Unincorporated areas.	H 48 355 0000 03 through H 48 355 0000 18.	do.	Office of the County Engineer, Nueces County, Nueces County Courthouse, Corpus Christi, Tex. 78401.	Sept. 27, 1972.
Do.	do.	Corpus Christi	H 48 355 1150 05 through H 48 355 1150 09.	do.	Planning Department, City Hall, 302 South Shoreline Dr., Corpus Christi, TX 78401.	June 17, 1970, and July 23, 1971.
Do.	do.	Port Aransas	H 48 355 5420 05 through H 48 355 5420 06.	do.	City of Port Aransas, Post Office Box 397, Port Aransas, TX 78373.	June 26, 1971.
Do.	do.	Robstown	H 48 355 5850 02	do.	Office of the City Secretary, City Hall, 330 East Main St., Robstown, TX 78380.	July 16, 1971.
Do.	Refugio	Unincorporated areas.	H 48 391 0000 03 through H 48 391 0000 65.	do.	Office of the County Clerk, County Courthouse, 808 Commerce St., Refugio, TX 78377.	Oct. 23, 1971.
Do.	San Patricio	do.	H 48 409 0000 03 through H 48 409 0000 13.	do.	Office of the County Clerk, San Patricio County Courthouse, Sinton, Tex. 78387.	Nov. 27, 1971.
Do.	do.	Ingleside	H 48 409 3380 03 H 48 409 3380 04.	do.	City Hall, 116 Humble St., Ingleside, TX 78362.	June 26, 1971.
Do.	do.	Sinton	H 48 409 6400 02	do.	City Hall, 301 East Market St., Sinton, TX 78387.	Mar. 27, 1971.
Do.	Tarrant	Arlington	H 48 439 0260 12 through H 48 439 0260 20.	do.	Office of the Administrative Assistant, Post Office Box 231, Arlington, TX 76010.	July 23, 1971.
Do.	Victoria	Victoria	H 48 469 7190 02 through H 48 469 7190 04.	do.	Office of the City Secretary, City Hall, 105 West Juan Linn St., Victoria, TX 77901.	May 22, 1970 and July 23, 1971.
Virginia		City of Alexandria	H 51 510 0000 01 through H 51 510 0000 05.	Division of Water Resources, Department of Conservation and Economic Development, 2d Floor, Davenport Bldg., 11 South 10th St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Department of Public Works, City Hall, Alexandria, Va. 22313.	Aug. 27, 1969, May 2, 1970 and May 28, 1971.
Do.	Arlington	Four Mile Run	H 51 013 0000 01	do.	Department of Transportation, County Court House, Arlington, Va. 22201.	Oct. 1, 1969.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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Do.	Fairfax		H 51 059 0000 03 through H 51 059 0000 30.	do.	Office of the Director of Public Works, Fairfax County, 4100 Chain Bridge Rd., Fairfax, VA 22030.	May 5, 1970 and Jan. 8, 1972.
Do.		City of Fairfax	H 51 600 0900 03 through H 51 600 0900 10.	do.	Department of Public Works, City Hall, Fairfax, Va. 22030.	Dec. 23, 1971.
Do.		City of Hampton	H 51 650 1180 11 through H 51 650 1180 19.	do.	City Planning Office, City Hall, Hampton, Va. 23369. City Engineer's Office, City Hall, Hampton, Va. 23369. City Clerk's Office, City Courthouse, Hampton, Va. 23369.	Mar. 24, 1970 and May 28, 1971.
Do.	Wise	Big Stone Gap	H 51 195 0170 03 H 51 195 0170 04.	do.	Office of the Town Manager, Town of Big Stone Gap, Big Stone Gap, Va. 24219.	Dec. 15, 1970.
Do.	do.	St. Paul	H 51 195 2160 02	do.	Clerk's Office, Town Hall, St. Paul, Va. 24219.	Sept. 2, 1970.
Do.		City of Portsmouth.	H 51 740 1970 09 through H 51 740 1970 18.	do.	City Planning Commission, Municipal Bldg., 3d Floor, 1 High St., Portsmouth, VA 23704.	May 15, 1970.
Do.		City of Virginia Beach.	H 51 810 2540 30 through H 51 810 2540 58.	do.	Office of the City Clerk, City Hall, Virginia Beach, Va. 23456.	Oct. 3, 1970.
Do.		City of Waynesboro.	H 51 740 1970 09 through H 51 740 1970 18.	do.	Office of the City Engineer, City Hall, 250 South Wayne Ave., Waynesboro, VA 22080.	June 17, 1970.
Washington	Benton	Richland	H 53 005 1850 02 through H 53 005 1850 06.	Department of Ecology, Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Office of the City Engineer, City Hall, 505 Swift Blvd., Richland, WA 99352.	Mar. 30, 1970.
Do.	Snohomish	Unincorporated areas.	H 53 061 0000 03 through H 53 061 0000 51.	do.	Snohomish County Planning Department, Court House, Everett, Wash. 98201.	Dec. 23, 1971.
West Virginia	Logan	do.	H 54 045 0000 05 through H 54 045 0000 22.	West Virginia Insurance Department, State Capitol, Charleston, W. Va. 25305.	Office of the Clerk of the County Court of Logan County, City of Logan Courthouse, Logan, W. Va. 25601.	Apr. 8, 1972.
Do.	do.	Chapmanville	H 54 045 0470 02 H 54 045 0470 03.	do.	Office of the Recorder, Town of Chapmanville, Chapmanville, W. Va. 25508.	Aug. 28, 1971.
Do.	do.	Logan	H 54 045 1500 02	do.	Office of the Recorder, City Hall, Logan, W. Va. 25601.	July 16, 1971.
Do.	do.	Man	H 54 045 1620 02	do.	Office of the Recorder, City Bldg., Town of Man, Man, W. Va. 25635.	Sept. 15, 1971.
Do.	do.	Mitchell Heights	H 54 045 1780 02	do.	Office of the Recorder, Town of Mitchell Heights, Logan, W. Va. 25601.	Aug. 17, 1971.
Do.	do.	West Logan	H 54 045 2770 02	do.	Office of the Recorder, City Hall, West Logan, W. Va. 25601.	June 3, 1972.
Do.	Mingo	Matewan	H 54 059 1700 01	do.	Town of Matewan, Town Hall, Tug St., Matewan, W. Va. 25678.	Feb. 3, 1970.
Wisconsin	Buffalo	Alma	H 55 011 0070 01 H 55 011 0070 02.	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, WI 53703.	City Hall, City of Alma, Alma, Wis. 54610.	Dec. 12, 1972.
Do.	do.	Buffalo	H 55 011 0740 01	do.	Office of the City Clerk, City of Buffalo, Cochrane, Wis. 54622.	Mar. 10, 1972.
Do.	do.	Cochrane	H 55 011 1070 01	do.	Village Hall, Village of Cochrane, Cochrane, Wis. 54622.	Feb. 26, 1972.
Do.	do.	Fountain City	H 55 011 1770 01 H 55 011 1770 02.	do.	Office of the City Clerk, 615 South Main St., Fountain City, WI 54629.	Apr. 20, 1972.
Do.	Crawford	Ferryville	H 55 023 1720 01	do.	Ferryville State Bank, Village of Ferryville, Ferryville, Wis. 54628.	May 26, 1972.
Do.	do.	Prairie du Chien	H 55 023 3890 02 H 55 023 3890 03.	do.	Municipal Office, 207 West Blackhawk Ave., Prairie du Chien, WI 53701.	May 22, 1970.
Do.	Grant	Cassville	H 55 043 0890 01	do.	Office of the Village Clerk, Village of Cassville, Cassville, Wis. 53806.	Feb. 19, 1972.
Do.	Jefferson	Fort Atkinson	H 55 055 1760 03 H 55 055 1760 04.	do.	Office of the City Manager, Municipal Bldg., Fort Atkinson, Wis. 53538.	Aug. 7, 1971.
Do.	do.	Jefferson	H 55 055 2330 01	do.	Office of the City Engineer, Municipal Bldg., 112 West Dodge St., Jefferson, WI 53549.	May 26, 1972.
Do.	La Crosse	La Crosse	H 55 063 2490 04 through H 55 063 2490 06.	do.	City Planning Department, 5th Floor, City Hall, La Crosse, Wis. 54601.	Jan. 15, 1971.
Do.	Manitowoc	Mishicot	H 55 071 3125 01	do.	Village Hall, Village of Mishicot, Mishicot, Wis. 54228.	May 13, 1972.
Do.	Marathon	Mosinee	H 55 073 3200 01	do.	Office of Clerk, City of Mosinee, Mosinee, Wis. 54455.	Dec. 16, 1972.
Do.	Ozaukee	Mequon	H 55 089 3002 01 through H 55 089 3002 04.	do.	Department of Public Works, 11333 North Cedarburg Rd., 60 W., Mequon, WI 53092.	Nov. 7, 1972.
Do.	Pepin	Unincorporated areas.	H 55 091 0000 01 through H 55 091 0000 04.	do.	Office of County Zoning Administrator, County Court House, Durand, Wis. 54736.	Dec. 16, 1972.
Do.	do.	Pepin	H 55 091 3710 01	do.	Office of the Village Clerk, Village of Pepin, Pepin, Wis. 54759.	May 26, 1972.
Do.	do.	Stockholm	H 55 091 4640 01	do.	Village Hall, Village of Stockholm, Stockholm, Wis. 54769.	Dec. 12, 1972.
Do.	Pierce	Unincorporated areas.	H 55 093 0000 02 through H 55 093 0000 11.	do.	Pierce County Zoning Office, Court House, Ellsworth, Wis. 54011.	July 18, 1972.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
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De	do	Bay City	H 55 093 0350 02 through H 55 093 0350 03.	do	Village Board Meeting Room Village Hall, Village of Bay City, Bay City, Wis. 54723.	June 11, 1971.
De	do	Prescott	H 55 093 3940 02 through H 55 093 3940 05.	do	Office of the City Clerk City Hall, Prescott, Wis. 54021.	July 30, 1971.
De	Rock	Beloit	H 55 105 0440 08 through H 55 105 0440 11.	do	City Planning Department, City of Beloit, Beloit, Wis. 53511.	Do.
De	do	Janesville	H 55 105 2320 01 through H 55 105 2320 08.	do	Office of the City Planner, Municipal Bldg., Janesville, Wis. 53545.	Mar. 31, 1972.
De	St. Croix	Hudson	H 55 109 2220 01	do	City Hall, City of Hudson, 505 3d St., Hudson, WI 54016.	Nov. 10, 1972.
De	Trempeale au	Unincorporated areas.	H 55 121 0000 01 through H 55 121 0000 03.	do	Office of the Zoning Administrator, Trempealeau County Zoning Department, Court House, Whitehall, Wis. 54773.	Dec. 29, 197 .
De	do	Strum	H 55 121 4680 01	do	Village of Strum Office, 202 5th Ave., South, Strum, WI 54770.	May 13, 1972.
De	do	Trempealeau	H 55 121 4860 01	do	Village Hall, Village of Trempealeau, Trempealeau, Wis. 54661.	Dec. 12, 1972.
De	Vernon	Genoa	H 55 123 1870 01	do	Office of the Village Clerk, Village Hall, Village of Genoa, Genoa, Wis. 54632.	Feb. 26, 1972.
De	do	Stoddard	H 55 123 4620 01	do	Office of the Village Clerk, Village Office, Village of Stoddard, Stoddard, Wis. 54658.	Oct. 26, 1972.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969) 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Effective date. This regulation shall be effective on January 1, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73–8 Filed 1–5–73;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 73-10]

PART 16—LIQUIDATION OF DUTIES

X-Radial Steel Belted Tires from Canada

In the FEDERAL REGISTER of May 12, 1972 (37 FR 9568), the Acting Commissioner of Customs announced that information had been received in proper form pursuant to § 16.24(b) of the Customs regulations (19 CFR 16.24(b)) which raised a question whether certain payments, bestowals, rebates, or refunds granted by Canada upon the manufacture, production, or exportation of X-radial steel belted tires by Michelin Tire Manufacturing Co. of Canada, Ltd., constitute the payment or bestowal of a bounty or grant directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), upon the manufacture, production, or exportation of the merchandise to which the payments, bestowals, rebates, or refunds apply. The notice provided interested parties 30 days from the date of publication to submit data, views, or arguments with regard to the existence or nonexistence and the net amount of a bounty or grant.

An investigation was conducted pursuant to § 16.24(d) of the Customs regulations (19 CFR 16.24(d)).

It has been ascertained that Michelin Tire Manufacturing Co. of Canada, Ltd., has had constructed two manufacturing plants in the Province of Nova Scotia, one in Bridgewater, Nova Scotia, for the manufacture of steel cord for use in manufacturing tires and the other in Granton, Nova Scotia, for the manufacture of tires. A substantial majority of the tires produced are being and are expected to continue to be exported to the United States. It has been further ascertained that in connection with the establishment of the two manufacturing plants, the Government of Canada has made certain grants and made available to Michelin a special accelerated depreciation provision under Canadian income tax law. Additionally, the Province of Nova Scotia has provided certain grants and provided a low interest-rate loan and the municipalities concerned have made certain concessions which lower the property taxes on each plant.

After consideration of all information received, the Bureau is satisfied that exports of X-radial steel belted tires, manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd., are subject to bounties or grants within the meaning of section 303.

Accordingly, notice is hereby given that X-radial steel belted tires, manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd., imported directly or indirectly from Canada, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of this notice in the Customs Bulletin, will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303, until further notice the amount of such bounty or grant under the information presently available has been estimated to be 6.6 percent of the f.o.b. value of each tire. Although no benefit is being derived currently from the special accelerated depreciation provision of the Canadian income tax law, any benefit derived thereunder in the future would constitute a bounty or grant within the meaning of section 303. Declarations of the net amount of the bounties or grants ascertained and determined or estimated to have been paid, directly or indirectly, upon the manufacture, production, or exportation of X-radial steel belted tires from Canada, manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd., will be published in subsequent issues of the Customs Bulletin.

Effective on the 31st day after the date of publication of the notice in the Customs Bulletin and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable X-radial steel belted tires, manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd., imported directly or indirectly from Canada which benefit from such bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

The liquidation of all entries for consumption or withdrawals from warehouse for consumption of such dutiable X-radial steel belted tires, manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd., imported directly or indirectly from Canada which benefit from such bounties or grants and are subject to the order shall be suspended pending declarations of the net amounts of the bounties or grants paid or bestowed. A deposit of the estimated countervailing duty, in the amount of 6.6 percent of the f.o.b. value of each tire, shall be required at the time of entry for consumption or withdrawal from warehouse for consumption.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid, credited, or bestowed directly or indirectly, upon the manufacture, production, or exportation of such X-radial steel belted tires manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd.

The table in § 16.24(f) of the Customs Regulations (19 CFR 16.24(f)) is amended by inserting after the last entry for Canada "X-radial steel belted tires manufactured by Michelin Tire Manufacturing Co. of Canada, Ltd." in the column headed "Commodity," the number of this Treasury decision in the column headed "Treasury decision," and the words "Bounty declared—Rate" in the column headed "Action."

(R.S. 251, secs. 303, 624; 46 Stat. 687, 759, 19 U.S.C. 66, 1303, 1624)

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 4, 1973.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.73-466 Filed 1-5-73;9:40 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 500-72]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart H—Antitrust Division

CONSUMER AFFAIRS LITIGATION

The Attorney General has assigned to the Assistant Attorney General in charge of the Antitrust Division the responsibility for conducting litigation pertaining to consumer affairs under certain specified Federal statutes, listed in 28 CFR 0.41 (h). This order amends that provision by adding the Consumer Product Safety Act to that list.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, paragraph (h) of § 0.41 of Subpart H of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by deleting the word "and" immediately before "the Textile Fiber Products Identification Act (15 U.S.C. 70 et seq.)" and adding at the end thereof, the following:

§ 0.41 Special functions.

* * * * *

(h) * * * and the Consumer Product Safety Act (Public Law 92-573), and any statute the functions of which are transferred to the Consumer Product Safety Commission by virtue of section 30 of that Act, except as the Commission may direct its attorneys to handle litigation arising under section 12 of the Act. This delegation includes the authority of the Attorney General to concur, in specific proceedings, that litigation other than that arising under section 12 of the Act may be handled directly by the Commission, pursuant to section 27(b)(7).

Dated: December 27, 1972.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.73-339 Filed 1-5-73;8:45 am]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 11]

BOTTLED WATER

Proposed Quality Standards

Bottled water for human consumption is a food within the meaning of the Federal Food, Drug, and Cosmetic Act.

Bottled water is increasingly being used as a source of drinking water. Factors that have influenced this increase include consumer reaction to publicity of the potential pollution of some public water supplies, abnormal taste and odor of tap water in some areas, and increasing consumer affluence. The consumer expects bottled water to meet the minimum criteria established for public drinking water supplies.

The Food and Drug Administration has evaluated bottled water for human consumption using essentially the same criteria used in determining the acceptability of public water supplies. The criteria for evaluation of public water supplies are those of the U.S. Public Health Service Drinking Water Standards (1962), promulgated as regulations for drinking water and water supply systems used by interstate common carriers and others subject to the Federal interstate quarantine regulations. These standards set microbiological, physical, chemical, and radioactivity limits in drinking water based on health or esthetic factors. The standards are considered the minimum for public water supplies by the American Water Works Association and are the bases of State and local regulations pertaining to the control of public water supplies.

Analyses by the FDA and the Environmental Protection Agency (EPA) have shown that some bottled water fails to meet the criteria of the US. Public Health Service Drinking Water Standards (1962). A survey of bottled water in 1971, conducted by the FDA, revealed that 8 out of 85 samples tested contained coliform bacteria at levels in excess of the PHS Standards. In addition, the range of the geometric mean of the aerobic total plate count was 0 to 5.4 by 10^7 for the samples. Results of chemical tests on 86 samples revealed that none of the samples contained concentrations of heavy metals or pesticides that exceeded the PHS drinking water standards. As part of the EPA survey of the bottled water industry, bacteriological and chemical examinations were made of about 50 bottled water products from 25 bottling firms. Eight percent of the bottled water examined evidenced the presence of the coliform organism. Standard plate counts ranged from zero to "too numerous to count". Gross changes in the standard plate counts were noted in the 25 samples that were examined during a 63-day storage test. While six samples remained at or near zero for the entire test period, four rose to levels that became too numerous to count, while the remainder fluctuated widely with no definite discernible pattern. Chemical analyses by EPA revealed that three samples exceeded the PHS Standards for total dissolved solids and that one sample exceeded the PHS Standard for copper while another sample exceeded the PHS Standard for lead.

The criteria of the U.S. Public Health Service Drinking Water Standards (1962) can be applied to bottled water with two notable exceptions: (1) The sampling plans of the PHS Standards are designed for the repetitive examination of public water supplies and are not appropriate for bottled water, and (2) the bacteriological limits set by the standards are based on repetitive examinations and also are not appropriate for bottled water.

The Environmental Protection Agency now has the responsibility for establishing drinking water standards. Extensive revisions of the drinking water standards are currently being developed by EPA. It is FDA's intention to revise the bottled water quality standards to keep them compatible with revisions of the EPA drinking water standards.

On the basis of the U.S. Public Health Service Drinking Water Standards (1962), survey data, and other available information, the Commissioner of Food and Drugs is of the opinion that reasonable grounds exist for proposing standards of quality for bottled water. Accordingly, in order to promote honesty and fair dealing in the interest of consumers the Commissioner proposes to establish quality standards for bottled water.

The Commissioner proposed in the FEDERAL REGISTER for September 23, 1972 (37 FR 20038), a new Part 11 for microbiological standards for foods for which there are no standards of identity. Although the proposal to establish quality standards for bottled water includes physical and chemical aspects as well as microbiological aspects, it is logical to include this proposal within that new part. The heading of the new part will be changed when the final order promulgating the regulations proposed in the September 23, 1972, FEDERAL REGISTER is issued, to reflect that quality standards may include provisions relating other than to microbioligical aspects of a food.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(h), 701, 52 Stat. 1046, 1047 and 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 343(h), 371) and under authority delegated to him (21 CFR 2.120) the Commissioner proposes to amend Part 11 (37 FR 20038) of Chapter I, of Title 21 of the Code of Federal Regulations by adding a new section to Subpart B as follows:

§ 11.7 Bottled water.

(a) For purposes of this section, the following definitions shall apply:

(1) "Bottled water" is water that is sealed in bottles or other containers and intended for human consumption. Bottled water does not include mineral water or any food defined in § 31.1 of this chapter.

(2) A "sample" is 10 containers of water which are representative of the lot.

(3) An "analytical unit" is that portion of water taken from a container for purposes of analysis.

(b) *Microbiological quality.* Bottled water shall, when a sample is examined by the methods described in Part 400, of "Standard Methods for the Examination of Water and Wastewater," 13th Ed., 1971, American Public Health Association,[1] meet standards of microbiological quality as follows:

(1)(i) *Multiple-tube fermentation method.* Not more than one of the analytical units in the sample shall have a most probable number (MPN) of 2.2 or more coliform organisms per 100 milliliters and no analytical unit shall have a MPN of 9.2 or more coliform organisms per 100 milliliters, or:

(ii) *Membrane filter method.* Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed 500 per milliliter.

(2) The geometric average of the bacterial density (Standard Plate Count) of the 10 analytical units comprising the sample shall not exceed 500 per milliliter.

(c) *Physical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in Part 100 of the 13th Ed., 1971, of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association,[1] meet standards of physical quality as follows:

(1) The turbidity shall not exceed 5 units.

(2) The color shall not exceed 15 units.

(3) The odor shall not exceed threshold odor No. 3.

(d) *Chemical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in

Part 100 of the 13th Ed., 1971, of "Standard Methods of Examination of Water and Wastewater," American Public Health Association,[1] meet standards of chemical quality as follows:

(1) The bottled water shall not contain chemical substances in excess of the following concentrations:

Substance	*Concentration in milligrams per liter*
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chloride	250.0
Chromium (Hexavalent)	0.05
Copper	1.0
Cyanide	0.2
Iron	0.3
Lead	0.05
Manganese	0.05
Nitrate	45.0
Phenols	0.001
Selenium	0.01
Silver	0.05
Sulfate	250.0
Total Dissolved Solids	500.0
Zinc	5.0

(2) The bottled water shall not contain fluoride in excess of the levels in Table I and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water was filled.

TABLE I

Annual average of maximum daily air temperatures:	*Flouride concentration in milligrams per liter*
50.0–53.7	2.4
53.8–58.3	2.2
58.4–63.8	2.0
63.9–70.6	1.8
70.7–79.2	1.6
79.3–90.5	1.4

(e) *Radiological quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in Part 300 of the 13th Ed., 1971, of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association,[1] meet standards of radiological quality as follows:

(1) The bottled water shall not contain radioactivity in excess of the following concentrations:

Substance	*Concentration in micromicrocuries per liter*
Radium-226	3
Strontium-90	10

(2) When it is known that the strontium-90 and alpha emitters are absent, the composite shall not contain a gross beta concentration in excess of 1,000 micromicrocuries per liter.

(f) *Label statements.* Bottled water, the quality of which is below that prescribed by this section, shall be labeled with a statement of substandard quality as follows:

(1) When the microbiological quality of bottled water is below that prescribed by paragraph (b) of this section, the label shall bear the statement of substandard quality specified in § 11.1(b).

(2) When the physical, chemical, and/or radiological quality of bottled water is below that prescribed by paragraphs (c) through (e) respectively of this section, the label shall bear the statement of substandard quality specified in § 11.1(b) except that, as appropriate, instead of or in addition to the words "Contains Excessive Bacteria" the following statement(s) shall be used:

(i) "Excessively Turbid", "Abnormal Color", and/or "Abnormal Odor" if the bottled water fails to meet the requirements of paragraph (c)(1), (2), and/or (3), respectively, of this section.

(ii) "Contains Excessive Chemical Substances", if the bottled water fails to meet any of the requirements of paragraph (d) of this section. The specific chemical(s) may be declared in lieu of the words "Chemical Substances" in the statement "Contains Excessive Chemical Substances". When a specific chemical is declared, that name by which the chemical(s) is designated in paragraph (d) of this section shall be used. Example: "Contains Excessive Copper".

(iii) "Excessively Radioactive" if the bottled water fails to meet the requirements of paragraph (e) of this section.

(g) Bottled water containing a substance at a level considered injurious to health under section 402(a)(1) of the act is deemed to be adulterated, regardless of whether or not the bottled water bears a label statement of substandard quality prescribed by paragraph (f) of this section.

Interested persons may, on or before March 9, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: December 22, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-316 Filed 1-5-73;8:45 am]

[1] "Standard Methods for the Examination of Water and Wastewater," 13th Ed. 1971, can be obtained from the American Public Health Association, 1015 18th Street NW., Washington, DC 20036.

National Institute of Education

[45 CFR Ch. 14]

EDUCATIONAL RESEARCH AND DEVELOPMENT GRANTS

General Provisions of National Institute of Education

Pursuant to the authority contained in section 405 of the General Education Provisions Act, the Director of the National Institute of Education, with the approval of the Secretary of Health, Education, and Welfare, hereby proposes to amend Title 45 of the Code of Federal Regulations by adding a new Chapter XIV, Subchapter A, as set forth below.

In section 301(a) of the Education Amendments of 1972 (Public Law 92-318), Congress enunciated policies of the U.S. Government: (1) To provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class; (2) to provide leadership in the conduct and support of scientific inquiry into the educational process to achieve such equality of opportunity; and (3) to improve American education through its reform and renewal and through the strengthening of the scientific and technological foundations of education and the building of an effective educational research and development system (section 405(a) of the General Education Provisions Act).

To carry out these policies, Congress established, within the Education Division of the Department of Health, Education, and Welfare, the National Institute of Education, to conduct educational research, collect and disseminate the findings of educational research, train individuals in educational research; to assist and foster such research, collection, dissemination, or training through grants, contracts, technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; and to promote the coordination of such research and research support within the Federal Government. An interim statement of organization for the Institute was published at 37 FR 19158 (September 19, 1972).

This proposed subchapter establishes general rules and requirements, both substantive and procedural, for the award of assistance to eligible parties to support "educational research," which is broadly defined in the statute to include basic and applied research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

Sections 1400.2 and 1400.4 of this proposed subchapter indicate that the award and administration of contracts by the Institute are not subject to this subchapter, but are instead covered by Chapters 1 and 3 of Title 41 of the Code of Federal Regulations. However, §§ 1400.2 and 1400.4 bear upon prospective contractors by providing that Department standards for the selection between contract and grant procedures and instruments (published at 41 CFR 3-1.53) shall govern such selection by the Institute, both with respect to solicitation of grant proposals or contract proposals and awards based upon unsolicited proposals. In addition, § 1400.4(e) provides that the provisions on eligible applicants in this subchapter (§ 1403.2) shall govern contracts, as well as grant awards, except that profitmaking institutions may also be eligible for contracts with the Institute. The body of this subchapter applies only to the award and administration of grants by the Institute.

The provisions of this proposed subpart would establish general rules and

regulations governing the award and administration of all grants by the Institute, except as otherwise provided in any regulations subsequently published by the Institute in Subchapter B of this chapter.

Notifications of any closing dates for receipt of applications for assistance under this subchapter will be published in the FEDERAL REGISTER.

The instant proposed subchapter contains provisions governing the submission and review of grant applications, and the award of grants based thereon. Part 1403 sets forth limitations on the extent of Federal participation in any project grant, including (in Appendixes) detailed provisions on allowable grantee costs (Part 1408).

Sections herein lay down programmatic and fiscal requirements for recipients of grant awards, including provisions for the protection of humans and animals involved as subjects in educational research. They contain detailed requirements for procurement actions (Part 1406) and property management (Part 1412, Subpart D) by grantees, as well as for construction supported by the Institute (Part 1412, Subpart C). They do not contain copyright provisions, which will be set forth in separate regulations.

Substantive and procedural requirements related to obligations of the grantee to account for Federal funds are set forth in Part 1414 of this proposed subchapter. In the same part are provisions which permit termination and suspension for cause where the grantee has failed to comply with the grant terms and conditions, or applicable statutes or regulations, subject to safeguards designed to assure procedural due process of law to the grantee. Termination is provided for, where the grantee has not so failed to comply with the grant terms and conditions or applicable statutes or regulations, only by agreement of the Institute and the grantee.

Except as specifically noted, the provisions of this subchapter are premised upon section 405 of the General Education Provisions Act (GEPA) which establishes the National Institute of Education and sets forth the parameters of authority of the Institute's basic components—the National Council on Educational Research and the Director of the Institute. Section 405(f)(1) of GEPA provides: "The Director, in order to carry out the provisions of this section, is authorized—(A) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute * * *."

Interested persons are invited to submit written comments, suggestions, or objections, regarding the proposed regulations to the NIE Management Task Force, Room 627, Reporters Building, 300 Seventh Street SW., Washington, DC 20202, within 30 days of publication of this notice in the FEDERAL REGISTER. Comments received in response to this notice will be available for public inspection in Room 627, Reporters Building, 300 Seventh Street SW., Washington, D.C., between 8 a.m. and 4:30 p.m. Mondays through Fridays.

Dated: December 15, 1972.

THOMAS K. GLENNAN, Jr.,
Director of National Institute of Education.

Approved: December 27, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding a new Chapter XIV, Subchapter A reading as follows:

Chapter XIV—National Institute of Education, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL PROVISIONS FOR NATIONAL INSTITUTE OF EDUCATION

Part

1400 General.
1403 Eligibility and application for research grant assistance.
1406 Procurement standards for grantees.
1408 Federal financial participation.
1410 Financial reporting requirements for grantees.
1412 Administration of project grants.
1414 Accountability for Federal funds.

APPENDIX A—Principles for determining costs applicable to grants and contracts with nonprofit institutions.
APPENDIX B—Principles for determining costs applicable to grants and contracts with State and local governments. (OMB Circular No. A-87).
APPENDIX C—Principles for determining costs applicable to research and development under grants and contracts with educational institutions. (OMB Circular A-21).

NOTE: Appendix B is based on OMB Circular No. A-87 and Appendix C is based upon OMB Circular A-21. Incorporation of these same OMB circulars into future regulations will refer to Appendixes B and C of this Chapter XIV.

PART 1400—GENERAL

Sec.

1400.1 Definitions.
1400.2 Scope.
1400.3 Purpose.
1400.4 Policy on use of grants or contracts.

AUTHORITY: Sec. 405 of the General Education Provisions Act, as added by Section 301(a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e), unless otherwise noted.

§ 1400.1 Definitions.

As used in this subchapter:

"Acquisition" means assumption of ownership including the receipt of gifts and necessary delivery, and includes purchase, lease, or lease-purchase.

"Act" means the General Education Provisions Act, as amended.

"Applicant" means an eligible party seeking Federal financial assistance under this chapter.

"Application" includes requests from eligible parties for grant assistance from the Federal Government.

"Award" means a properly executed grant to an eligible party under this chapter.

"Budget period" means the interval of time into which an approved activity is divided for budgetary purposes.

"Department" means the U.S. Department of Health, Education, and Welfare.

"Director" means the Director of the National Institute of Education or a designee of the Director.

"Educational research" means research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

"Expendable personal property" means all tangible personal property other than nonexpendable personal property.

"Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

"Grant period" means the period during which costs may be charged against a grant.

"Grantee" means the individual, agency, organization, or institution which has received an award of grant assistance from the Institute.

"Institute" means the National Institute of Education.

"Nonexpendable personal property" means tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of $300 or more per unit.

"Private" means not under public supervision or control.

"Procurement" means the acquisition from non-Federal sources of personal property and nonpersonal services, including construction, by such means as purchasing, renting, leasing, including real property, contracting, or bartering, but not by seizure, condemnation, donation, or requisition.

"Project period" means the total period of time for which a project is approved for support with Federal funds.

"Public agency" means a legally constituted organization of government under public administrative control and direction, but does not include agencies of the Federal Government.

"Secretary" means the Secretary of the Department of Health, Education, and Welfare.

§ 1400.2 Scope.

(a) Except as otherwise provided by regulation, the regulations of this subchapter apply to all grant awards of Federal assistance to eligible parties authorized under section 405 of the General Education Provisions Act.

(b) The regulations of this subchapter will be supplemented by other regulations in this chapter setting forth any special (1) rules of procedure; (2) substantive rules of general applicability; and (3) statements of general policy or interpretations of general applicability developed under the authority of section 405 of the General Education Provisions Act.

(c) Subject to the provisions of § 1400.4, the regulations of this subchap-

ter are not applicable to the award and administration of contracts under section 405 of the Act. Such contracts are subject to the regulations in Chapters 1 and 3 of Title 41 of the Code of Federal Regulations.

(d) Federal financial assistance provided under this subchapter is also subject to the regulations in Part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88-352).

(42 U.S.C. 2000 d)

(e) Federal financial assistance provided under this subchapter is also subject to the provisions of title IX of the Education Amendments of 1972 which prohibit sex discrimination, and any regulations issued thereunder (secs. 901-903, 905-907 of Public Law 92-318).

(20 U.S.C. 1681-1683, 1685-1686)

(f) Federal financial assistance provided under this subchapter is also subject to the provisions of section 904 of the Education Amendments of 1972 which prohibit discrimination on the grounds of blindness or severely impaired vision and any regulations issued thereunder.

(20 U.S.C. 1684)

§ 1400.3 Purpose.

(a) Congress has declared it a policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, national origin, or social class. The Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process. Congress has further declared it to be the policy of the United States to:

(1) Help to solve, or to alleviate the problems of, and promote the reform and renewal of, American education;

(2) Advance the practice of education as an art, science, and profession;

(3) Strengthen the scientific and technological foundations of education; and

(4) Build an effective educational research and development system.

(b) This subchapter establishes general regulations for the award of grants by the National Institute of Education to carry out the policies set forth in paragraph (a) of this section.

§ 1400.4 Policy on use of grants or contracts.

(a) It is the policy of the Institute that competition be fostered to the maximum extent practicable in the review of grant applications, contract proposals, and unsolicited proposals which may lead to either grant or contract awards. Such competition will be designed to help achieve the purposes of the Institute through the identification and utilization of the best technical competence and other resources.

(b) In order to effectuate the purposes of § 1400.3, the Director may issue, with appropriate publication, formal written requests for proposals directed toward the award of contracts or announcements directed toward the award of grants and may award grants or contracts on the basis of unsolicited proposals from eligible parties. In addition, he may enter jointly financed cooperative arrangements with eligible parties.

(c) Generally, the Director shall select between grant and contract procedures and instruments, both with regard to the solicitation process and with respect to unsolicited proposals, on the basis of criteria set forth in Subpart 3-1.53 of Title 41 of the Code of Federal Regulations.

(d) Except as provided in paragraph (e) of this section, the award and administration of contracts and cooperative arrangements shall not be covered by this subchapter. As provided in § 1400.2 (c), contracts shall be subject to the regulations in Chapters 1 and 3 of Title 41 of the Code of Federal Regulations.

(e) The provisions of § 1403.2(a) of this subchapter on eligible parties shall govern contract awards and jointly financed cooperative arrangements by the Director, as well as grant awards, except that profitmaking corporations, organizations, institutions, or agencies shall also be eligible for such contracts and jointly financed cooperative arrangements.

PART 1403—ELIGIBILITY AND APPLICATION FOR RESEARCH GRANT ASSISTANCE

Sec.

1403.1 Nature and purpose of research project award.
1403.2 Eligibility for award.
1403.4 Applications.
1403.7 Cooperative arrangements.
1403.8 Effective date of approved project.
1403.10 Evaluation of applications.
1403.11 Disposition of applications.
1403.13 Amendments.
1403.15 Preliminary proposals.

AUTHORITY: Sec. 405 of the General Education Provisions Act, as added by section 301 (a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e), unless otherwise noted.

§ 1403.1 Nature and purpose of research project award.

A research project grant is the award by the Director of funds to an institution, organization, or other person to assist in meeting the costs of conducting, for the purposes specified under § 1400.3 of this subchapter, an identified activity or program (hereinafter termed the "project") consisting of educational research.

§ 1403.2 Eligibility for award.

(a) *Persons eligible.* Except where otherwise prohibited by law, any individual, corporation, public or private institution or agency found by the Director to be authorized and qualified by educational, scientific, or other relevant competence to carry out a proposed research project in accordance with the regulations of this subchapter shall be eligible for an award except:

(1) Federal agencies or institutions not specifically authorized by law to receive such an award; and

(2) Any corporation, institution, agency, or other such person, other than an individual, whose net earnings inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) *Projects eligible.* Any project found by the Director to be an educational research project within the meaning of § 1400.1 of this subchapter and § 1403.1 shall be eligible for an award. Eligible projects may include planning, laboratory, clinical, population, field, statistical, basic, applied or other types of investigations, studies, or experiments, dissemination, utilization, application, implementation, training, developments or demonstrations, or combinations thereof, and may either be limited to one, or a particular aspect of, a problem or subject, or may consist of two or more related problems or subjects for concurrent or consecutive investigation and involving multiple disciplines, facilities, and resources.

§ 1403.4 Applications.

(a) *Applications for grants.* Any applicant eligible for grant assistance may submit, on or before such cutoff date or dates as the Director may announce for each fiscal year, an application containing such pertinent information, and in accordance with the forms and instructions, as prescribed herein and additional forms as may be specified by the Director. Such application shall be executed by the applicant or an official or representative of the applicant duly authorized to make such application.

(b) *Forms.* (1) *Federal Assistance Application for Nonconstruction Programs.* The Federal Assistance Application for Nonconstruction Programs form (OMB No. 60-R0186) shall be used by the applicant for all actions covered by this subchapter except where the major purpose of the grant involves construction, land acquisition, or development or single-purpose and one-time grant applications for less than $10,000 which do not require State clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms.

(2) *Application for Federal Assistance—Short Form.* The Application for Federal Assistance—Short Form (OMB No. 080-R0185) shall be used for all grants for single-purpose and one-time grant applications for less than $10,000 not requiring State clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms.

(31 U.S.C. 628; OMB Circular No. A-102, Attachment M)

§ 1403.7 Cooperative arrangements.

(a) Eligible parties may enter into cooperative arrangements with other eligible parties, including those in another State, to apply for assistance.

(b) A joint application made by two or more applicants for assistance under this subchapter may have separate budg-

ets corresponding to the programs, services, and activities performed by each of the joint applicants, or may have a combined budget. If joint applications present separate budgets, the Director may make separate awards, or may award separate amounts for each of the joint applicants.

(c) In the case of each cooperative arrangement authorized under paragraph (a) of this section and receiving assistance, except where the Director makes separate awards under paragraph (b) of this section, all such applicants (1) shall be deemed to be joint legal recipients of the grant award and (2) shall be jointly and severally responsible for administering the project assisted under such grant.

§ 1403.8 Effective date of approved project.

Federal financial participation is available only with respect to obligations incurred subsequent to the effective date of an approved project. The effective date of the project will be set forth in the notification of grant award, in accordance with allowable cost provisions set forth in Appendices A, B and C to this subchapter.

(31 U.S.C. 628; OMB Circular Nos. A-21, A-87)

§ 1403.10 Evaluation of applications.

(a) *Review procedures.* All applications filed in accordance with § 1403.4 shall be evaluated by the Director through officers, employees, and such experts or consultants engaged for this purpose as he/she determines are specially qualified in the areas of research involved in Appendixes A, B, and C to this subtions on applications shall be taken only by the Director or his/her designee who will be directly responsible to the Director.

(b) *Criteria for evaluation.* Review of applications under paragraph (a) of this section will take into account such factors as:

(1) Educational and scientific merit and significance of the project;

(2) Feasibility of the project;

(3) Soundness of research design, statistical technique, and procedures and methodology;

(4) Theoretical and technical soundness of the proposed plan of operation, including consideration of the extent to which:

(i) The objectives of the proposed project are sharply defined, clearly stated, and capable of being attained by the proposed procedures;

(ii) Provisions are made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished;

(iii) Where appropriate, provisions are made for satisfactory inservice training connected with project services.

(5) Expected potential for utilizing the results of the proposed project in other projects or programs for similar educational purposes;

(6) Sufficiency of size, scope, and duration of the project so as to secure productive results;

(7) Adequacy of qualifications and experience, including managerial, of personnel;

(8) Adequacy of facilities and other resources;

(9) Reasonableness of estimated cost in relation to anticipated results; and

(10) Where the applicant has previously received an award from the Institute, the applicant's compliance or noncompliance with requirements applicable to such prior award: *Provided, however,* That in any case where the Director proposes to deny assistance based upon the applicant's noncompliance with requirements applicable to a prior award, he shall do so only after affording the applicant reasonable notice and an opportunity to rebut the proposed basis for denial of assistance.

(31 U.S.C. 628)

§ 1403.11 Disposition of applications.

(a) On the basis of the review of an application pursuant to § 1403.10, the Director will either (1) approve the application in whole or in part, for such amount of funds and subject to such conditions as he/she may deem necessary or desirable for the completion of the approved project, (2) disapprove the application, or (3) defer action on the application for such reasons as lack of funds or a need for further review.

(b) *Reconsideration.* Any deferral or disapproval of an application shall not preclude its reconsideration or resubmission.

(c) *Notification of disposition.* The Director will notify the applicant in writing of the disposition of its application. A signed notification of grant award will be issued to notify the applicant of an approved project application.

§ 1403.13 Amendments.

Substantive amendments will be subject to approval in the same manner, and on the same forms, as original applications. Project amendments may be (a) requested by the grantee, as provided in § 1408.4 of this subchapter or (b) initiated by the Director if it appears that Federal grant funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing such projects. If such amendment constitutes a partial termination of the award, the procedures contained in § 1414.14 of this subchapter shall apply. Only those pages of the required forms which relate to the requested changes should be submitted.

§ 1403.15 Preliminary proposals.

When he/she deems it necessary or desirable to effectuate the purposes and policies in § 1400.3 and § 1400.4(a) of this subchapter, the Director may require any applicant for assistance under this subchapter to submit a preliminary proposal for review and approval prior to the acceptance of an application submitted under § 1403.4.

PART 1406—PROCUREMENT STANDARDS FOR GRANTEES

Sec.

1406.1 General standards for procurement.
1406.4 Code of conduct.
1406.5 Free competition.
1406.6 Procedural requirements.
1406.7 Negotiated procurement.
1406.10 Contractor responsibility.
1406.11 Records.
1406.12 Contract administration system.
1406.15 Contract provisions.
1406.16 Procurement of construction.

AUTHORITY: Sec. 405 of the General Education Provisions Act, as added by Sec. 301 (a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e); OMB Circular A-102, Attachment O, unless otherwise noted.

§ 1406.1 General standards for procurement.

(a) Each project application shall provide that the activities and services for which Federal financial assistance is sought will be administered by, or under the supervision of, the applicant.

(b) The applicant shall not transfer to others, responsibility, in whole or in part, for the use of Federal funds for the conduct of project activities, but may enter into contracts or arrangements with others for carrying out a portion of any such activities in accordance with the provisions of this part.

(c) This part provides standards for use by grantees in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive orders.

(d) The standards contained in this part do not relieve the grantee of the responsibilities arising under its contracts. The grantee is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(e) Grantees may use their own procurement regulations which reflect applicable State and local law, rules, and regulations provided that procurements made with Federal grant funds adhere to the standards set forth in this part.

§ 1406.4 Code of conduct.

The grantee shall maintain a code of standards of conduct which shall govern the performance of its officers, board members, employees, or agents in contracting with and expending Federal grant funds. The grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent per-

missible by State or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee officers, employees, or agents, or by contractors or their agents.

§ 1406.5 Free competition.

All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

§ 1406.6 Procedural requirements.

The grantee shall establish procurement procedures which provide for, as a minimum, the following procedural requirements: (a) Proposed procurement actions shall be reviewed by high level grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(c) Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(d) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the purposes of this subchapter. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to § 1406.7 is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations.

(1) Where such advertised bids are obtained, the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price, and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the grantee.

(3) Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

§ 1406.7 Negotiated procurement.

(a) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the grantee if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising;

(2) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the Director for prior approval;

(3) The aggregate amount involved does not exceed $2,500;

(4) The contract is for personal or professional services, or for any service to be rendered by university, college, or other educational institutions, subject to the requirements of §§ 1406.1 (a) and (b) and 1412.7 of this subchapter.

(5) The material or services are to be procured and used outside the limits of the United States and its possessions;

(6) No acceptable bids have been received after formal advertising;

(7) For materials or services where the prices are established by law;

(8) For experimental, developmental or research work;

(9) Otherwise authorized by law, rules, or regulations.

(b) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

§ 1406.10 Contractor responsibility.

Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Considerations shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

§ 1406.11 Records.

Procurement records or files for purchases in amounts in excess of $2,500 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

§ 1406.12 Contract administration system.

A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

§ 1406.15 Contract provisions.

The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts:

(a) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contracts terms, and provide for such sanctions and penalties as may be appropriate.

(b) All contracts, amounts for which are in excess of $2,500, shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) All contracts in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity," as supplemented in Department of Labor Regulations (41 CFR Part 60). Each contractor shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, sex, and age, and which specifies goals and target dates to assure the implementation of that plan. The grantee shall establish procedures to assure compliance with this requirement by contractors and to assure that suspected or reported violations are promptly investigated.

(d) Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to § 1412.22 of this subchapter and any regulations issued by the grantee. Detailed copyright provisions covering project grants of the Institute will be issued as a separate regulation.

(e) All negotiated contracts except those of $2,500 or less awarded by grantees shall include a provision to the effect that the grantee, the Director, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

(f) Each contract of an amount in excess of $2,500 awarded by a grantee or subcontractor shall provide that the recipient will comply with applicable regulations and standards of the Cost of Living Council (6 CFR Ch. I) in establishing wages and prices. The provision shall advise the recipient that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the grantee shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Violations shall be reported to the Institute and the local Internal Revenue Service field office.

(g) Contracts of amounts in excess of $10,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the Institute and the Regional Office of the Environmental Protection Agency.

§ 1406.16 Procurement of construction.

All construction contracts are subject to the provisions of Subpart C of Part 1412 of this subchapter.

PART 1408—FEDERAL FINANCIAL PARTICIPATION

Sec.

1408.1 Amount of award.
1408.2 Limitations on costs.
1408.4 Budget revisions and minor deviations.
1408.7 Federal obligation.
1408.8 Payments.
1408.9 Duration of project.
1408.10 Obligation and liquidation by grantee.
1408.12 Allowable costs.

AUTHORITY: Section 405 of the General Education Provisions Act, as added by section 301(a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e), unless otherwise noted.

§ 1408.1 Amount of award.

Federal assistance shall be provided only to meet allowable costs incurred by the award recipient in carrying out the approved project in accordance with section 405 of the Act and the regulations of this subchapter.

(31 U.S.C. 628)

§ 1408.2 Limitations on costs.

The amount of the award shall be set forth in the grant award document. The total cost to the Government will not exceed the amount set forth in the grant award document or any modification thereof approved by the Director which meets the requirements of applicable statutes and regulations. The Government shall not be obligated to reimburse the grantee for costs incurred in excess of such amount unless and until the Director has notified the grantee in writing that such amount has been increased and has specified such increased amount in a revised grant award document pursuant to § 1403.13 of this subchapter. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant.

(31 U.S.C. 200)

§ 1408.4 Budget revisions and minor deviations.

(a) *State and local governments.* (1) This paragraph applies only to grantees which are State and local governments, as defined in subparagraph (2) of this paragraph.

(OMB Circular No. A-102, Attachment K)

(2) As used in this paragraph:

(i) "Direct cost object class budget categories" include only the following:

(*a*) Personnel;
(*b*) Fringe benefits;
(*c*) Travel;
(*d*) Equipment;
(*e*) Supplies;
(*f*) Contractual;
(*g*) Construction; and
(*h*) Other.

(ii) "Construction" means solely or primarily for construction.

(iii) "Local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

(iv) "Nonconstruction" means not solely or primarily for construction.

(v) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(OMB Circular No. A-102, Exhibit M-3, 5)

(3) For nonconstruction grants, State and local government grantees shall request prior approval promptly from the Director for proposed budget revisions whenever one or more of the following conditions prevail:

(i) The revision results from approved changes in the scope or the objective of the project;

(ii) The revision indicates the need for additional Federal funding;

(iii) The budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or five percent (5%) of the budget, whichever is greater. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant, except that the Director will permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(iv) The budget is $100,000 or less, and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed five percent (5%) of the budget. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant, except that the Director will permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(v) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs; or

(vi) The revisions pertain to the addition of items requiring approval in accordance with the provisions of Appendix B to this subchapter.

(OMB Circular No. A-102, Attachment K, 1-2)

(4) Budget revisions for nonconstruction grants, other than those revisions set forth in paragraph (a)(3) of this section, do not require approval by the Director. Budget revisions which do not require such approval include (i) the use of grantee funds in furtherance of project objectives over and above the grantee minimum share (if any) included in the approved budget and (ii) the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(5) For construction grants, State and local government grantees shall request prior approval promptly from the Director for budget revisions whenever:

(i) The revision results from changes in the scope or objective of the project; or

(ii) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(OMB Circular No. A-102, Attachment K, 2)

(6) (i) For both construction and nonconstruction grants, State and local government grantees shall notify the Director promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by more than $5,000 or five percent (5%) of the Federal grant, whichever is greater.

(ii) The notification required in paragraph (a)(6)(i) of this section will not be required when applications for additional funding are submitted for continuing grants.

(OMB Circular No. A-102, Attachment K, 2)

(7) Within 30 days from the date of receipt of the request for budget revisions, the Director will review the request and notify the grantee as to whether or not the budget revisions have been approved. If the revision is still under consideration at the end of such 30-day period, the Director will inform the recipient in writing as to when the grantee may expect the Director's decision.

(OMB Circular No. A-102, Attachment K, 3)

(b) *Recipients other than State and local governments.* (1) Minor deviations from the project of a grantee other than a State or local government, as defined in paragraph (a)(2) of this section, in

methodology, approach, or other aspects of the project that would expedite achievement of the project's research objectives, including changes that grew out of the approved strategy, are permitted without the necessity for an approved amendment of revision where (i) they do not result in expenditures in excess of the total amount granted; (ii) there is not any material change in the content or the administration of the approved application; and (iii) expenditures are otherwise made in accordance with, and for kinds of expenditures authorized in, the approved project.

(2) Project changes which result in (i) expenditures in excess of the total amount granted; (ii) material changes in the content or administration of the approved project; or (iii) expenditures which are not of the kind authorized in the approved project require prior amendment to the grant by the Director, in accordance with § 1403.13 of this subchapter.

(31 U.S.C. 628)

§ 1408.7 Federal obligation.

The issuance of a grant award document will be regarded as an obligation of the Federal Government in the amount of the award.

(31 U.S.C. 200)

§ 1408.8 Payments.

(a) *Payment methods and adjustments.* Payments pursuant to grants may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Director may determine.

(b) *Violations.* A payment under any such grant for expenditures which fail to meet the requirements of any of the provisions of applicable Federal statutes, regulations, or the approved project application (including any terms and conditions applicable thereto) may be taken into account in the determination of any such overpayments and any adjustments relating thereto.

(c) *Current needs.* Funds paid pursuant to a grant for amounts expended by a grantee to carry out its function under such grant generally will be limited to the amount necessary to meet current needs for disbursement.

(d) *Adjustment of records.* Each grantee, in its maintenance of project expenditure accounts, records, and reports shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, resulting from Federal or State administrative reviews and audits or otherwise. Such adjustments shall be set forth in any financial reports required to be filed with the Director.

§ 1408.9 Duration of project.

(a) The amount of the grant award shall remain available for obligation by the grantee during the period specified in the grant award or until otherwise terminated. Such period may be extended by revision of the grant with or without additional funds pursuant to paragraph (b) of this section where otherwise permitted by law.

(b) When it is determined that special or unusual circumstances will delay the completion of the project beyond the period for obligation, the grantee must in writing request the Director to extend such period and must indicate the reasons therefor.

§ 1408.10 Obligation and liquidation by grantee.

(a) Obligations will be considered to have been incurred by a grantee on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities, shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively.

(b) Obligations entered into by a grantee shall be liquidated within 1 year following the grant period unless the Director, in writing, extends the time for so liquidating obligations, on the basis of a request, in writing, from the grantee. Such request must be made prior to the end of the initial period for liquidating obligations.

(31 U.S.C. 200)

§ 1408.12 Allowable costs.

Subject to applicable Federal statutes and regulations, allowability of costs shall be determined in accordance with the principles and procedures contained in the following documents:

(a) Appendix A to this part, if the recipient is a nonprofit institution, agency, or organization which is not covered under paragraphs (b) or (c) of this section,

(b) Appendix B to this part if the recipient is a State or local government, or

(c) Appendix C to this part if the recipient is an institution of higher education.

(OMB Circulars Nos. A-21, A-87)

PART 1410—FINANCIAL REPORTING REQUIREMENTS FOR GRANTEES

Sec.

1410.1 General.
1410.2 Definitions.
1410.3 Reporting.
1410.5 Advances and reimbursements.

AUTHORITY: Sec. 405 of the General Education Provisions Act, as added by section 301(a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e); OMB Circular A-102, Attachment H, unless otherwise noted.

§ 1410.1 General.

This part prescribes requirements for grantees to report financial information and to request advances and reimbursement when a letter-of-credit method is not used, and specifies standard forms incident thereto.

§ 1410.2 Definitions.

The following definitions apply for the purposes of this part:

Accrued expenditures. Accrued expenditures are the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, and other payees; and (3) amounts becoming owed under programs for which no current services or performance are required.

Accrued income. Accrued income is the earnings during a given period which is a source of funds resulting from: (1) Services performed by the grantee; (2) goods and other tangible property delivered to purchasers; and (3) amounts becoming owed to the grantee for which no current services or performances are required by the grantee.

Disbursements. Disbursements are payments in cash or by check.

Federal funds authorized. Funds authorized represent the total amount of the Federal funds authorized for obligations and establish the ceilings for obligation of Federal funds. This amount may include any authorized carryover of unobligated funds from prior fiscal years.

In-kind contributions. In-kind contributions represent the value of noncash contributions provided by: (1) The grantee; (2) other public agencies and institutions; and (3) private organizations and individuals. In-kind contributions may consist of charges for real property and equipment, and value of goods and services directly benefiting and specifically identifiable to the grant project. When authorized by Federal legislation, property purchased with Federal funds may be considered as the grantee's in-kind contributions.

Obligations. Obligations are the amounts of orders placed, contracts awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

Outlays. Outlays represent charges made to the grant project. Outlays can be reported on a cash or accrued expenditure basis.

Unobligated balance. The unobligated balance is the portion of the funds authorized by the Director which has not been obligated by the grantee and is determined by deducting the cumulative obligations from the funds authorized.

Unpaid obligations. Unpaid obligations represent the amount of obligations incurred by the grantee which have not been paid by him/her.

§ 1410.3 Reporting.

Only the following forms will be authorized for obtaining financial information from grantees:

(a) *Financial Status Report (OMB Form No. 80-120180).* (1) Grantees shall use the standard Financial Status Report to report the status of funds for all nonconstruction grant programs. The Financial Status Report shall not be required when the Request for Advance or Reimbursement (§ 1410.5) is determined to

provide adequate information, except that a final Financial Status Report shall be required at the completion of the grant when the Request for Advance or Reimbursement form is used only for advance.

(2) The Director shall prescribe whether the report shall be on a cash or accrual basis. If the Director requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee should develop such information through an analysis of the documentation on hand or on the basis of best estimates.

(3) The Director shall specify the frequency of the Financial Status Report for each grant project considering the site and complexity of the particular project. However, the report shall not be required more frequently than quarterly or less frequently than annually. Also, a final report shall be required at the completion of the grant.

(4) The original and two copies of the Financial Status Report shall be submitted within 30 days after the end of each specified reporting period. In addition, final reports shall be submitted 30 days after the end of the grant period of the completion of the project. Extensions to reporting due dates may be granted when requested by the grantee.

(b) *Report of Federal Cash Transactions (OMB Form No. 80-R0182).* (1) When funds are advanced to grantees through letters of credit or with Treasury checks, the grantee shall submit a Report of Federal Cash Transactions. This report shall be utilized to monitor cash advances to grantees and to obtain disbursement or outlay information for each grant project from the grantees.

(2) Forecasts of Federal cash requirements in the Remarks section of the report may be required.

(3) The Director will accept the identical information from the grantees in a machine-usable format in lieu of the Report of Federal Cash Transactions.

(4) Grantees shall submit the original and two copies of the Report of Federal Cash Transactions no later than 15 working days following the end of each quarter. For those grantees, if any, receiving annual grants totaling $1 million or more, a monthly report shall be required.

(5) The requirement for submission of the Report of Federal Cash Transactions may be waived when monthly advances do not exceed $10,000 per grantee: *Provided*, That such advances are monitored through other forms contained in this section or the grantee's accounting controls are adequate to minimize excessive Federal advances.

§ 1410.5 Advances and reimbursements.

Except as noted in this section, only the following form will be utilized by grantees in requesting advances and reimbursements:

REQUEST FOR ADVANCE OR REIMBURSEMENT (OMB FORM NO. 80-R0183)

(a) The Request for Advance or Reimbursement is the standard form for all nonconstruction grant programs when letters of credit or predetermined automatic advance methods are not used.

(b) Grantees are authorized to submit requests for advances or reimbursement when letters of credit are not used. Grantees shall submit the original and two copies of the Request for Advance or Reimbursement.

PART 1412—ADMINISTRATION OF PROJECT GRANTS

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AUTHORITY: Section 405 of the General Education Provisions Act, as added by section 301(a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e); §§ 1412.48 to 1412.52 also issued under OMB Circular No. A-102, Attachment O; §§ 1412.69-1412.73 also issued under OMB Circular No. A-102, Attachment N, unless otherwise noted.

Subpart A—Protection of Human and Animal Subjects

§ 1412.1 Protection of human subjects.

All grantees, insofar as their proposal involves research with human subjects, must insure that the rights and welfare of human subjects are maintained. Every precaution must be taken to protect human subjects from physical, psychological, or sociological harm, in accordance with the specific provisions of Title 41, Subpart 3-4.55 of the Code of Federal Regulations.

§ 1412.2 Data-collection instruments.

(a) *Definitions.* For the purposes of this section:

"Data-collection instruments" means tests, questionnaires, inventories, interview schedules or guides, rating scales, and survey plans or any other forms which are used to collect information on substantially identical items from 10 or more respondents.

"Respondents" means individuals or organizations from whom information is collected.

(b) *Clearance.* (1) No data-collection instruments shall be used in any project unless such instruments have been approved in advance by the Director.

(2) To obtain approval of data-collection instruments, an applicant for assistance shall submit the following data:

(i) A statement which provides—

(*a*) The exact title of the data-collection instrument submitted for approval;

(*b*) The purposes of the project and the relation of such instrument thereto;

(*c*) The nature and size of the sample, including the method or methods of sampling;

(*d*) The locale of the project;

(*e*) The provisions for anonymity and confidentiality of response;

(*f*) A brief indication of the nature and extent of statistical analysis of the data;

(*g*) The estimated average time required of the respondent for his participation in the project; and

(*h*) A single figure giving the estimated cost of the survey as a component of the project to be assisted; and

(ii) Five copies of each data-collection instrument to be cleared, except that copies need not be submitted of instruments which deal solely with—

(*a*) Functions of technical proficiency, such as scholastic aptitude, school achievement, and vocational proficiency;

(*b*) Routine demographic information; or

(*c*) Routine institutional information.

(3) The Director will take into account all factors specified in paragraph (b)(2)(i) of this section in any determination regarding approval of data-collection instruments. Clearance will be denied where the Director determines that such instruments constitute unnecessary or offensive intrusions of privacy through inquiries regarding such matters as religion, sex, or politics.

(c) *Responsibility for collection of information.* A grantee shall not in any way represent or imply (either in a letter of transmittal, in the data-gathering instruments themselves, or in any other manner) that the information is being collected by or for the Federal Government or any of its subdivisions without prior, specific approval from the Director. Basic responsibility for the study and the data-gathering instruments rests with the grantee.

(d) *Parental consent.* In the case of any survey using data-collection instruments which will include children below the age of 18 as respondents, in addition to the other requirements contained in this section, the applicant for assistance shall provide assurances satisfactory to the Director that informed consent will be obtained from the parents of each respondent prior to the use of such instruments.

§ 1412.3 Treatment of animals.

If animals are utilized in any project receiving assistance, the applicant for such assistance shall provide assurances satisfactory to the Director that such animals will be provided with proper care and humane treatment; in accordance with the Animal Welfare Act of 1970 (Public Law 89-544, as amended).

Subpart B—General Requirements

§ 1412.7 Principal investigators.

All grant awards shall be subject to the condition that the principal investigator designated in the application as responsible for the conduct of the approved project shall continue to be responsible for the duration of the project period. Whenever any such investigator shall become unavailable for any reason to discharge this responsibility, the grant shall be terminated and an accounting rendered as provided in §§ 1414.14 and 1414.15 of this subchapter unless the grantee replaces such investigator with another person found by the Director to be qualified to direct and conduct the approved project.

§ 1412.10 Retention of records.

(a) *Records.* Each grantee shall keep intact and accessible records relating to the receipt and expenditure of Federal funds and to the expenditure of the grantee's contribution to the cost of the project, if any, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the grant.

(b) *Retention.* Except as otherwise provided in this paragraph and paragraph (d) of this section, the records shall be retained for 3 years after the date of the submission of the final expenditure report, or for grants which are reviewed annually, for 3 years after the date of the submission of the annual expenditure report. Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.* Grantees may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(e) *Audit and examination.* The Secretary, the Director, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the grantee.

(OMB Circular No. A-73; OMB Circular No. A-102, Attachment C)

§ 1412.11 Audits.

(a) All expenditures by grantees shall be audited by the grantee or at the grantee's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations.

(b) The grantee shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

(c) Copies of audit reports shall be made available to the Director to assure that proper use has been made of the funds expended. The results of such audits will be used to review the grantee's records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audits.

(d) Each grantee shall use a single auditor for all of its expenditures under Federal education assistance programs, regardless of the number of Federal agencies providing such assistance.

(OMB Circular No. A-102, Attachment G, 2; C-1)

§ 1412.14 Financial interest prohibited.

A person who is a public official, officer, or member of, or who is otherwise associated with a grantee, may not participate in an administrative decision with respect to the grantee's project, if such decision can be expected to result in any benefit or remuneration, including, without limitation, a royalty, commission, contingent fee, brokerage fee, or other benefit, to him/her or to any member of his/her immediate family.

§ 1412.15 Dual compensation.

If a project staff member or consultant of one grantee is involved simultaneously in two or more projects supported by any funds either under this chapter or otherwise, he/she may not be compensated for more than 100 percent of his time from any funds during any part of the period of dual involvement.

§ 1412.16 Fees to Federal employees.

The grantee shall not use any Federal funds or funds from other sources to pay a fee to, or travel expenses of, employees of the Federal Government for lectures, attending program functions, or any other activities in connection with the grant.

§ 1412.19 Commencement of project activity.

Projects receiving Federal financial assistance shall commence within a reasonable period of time subsequent to the awarding of the grant.

§ 1412.21 Leasing facilities.

In the case of a project involving the leasing of a facility, the grantee shall demonstrate that it will have the right to occupy, to operate, and, if necessary, to maintain and improve the leased facility during the proposed period of the project.

§ 1412.22 Inventions or discoveries.

Any award pursuant to this part is subject to the regulations of the Department of Health, Education, and Welfare as set forth in Parts 6 and 8 of this title, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Director to assure that no contracts, assignments, or other arrangements inconsistent with the obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Director or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 1412.23 Standards for grantee financial management systems.

Grantee financial management systems shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant program in accordance with reporting requirements. When the Director requires reporting on an accrual basis and the grantee's accounting records are not kept on that basis, the grantee should develop such information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the grantor agency.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawdowns from the U.S. Treasury through his commercial bank as close

as possible to the time of making the disbursements.

(f) Procedures for determining the allowability and allocability of costs in accordance with the provisions of applicable Office of Management and Budget circulars.

(g) Accounting records which are supported by source documentation.

(h) Audits to be made by the grantee in accordance with § 1412.11.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 1412.24 Evaluation and performance reports.

Grantees shall constantly monitor the performance under grant-supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program, function, or activity of each grant as set forth in the approved grant application.

(a) *Performance reports.* Grantees shall submit a performance report for each grant which briefly presents the following for each program, function, or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of grant programs can be readily quantified, such quantitative data should be related to cost data for computation of unit costs;

(2) Reasons for slippage in those cases where established goals were not met;

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(b) Grantees shall submit the performance reports to the Institute with the Financial Status Reports, in the frequency established by the Director. The Director shall prescribe the frequency with which the performance reports will be submitted with the Request for Advance or Reimbursement when that form is used in lieu of the Financial Status Report. In no case, however, shall the performance reports be required more frequently than quarterly or less frequently than annually.

(c) Between the required performance reporting dates, events may occur which have significant impact upon the project or program. In such cases, the grantee shall inform the Director as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project performance units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(2) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more performance units than originally projected.

(d) If any performance review conducted by the grantee discloses the need for change in the budget estimates in accordance with criteria established, the grantee shall submit a request for budget revision in accordance with § 1408.4 of this subchapter.

(e) The grantee shall cooperate in site visits by representatives of the Institute to:

(1) Review program accomplishments and management control systems.

(2) Provide such technical assistance as may be required.

(OMB Circular No. A-102, Attachment G)

Subpart C—Construction

§ 1412.40 General.

(a) *Scope.* It is the policy of the Institute that only limited funding will be available under section 405 of the Act for the support of construction. Construction activities will be approved for assistance under this subchapter, and the provisions of this part will apply, only when the Director decides that support of such activities is necessary to the effectuation of the purposes set forth in § 1400.3 of this subchapter.

(b) *Definition.* For the purposes of this section, the term "facilities" means one or more structures in one or more locations, constructed pursuant to this section.

(c) *Manner of construction.* Such construction must be functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials.

(d) *Conditions for assistance.* Where applications are submitted to the Director for projects which involve construction, Federal financial assistance for such construction shall be subject to the conditions specified in this subchapter.

§ 1412.41 Title to site.

The applicant shall have or will obtain a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the useful life of the facility.

§ 1412.42 Safety and health.

In planning for and designing facilities, the applicant shall observe local and States codes as well as the National Fire Protection Association (NFPA) Standard 101, (Life Safety Code) and standards adopted under the Occupational Safety and Health Act of 1970 (Public Law 91-576): *Provided, however,* That to the extent they are more stringent, State and local codes shall apply.

§ 1412.43 Environmental impact.

The applicant shall provide the Department Regional Office with an assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and Executive Order No. 11514 (34 FR 4247); and will comply with such procedures in that regard as may be established by the Department.

§ 1412.44 Reports.

The applicant shall furnish progress reports and such other information relating to the proposed construction and the project as the Director may require.

§ 1412.45 Cultural activities.

Reasonable provision shall be made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities.

§ 1412.46 Commencement of construction.

Approval by the Director of the final working drawings and specifications shall be obtained before the proposed construction is advertised or placed on the market for bidding; the construction shall be completed in accordance with the approved application, drawings, and specifications; the applicant shall submit to the Director for prior approval changes that materially alter the scope or costs of the project, use of space, or functional layout; and the applicant shall not enter into any construction contract for the proposed construction or a part thereof until the requirements of this subchapter and, in particular, Part 1406 of this subchapter and this subpart, have been met.

§ 1412.47 Cost-sharing and operational funds.

Sufficient funds shall be available to meet the non-Federal share of the cost of constructing the facility where applicable, and sufficient funds shall be available when construction is completed to assure effective operation and maintenance of the facility for the purposes for which constructed.

§ 1412.48 Contracting.

Except as otherwise provided by State or local law, all contracting for construction including the purchase and installation of builtin equipment shall be on a lump sum fixed-price basis, and contracts shall be awarded in accordance with the procedural rules and substantive requirements set forth in Part 1406 of this subchapter.

§ 1412.49 Copeland "Anti-Kick Back" Act.

All contracts for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the Director.

§ 1412.50 Davis-Bacon Act.

All construction grants awarded by grantees and subcontractors shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the Director.

§ 1412.51 Contract Work Hours and Safety Standards Act.

Where applicable, all contracts awarded by grantees and subcontractors in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible: *Provided*, That the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

§ 1412.52 Bonds and insurance.

(a) State and local government recipients shall follow their own requirements relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For all recipients of contracts exceeding $100,000, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(b) Where the Federal Government guarantees the payment of money borrowed by the grantee, the Director may at his discretion require adequate bonding and insurance if the bonding and insurance requirements of a State or local government are not deemed to be sufficient to protect adequately the interest of the Federal Government.

(OMB Circular No. A–102, Attachment B)

(c) Except where the grantee is a State or local government, the grantee's contractor shall provide, during the life of the contract, for adequate fire, public liability, property damage, and workmen's compensation insurance. Where the grantee is a State or local government, the grantee shall follow its own legal requirements and normal practices with regard to insurance.

§ 1412.53 Supervision and inspection.

The applicant shall provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms to the approved drawings and specifications.

§ 1412.54 Civil rights assurance.

If an assurance of compliance with Title VI of the Civil Rights Act of 1964 (Form HEW 441) applying to the facility described in the application has not been filed, such an assurance shall be attached to the application.

§ 1412.55 Federal access to records and work.

Representatives of the Federal Government shall have access at all reasonable times to the applicant's records and to work whenever it is in preparation or progress, and the contractor will provide proper facilities for such access and inspection.

§ 1412.56 Operation and maintenance.

The facility shall be operated and maintained in accordance with the requirements of applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

§ 1412.57 Access by the handicapped.

The applicant shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1–1961, as modified by other standards prescribed by the Secretary of the U.S. Administrator of General Services.

(41 CFR 101–17.703)

§ 1412.58 Timeliness of work.

The applicant shall cause work on the project to be commenced within a reasonable time after receipt of notification from the Director that funds have been awarded, and the project shall be prosecuted to completion with reasonable diligence.

§ 1412.59 Avoidance of flood hazards.

In the planning of the construction of facilities involving the use of Federal funds, the recipient shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 FR 10663) and such rules and regulations as may be issued by the Secretary to carry out those provisions, evaluate flood hazards in connection with such facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

§ 1412.60 Relocation assistance.

Projects receiving Federal financial assistance pursuant to this section are subject to the regulations on Relocation Assistance and Real Property Acquisition policies contained in Part 15 of this title.

§ 1412.61 Preservation of historic sites.

Each application for Federal financial assistance for construction shall describe the relationship to and the probable effect, or lack of effect, on any district, site, building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service and published with periodical updatings in the FEDERAL REGISTER. Such information is to be furnished to the Department of Health, Education, and Welfare to enable it to take into account such an effect and to consider the comments thereon of the Advisory Council of Historic Preservation, prior to providing such Federal financial assistance, as required by section 106 of Public Law 89–665 (16 U.S.C. 470f).

Subpart D—Property Management

§ 1412.69 Nonexpendable personal property.

(a) *Title.* When nonexpendable personal property is acquired by a grantee wholly or in part with Federal funds, title shall be vested in the grantee.

(b) *Use.* (1) The grantee shall retain such property in the grant project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for such property to accomplish the purpose of the project, the grantee shall use the property in connection with other Fed-

eral awards it has received in the following order of priority:

(i) Other awards under Federal programs administered by the Director needing the property;

(ii) Grants of other Federal agencies needing the property.

(3) When the grantee no longer has need for such property in any of its federally assisted projects, the property may be used for the grantee's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used 4 years or more, the grantee may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds;

(ii) For all such property not covered under paragraph (b)(3)(i) of this section, the grantee may retain the property for its own use provided that a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the project to the current fair market value of the property.

(c) *Disposition.* If the grantee has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section), the grantee shall sell the property and reimburse the Federal Government in accordance with paragraph (b)(3)(ii) of this section.

(2) If the property had an acquisition cost of over $1,000 per unit, the grantee shall request disposition instructions from the Director. The Director will issue instructions to the grantee within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the grantee is instructed to ship the property elsewhere, the grantee will be reimbursed by the Federal Government with an amount which is computed by applying the percentage of the grantee's participation in the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the grantee is instructed to otherwise dispose of the property, the grantee will be reimbursed by the Federal Government for the costs incurred in such disposition.

(iii) If disposition or other instructions are not issued within the 120-day period specified in this subparagraph (2), the grantee shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the project to the sales proceeds. The grantee may retain $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

§ 1412.70 Special property.

Where the Director determines that nonexpendable personal property with an acquisition cost of $1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, he may reserve title to such property, subject to the following provisions:

(a) The property shall be appropriately identified in the award or otherwise made known to the grantee.

(b) The Director will issue disposition instructions within 120 days after completion of the need for the property under the project for which it was acquired. If instructions are not issued within such 120-day period, the grantee shall apply the applicable standards contained in § 1412.69 (b)(1), (2), (3), and (c)(2).

§ 1412.72 Property management standards.

Grantees' property management standards for non-expendable personal property shall also include the following procedural requirements: (a) Property records shall be maintained accurately and provide for:

(1) A description of the property;

(2) Manufacturer's serial number or other identification number;

(3) Acquisition date and cost;

(4) Source of the property;

(5) Percentage of Federal funds used in the purchase of the property;

(6) Location, use, and condition of the property; and

(7) Ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. The grantee shall be responsible for replacing or repairing, with funds of such grantee, property which is lost, damaged, or destroyed due to the negligence of the grantee.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

§ 1412.73 Unused expendable personal property.

When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal award purposes, the grantee may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with § 1412.69 (b)(3)(ii).

PART 1414—ACCOUNTABILITY FOR FEDERAL FUNDS

Sec.

1414.1 Final accounting.
1414.2 Unexpended funds.
1414.4 Withholding of funds.
1414.6 Waiver of law prohibited.
1414.14 Termination and suspension for cause.
1414.15 Termination by agreement.

AUTHORITY: Sec. 405 of the General Education Provisions Act, as added by section 301 (a)(2) of Public Law 92-318, 86 Stat. 328 (20 U.S.C. 1221e), unless otherwise noted.

§ 1414.1 Final accounting.

(a) In addition to such other accounting as the Director may require, the grantee shall render, with respect to the project, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Director within 90 days of the expiration or termination of the grant, and the grantee shall remit within 30 days of the recipt of a written request therefor any amounts found by the Director to be due. Such periods may be extended at the discretion of the Director upon written request of the grantee.

(31 U.S.C. 628)

§ 1414.2 Unexpended funds.

In the even that the amounts previously awarded have not been obligated pursuant to the approved project, and in the judgment of the Director, will not be obligated for such purposes, the Director may, upon notice to the grantee, reduce the amount of the grant to an amount consistent with the grantee's needs pursuant to § 1414.14.

§ 1414.4 Withholding of funds.

The approval of a grant, and any payment pursuant thereto, shall not be deemed to waive the right of the Director to withhold funds by reason of the failure of a grantee to observe, either before or after such administrative action, any Federal requirements.

§ 1414.6 Waiver of law prohibited.

No official, agent, or employee of the Institute or the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the regulations in this chapter, or other relevant statute or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Director's right to enforcement of such provisions in accordance with their terms.

(43 Dec. Comp. Gen. 31 (1963))

§ 1414.14 Termination and suspension for cause.

(a) *General.* (1) Grant assistance provided by the Institute under section 405 of the Act may be terminated in whole or in part if the Director determines, after affording the grantee reasonable notice and an opportunity to be heard, that the grantee has failed to carry out its approved project proposal in accord-

ance with the applicable law and the terms of such assistance or has otherwise failed to comply with any law, regulation, assurance, term, or condition applicable to the grant. Subject to paragraph (c) of this section, such assistance may be suspended during the pendency of termination proceedings initiated pursuant to this section.

(b) *Notice of termination.* (1) Proceedings with respect to the termination of the grant shall be initiated by the mailing of a notice to the recipient setting forth the basis of the proposed termination and the procedures available to the grantee under this section.

(2) If the Director determines that suspension of assistance during the pendency of such proceedings is necessary, such notice shall: (i) Inform the grantee of such determination, (ii) advise the grantee of the effective date of such suspension (which will be no earlier than the date of such notice), and (iii) offer the grantee an opportunity to show cause why such action should not be taken.

(3) The notice required under paragraph (b)(2) of this section shall further advise the grantee that no new obligations incurred in connection with the grant during the period of the suspension will be recognized by the Government in the event that assistance is ultimately terminated.

(4) Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the recipient's approved project, and not in anticipation of suspension or termination, will not be considered new expenditures.

(c) *Opportunity to show cause.* If the grantee requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Director will, within 7 days after receiving such request, hold an informal meeting for such purposes at a site selected by the Director.

(d) *Proceedings.* (1) Except as otherwise provided by statute or regulation, the grantee may appeal the Government's decision to terminate, by submitting to the Director, in writing, its rebuttal of the specific grounds for the proposed termination set forth in the notice of termination, within 30 days following the date of mailing of such notice by the Institute, unless an extension of such period of time has been granted by the Institute.

(2) The Director may, at his discretion, permit oral presentations by the Institute and the recipient regarding the notice of termination and the grantee's written rebuttal.

(3) The Director will issue a final decision in the case of such appeal after the submission of the grantee's written rebuttal, or any oral presentations permitted by the Director, whichever is later.

(4) Termination of assistance under this section will be effected by the delivery to the grantee of the notice of termination under paragraph (b) of this section; or, where the grantee invokes the procedures available under paragraphs (c), and (d)(1) of this section, upon the issuance of the Director's final decision under paragraph (d)(3) of this section.

(e) In the event the Department establishes a procedure for the consideration of administrative decisions to terminate a grant and such procedure is made applicable to grants under this subchapter, then the provisions of paragraph (d) of this section will be inapplicable. In such event, the notice of termination specified in paragraph (b) of this section will advise the grantee of the availability of such procedures. If the grantee requests an opportunity to show cause why such termination action shall not be taken, the Director will hold an informal meeting for such purpose. Such meeting may be consolidated with the meeting specified in paragraph (c) of this section may be held at another time no later than 30 days after receipt of such request. If following such meeting the matter of the termination of the grant has not been resolved, the grantee may have recourse to the procedures of the Department.

(f) *Effect of termination.* (1) In the event assistance is terminated under this section, financial obligations incurred by the grantee prior to the effective date of such termination will be allowable to the extent they would have been allowable had such assistance not been terminated, except that no obligations incurred during the period in which such assistance was suspended and no obligations incurred in anticipation of suspension or termination will be allowed.

(2) Within 60 days of the effective date of termination of assistance under this section, the grantee shall furnish an itemized accounting of funds expended, obligated, and remaining. Within 30 days of a request therefor, the grantee shall remit to the Institute any accounts found due.

(31 U.S.C. 628; OMB Circular No. A-102, Attachment L)

§ 1414.15 Termination by agreement.

The director or the grantee may terminate an award, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Director will allow full credit to the recipient for the Federal share of the noncancellable obligations, properly incurred by the grantee prior to termination.

(OMB Circular No. A-102, Attachment L)

APPENDIX A—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH NONPROFIT INSTITUTIONS

A. PURPOSE AND SCOPE

1. *Objectives.* This Appendix provides principles for determining the costs applicable to grants and contracts awarded by the Department of Health, Education, and Welfare and performed by nonprofit organizations other than educational institutions, hospitals and State and local Government organizations. These principles are confined to the subject of cost detemination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. *Definition of Nonprofit Institution.* (a) A nonprofit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals and (iii) State and local Governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and/or expand its operations.

The charter or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise, shall inure to the benefits of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a nonprofit institution, as defined herein, as the board of directors or trustees may determine. Institutions which have received tax exemptions as nonprofit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms nonprofit and not-for-profit as they are descriptively applied to institutions shall be considered synonymous provided the requirements of 2(a) are met.

3. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of nonprofit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such governmentwide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. *Application.* These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Department of Health, Education, and Welfare. The principles shall also apply to cost-reimbursement type contracts performed under DHEW grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. BASIC CONSIDERATIONS

1. *Composition of total cost.* The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. *Factors affecting allowability of costs.* Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. *Definition of reasonableness.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract.

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. *Definition of allocability.* A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to nonfederally supported activities it must also use such standards to allocate costs to Federal grants/contracts.

5. *Applicable credits.* The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. DIRECT COSTS

1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as materiel or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government-supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a DHEW grant/contract. These unallowable costs or activities are identified in section G. Even though a particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in section D–2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(s). Thus the costs associated with the following types of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying, and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection, and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.

(h) Other activities performed primarily as a service to a membership, clients, or the public.

3. This definition shall be applied to all items of cost of significant amount unless the institution demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in section D.

D. INDIRECT COSTS

1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a non-profit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-in-being, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc. (See section C–2.)

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives. Sub-grouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (1) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

4. A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the insti-

tution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. *Indirect cost pools.* (a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. *The distribution base.* Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. APPLICATION OF PRINCIPLES AND PROCEDURES

1. Costs shall be allowed to the extent that they are reasonable (see B.3) allocable (see B.4) and determined to be allowable in view of the other factors set forth in paragraph B.2. and section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus if the subcontract is for supplies or services with a nonprofit institution other than an educational institution, hospital or State and local governmental unit this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution, Bureau of the Budget Circular A–21 (Federal Procurement Regulation Part 1.15.3) would apply.

3. Selected items of cost are treated in Section G. However, section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in Section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

Sections G–1 through G–46 provide standards to be applied in establishing the allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit institutions which are so diverse in nature and not subject to effective competive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such action may also be initiated by the Government. Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;
3. Deferred maintenance costs;
4. Excess facility costs;
5. Materiel, services, and supplies sold between organizations or divisions under common control;
6. Preaward costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air-travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. *Advertising costs.* (a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazine, newspapers, radio, and television programs, direct mail, trade papers, outdoor advertising, dealer cards, and window displays, conventions, exhibits, free goods, and samples, and the like.

(b) The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment costs, as set forth in G.36; (2) the procurement of scarce items for the performance of the grant/contract or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in paragraphs B–3, B–4, and section D are observed.

2. *Bad debts.* Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. *Bidding or proposal costs.* Bidding or proposal costs are the immediate costs of preparing bids or proposals on potential Government and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in section G–16 and G–30.

4. *Bonding costs.* (a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Civil defense costs.* (a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G–10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. *Compensation for personal services.*— (a) *Definition.* Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to salary, wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans.

(b) *Allowability.* Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness.* (1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in federally sponsored activities, and in cases where the kind of employees required for the federally sponsored activities are not found in the institution's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.* In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.* Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to share holders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor-management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment, (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g) (1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages.* Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25 as it relates to compensation for overtime.

(3) *Incentive compensation.* Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payment. Awards, and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred compensation.* (a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payments; (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of ten years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it falls within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future abnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe benefits.* Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) Severance pay. See G.40.

(7) Training and education expenses. See G.44.

(8) *Location allowances.* (a) "Location allowances", sometimes called "supplemental pay" or "incentive pay", are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of education, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

(b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) *Support of salaries and wages.* (a) Direct charges for professionals must be supported by either:

(i) An adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible officials and a reporting of any significant change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) A monthly after-the-fact certification system which will require persons in supervisory positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the *total* salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. *Capital expenditures.* The costs of equipment buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the grant/contract.

8. *Contingencies.* (a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave, and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G–17, G–21, and G–40).

9. *Contributions and donations.* (a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1 and C.2 shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. *Depreciation and use allowances.* (a) Institutions may be compensated for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this Section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal Income Tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(a) The straight line method;

(b) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (a) above;

(c) The sum-of-the-years-digits method; and

(d) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (b) above.

(e) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(f) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G. 13.)

(g) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated: *Provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(h) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

(i) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. *Employee morale, health, welfare costs, and credits.* (a) Employee morale, health, and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale, and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations, or similar

types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to accomplishment of the above objective, are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could economically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. *Entertainment costs.* Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G–11 and G–43).

13. *Excess facility costs.* (a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below.

(1) Facilities means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) Idle facilities means completely unused facilities that are excess to the institution's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materiels, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. (A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.)

(4) Costs of idle facilities or idle capacity are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The cost of idle facilities are unallowable except to the extent that:

(i) They are necessary to meet fluctuations in workload; or

(ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.42(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. *Fines and penalties.* Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. *Fringe benefits.* (See G.–6–(g)–(5).

16. *Independent research and development.* (a) An institution's independent research and development (I.R. & D.) is that research and development which is not sponsored by the Government or a non-Government organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materiels, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g. interview, circularization of questionnaires), observations or from books, treatises, articles or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I.R. & D. shall be allocated in proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I.R. & D. including its proportionate share of indirect costs, is unallowable.

17. *Insurance and indemnification.* (a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. (See G–6).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(b) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a)(3) above.

18. *Interest and other financial costs.* (a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment

drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share of indirect costs in accordance with section D. (See also C-2.)

19. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. *Losses on other grants or contracts.* Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. *Maintenance and repair costs.* (a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G-10):

(1) Normal maintenance and repair costs are allowable:

(2) Extraordinary maintenance and repair costs are allowable, provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. *Materiels costs.* (a) The cost of consumable supplies, serum, drugs, fabricated parts, and other materiels necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of materiel shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and materiel returned to vendors. Such income and other credits shall either be credited directly to the cost of the materiel involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materiels are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If materiel is issued from stores, any generally recognized method of pricing such materiel is acceptable if that method is consistently applied and the results are equitable. When estimates of materiel costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materiels, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materiels, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public"; or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity.

Provided, That in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary, or affiliate of the institution under a common control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency;

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. *Organization costs.* Expenditures, such as incorporation fees, attorney's fees, accountant's fees, brokers' fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business, or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. *Other business expenses.* Included in this item are such recurring expenses as preparation and publication of reports to members and trustees, preparation and submission of required reports and forms to taxing and other regulatory bodies; and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. *Overtime, extra-pay shift and multishift premiums.* Premiums for overtime, extra-pay shifts, and multishift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of Government grant or contract; the continued need therefor should be subject to periodic review by the awarding agency.

26. *Patent and copyright costs.* Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connction with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is not conveyed to the Government are unallowable. (See G-39)

27. *Pension plans.* (See G-6(g)-(4))

28. *Plant protection costs.* Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. *Plant reconversion costs.* Plant reconversion costs are those incurred in the restoration or rehabilitation of the institutions' facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. *Preaward costs.* Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. *Professional service costs—legal, accounting, scientific and other.* (a) Costs of professional services rendered by the member of a particular profession who are not employees of the institution are allowable, subject to (b), (c) and (d) below, when rea-

sonable in relation to the services rendered. (but see G–23)

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the institution's capability in the particular area;

(3) The past pattern of such costs, particularly in years prior to the award of Government work;

(4) The impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government grants/contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation; termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of anti-trust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. *Profits and losses on disposition of plant equipment, or other capital assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short or long term investments, shall be excluded in computing grant or contract costs.

33. *Public information services costs.* Public information services cost includes the cost associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems.

(b) Interest individuals or groups in participating in a service program of the institution.

(c) Provide stewardship reports to State and local Government agencies, benefactor foundations and associations, etc.

(d) Appeal for funds.

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective they should be allocated as indirect costs to all major activities of the institution except that costs related to fund raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. *Publication and printing costs.* Publication costs include the costs of printing (including the processes of composition, platemaking, press work, binding and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

36. *Recruitment costs.* (a) Subject to (b), (c), and (d) of this G–36, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising materiel for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. *Relocation costs.* (a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided (i) the move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G–36 or any other paragraph of this document and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) the transition period for incurrance of costs of the type covered in (a) (ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a) (iii) above shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. *Rental costs (including sale and leaseback of facilities).* (a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance: *Provided*, That no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G–42(e).

39. *Royalties and other costs for use of patents and copyrights.* (a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arms-length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded; or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. *Severance pay.* (a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by (1) law, (2) employer-employee agreement, (3) established policy that constitutes, in effect, an implied agreement on the institution's part, or (4) circumstance of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

41. *Taxes.* (a) Taxes are certain charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unrelated to the project supported by the grant or contract;

(2) Taxes in connection with financing, refinancing, or refunding operations (see G–18);

(3) Taxes from which exemptions are available to the institution directly or available to the institution based on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to (i) determine the legality of such assessment, or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the nonpayment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. *Termination costs.* Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) *Common items.* The cost of items reasonably usable on the institution's other work shall not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) *Costs continuing after termination.* If in a particular case, despite all reasonable efforts by the institution certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) *Initial costs.* Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and materiel, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamiliarity or lack of experience with the product, materiels, manufacturing processes, and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the project.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) *Loss of useful value.* Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment was acquired.

(e) *Rental costs.* Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) *Settlement expenses.* Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) *Subcontractor claims.* Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. *Trade, Business, Technical, and Professional Activity Costs*—(a) *Membership.* This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) *Subscriptions.* This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) *Meetings and conferences.* This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. *Training and educational costs.* (a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related to an institution's goals are unallowable.

(b) Costs of on the job training and part-time education, at an undergraduate or post-graduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materiels;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materiels and textbooks (but not subsistence, salary, or any other emoluments) in connection with full time scientific and medical education at a post-graduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed 1 school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

45. *Transportation costs.* Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G-22).

Where identification with the materiels received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract shall be treated as a direct cost.

46. *Travel costs.* (a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle of direct costing (see section C).

(e) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency.

APPENDIX B—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH STATE AND LOCAL GOVERNMENTS

PART I—GENERAL

A. PURPOSE AND SCOPE

1. *Objectives.* This appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

2. *Policy guides.* The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that federally assisted program funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.* These principles will be applied in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to Appendix C to this part and (b) publicly owned hospitals and other providers of medical care subject to requirements promulgated by the Director.

B. DEFINITIONS

1. *Approval or authorization of the grantor Federal agency* means documentation evidencing consent prior to incurring specific cost.

2. *Cost allocation plan* means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. *Cost,* as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. *Cost objective* means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. *Federal agency* means the National Institute of Education.

6. *Grant* means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix as applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. *Grant program* means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. *Grantee* means the department or agency of State or local government which is responsible for administration of the grant.

9. *Local unit* means any political subdivision of government below the State level.

10. *Other State or local agencies* means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. *Services,* as used herein, means goods and facilities, as well as services.

12. *Supporting services* means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service, and the like.

C. BASIC GUIDELINES

1. *Factors affecting allowability of costs.* To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs.* a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits.* a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. COMPOSITION OF COST

1. *Total cost.* The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. DIRECT COSTS

1. *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application.* Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in Section G of these principles.

F. INDIRECT COSTS

1. *General.* Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Grantee departmental indirect costs.* All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this Appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs.* A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

b. *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs.* a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this Appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this Appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. COST INCURRED BY AGENCIES OTHER THAN THE GRANTEE

1. *General.* The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost.* In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a specific service during the fiscal year involved.

a. *Standard indirect rate.* An amount equal to 10 percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.* A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. COST INCURRED BY GRANTEE DEPARTMENT FOR OTHERS

1. *General.* The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

J. COST ALLOCATION PLAN

1. *General.* A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.* The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational unit which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Approval of cost allocation plan.* The allocation plan for a given cost area or objective will serve all the Federal agencies involved.

a. At the State level, the Department of Health, Education, and Welfare will be responsible for the negotiation and approval of the cost allocation plans for central support services to grant programs. The approved plans will be accepted by other Federal agencies, unless an agency determines that the approved plan would result in sig-

nificant inequitable or improper charges to programs for which it is responsible. The Department of Health, Education, and Welfare will collaborate with the other Federal agencies concerned in the development of guidance material concerning the cost allocation plan and in the negotiation and approval of the plan. It will also collaborate with the States concerning procedures for the administration of the cost allocation plan. The Department of Health, Education, and Welfare will be responsible for the audit of costs resulting from the cost allocation plan, the results of which will be accepted by other Federal agencies.

b. At the grantee department level in a State, and for local governments, Federal agencies will work toward the objective of designating a single Federal agency, the one with predominant interest, which will have responsibility similar to that set forth in a. above for the negotiation and approval of the cost allocation plan and for the audit of costs.

PART II—STANDARDS FOR SELECTED ITEMS OF COST

A. PURPOSE AND APPLICABILITY

1. *Objective.* This part provides standards for determining the allowability of selected items of cost.

2. *Application.* These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in Part I of this appendix.

B. ALLOWABLE COSTS

1. *Accounting.* The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

2. *Advertising.* Advertising media includes newspapers, magazines, radio, and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.* Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.* The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.* Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.* Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.* The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.* Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

10. *Compensation for personal services*—a. *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) Is reasonable for the services rendered, (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable; and (3) is determined and supported as provided in b. below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution of time.* Amounts charged to grant programs for personel services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances,* a. Grantees may be compensated for the use or buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost or any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated: *Provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.* The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.* Costs identified under a. and b. below are allowable to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) Provided pursuant to an approved leave system, and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employers' contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health, and welfare costs.* The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.* Costs of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.* The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for

the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.* The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities*—a. *Memberships.* The cost of membership in civic, business, technical and professional organizations is allowable provided: (1) The benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services or benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.* The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.* Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.* The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

21. *Payroll preparation.* The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for grant programs, are allowable.

23. *Printing and reproduction.* Cost for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature, are allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.* The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for grant programs, is allowable.

25. *Taxes.* In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.* The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.* Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

28. *Travel.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

C. COSTS ALLOWABLE WITH APPROVAL OF GRANTOR AGENCY

1. *Automatic data processing.* The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.* The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.* The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.* The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs, and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.* Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (section C.3.) are allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.* These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.* The cost of space procured under such arrangements is allowable when specifically approved by the Federal grantor agency.

3. *Capital expenditures.* The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are (a) sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.* a. Costs of insurance required, or approved and maintained pursuant to the grant agreement, is allowable.

b. Costs of other insurance in connection with the general conduct of activities is allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property is unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. *Indemnification* includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d above.

5. *Management studies.* The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.* Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.* Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.* Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. UNALLOWABLE COSTS

1. *Bad debts.* Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.* Unallowable.

4. *Entertainment.* Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.* Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.* The salaries and expenses of the office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.* Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.* Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

(OMB Circular No. A-87)

APPENDIX C

PART I—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO RESEARCH AND DEVELOPMENT UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. PURPOSE AND SCOPE

1. *Objectives.* This appendix provides principles for determining the costs applicable to research and development work performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development project. The principles are designed to provide recognition of the full allocated costs of such research work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

2. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

b. Each college and university, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments will be fully considered during the rate negotiations and audit.

3. *Application.* The Director will apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles should also be used as a guide in the pricing of fixed price contracts or lump sum agreements.

B. DEFINITION OF TERMS

1. *Organized research* means all research activities of an institution that are separately budgeted and accounted for.

2. *Departmental research* means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organized research," is regarded for purposes of this document as a part of the instructional activities of the institution.

3. *Research agreement* means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

4. *Other institutional activities* means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any other category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's indirect costs (as defined in section E.1.) are properly allocable.

5. *Apportionment* means the process by which the indirect costs of the institution are assigned as between (a) instruction and research, and (b) other institutional activities.

6. *Allocation* means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research, and (b) instruction, including departmental research.

7. *Stipulated salary support* is a fixed or a stated dollar amount of the salary of professorial or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

8. *Federal agency* or sponsoring agency means the National Institute of Education.

C. BASIC CONSIDERATIONS

1. *Composition of total costs.* The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in section C.5.

2. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are: (a) they must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

3. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) Whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the research agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including Government research.

4. *Allocable costs.* a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this appendix is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items is specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular research agreement under the standards provided in this appendix may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

5. *Applicable credits.* a. The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F.6., J.10.b., and J.37. for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.* Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs such as pension plans, FICA, and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are

recorded in the accounting records of such institutions, subject to the following:

a. Such costs meet the requirements of sections C.1. through C.5.

b. Such costs are properly supported by cost allocation plans in accordance with Appendix B to this part.

c. Such costs are not otherwise borne directly or indirectly by the Federal Government.

D. DIRECT COSTS

1. *General.* Direct costs are those costs which can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to research agreements.* Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

E. INDIRECT COSTS

1. *General.* Indirect costs are those that have been incurred for common or joint objectives and therefore cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions such costs normally are classified under the following functional categories: general administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

2. *Criteria for distribution*—a. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the allocation and apportionment process is to distribute the indirect costs described in section F to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in section E.1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c. below. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in d. below.

c. *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in b. above and d. below.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in section B.4.) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. *Selection of distribution method.* (1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under b. above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results that are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (a) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. *Administration of limitations on allowances for research costs.* Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this Circular, the amount not recoverable under that research agreement may not be charged to other research agreements.

F. IDENTIFICATION AND ASSIGNMENT OF INDIRECT COSTS

1. *General administration and general expenses.* a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis

are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

2. *Research administration expenses.* a. The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by section J.7. The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be allocated to organized research and, where necessary, to departmental research or to any other benefiting activities on any basis reflecting the proportion fairly applicable to each. (See section E.2.d.)

3. *Operation and maintenance expenses.* a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be apportioned and allocated to applicable cost objectives in a manner consistent with the guides provided in section E.2. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows: (1) Where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records; (2) where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost objectives normally will suffice as a means for effecting distribution of the amounts of operation and maintenance expenses involved; or (3) where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others, including students.

4. *Library expenses.* a. The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under section C.5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchases of rare books (museum-type books) with no research value should not be allocated to Government-sponsored research.

b. The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in section E.2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

5. *Departmental administration expenses.* a. The expenses under this heading are those that have been incurred in academic deans' offices, academic departments and organized research units such as institutes, study centers and research centers for administrative and supporting services which benefit common or joint departmental activities or objectives. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, divisions, or organized research units, and their administrative staffs together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like provided such supporting services cannot be directly identified with a specific research project, with an instructional activity or with any other institutional activity. The salaries of other members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by section J.7. The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The distribution of departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

6. *Setoff for indirect expenses otherwise provided for by the Government.* a. The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (sections F.1. through F.5.). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractual arrangement with the Federal Government other than a research agreement as herein defined (section B.3).

b. The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such setoff shall be made prior to the determination of the indirect cost rate or rates as provided in section G.

G. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. *Indirect cost pools.* a. Subject to b. below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

b. In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under a. above, and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

2. *The distribution base.* Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section G.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demonstrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted re-

search activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.* Public Law 87–638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carryforward provisions.* When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

H. SIMPLIFIED METHOD FOR SMALL INSTITUTIONS

1. *General.* a. Where the total direct cost of all federally supported work under research and educational service agreements at an institution does not exceed $1 million in a fiscal year (excluding direct payments by the institution to participants under educational service agreements for stipends, support, and similar costs requiring little, if any, indirect cost support), the use of the abbreviated procedure described in 2., below, may be used in determining allowable indirect costs. Under this abbreviated procedure, the institution's most recent annual financial report and immediately available supporting information, with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable both to federally supported research and educational service agreements.

b. The rigid formula approach provided under this abbreviated procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Abbreviated procedure.* a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under 2.b.(1) and 2.b.(2) have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under 2.a. the amount of salaries and wages included under 2.b.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool 2.b. by the amount of the distribution base 2.c.

e. Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

Sections J.1. through J.46. provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

1. *Advertising costs.* The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for: (a) The recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth in J.32.; (b) the procurement of scarce items for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Costs of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.* Any losses, whether actual or estimated arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of the sponsoring agency.

4. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire-fighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in section J.10. Costs of local civil defense projects not on the institution's premises are unallowable.

5. *Commencement and convocation costs.* Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

6. *Communication costs.* Costs incurred for telephone services, local and long-distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

7. *Compensation for personal services*—a. *General.* Compensation for personal services covers all remuneration paid currently or accrued to the institution for services of employees rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see section J.39.), and pension plan costs (see section J.23.). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

b. *Payroll distribution.* Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to (1) instruction, (2) organized research, and (3) indirect activities as defined in section E.1., or (4) other institutional activities as defined in section

B.4., will be provided as described in c., d., e., and f., below.

c. *Stipulated salary support.* As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponsored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

d. *Direct charges for personal services under payroll distribution.* The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either: (1) An adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

e. *Direct charges for personal services under stipulated salaries.* The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in section K will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member (1) was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

f. *Indirect personal services costs.* Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

g. *General guidance for charging personal services.* Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

h. *Nonuniversity professional activities.* A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantship or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities, and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

i. *Salary rates for academic year.* Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution. Since intrauniversity consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided for in the research agreement or approved in writing by the sponsoring agency.

j. *Salary rates for periods outside the academic year.* Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subsections of J.7.

k. *Salary rates for part-time faculty.* Charges for work performed on Government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

8. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Deans of faculty and graduate schools.* The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

10. *Depreciation and use allowances.* a. Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal* Government, irrespective of where title was originally vested or where

it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved. Amortization methods once used should not be changed for a given building or equipment unless approved in advance by the cognizant Federal agency.

c. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable and needed equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable and needed equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

d. Where the depreciation method is followed, adequate property record must be maintained and periodic inventory (a statistical sampling basis is acceptable) must be taken to insure that properties for which depreciation is charged do exist and are needed. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that, under d. above, would be viewed as fully depreciated provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

11. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee-performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.* Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other facilities.* The cost of permanent equipment or other facilities are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by the sponsoring agency (through an approved budget or other document) except with approval. The term of property which has an acquisition cost of $200 or more and has an expected service life of one year or more.

a. *General purpose equipment.* Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction, or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

b. *Research equipment.* Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

14. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the contracting officer.

15. *Insurance and indemnification.* a. Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in d. above.

16. *Interest, fund raising, and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allowable under Government research agreements.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable under Government research agreements.

d. Costs related to the physical custody and control of monies and securities are allowable.

17. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

18. *Losses on other research agreements or contracts.* Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

19. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair, or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

20. *Material costs.* Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

21. *Memberships, subscriptions, and professional activity costs.* a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

22. *Patent costs.* Cost of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also section J.33.)

23. *Pension plan costs.* Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

24. *Plant security costs.* Necessary expenses incurred to comply with Government security requirements, including wages, uniforms, and equipment of personnel engaged in plant protection, are allowable.

25. *Preresearch agreement costs.* Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

26. *Professional services costs.* a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable subject to b. and c. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with orgranization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infrigement litigation, are unallowable unless otherwise provided for in the research agreement.

27. *Profits and losses on disposition of plant, equipment, or other capital assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short or long term investments, shall not be considered in computing research agreement costs.

28. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential Government and nongovernment research argeements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.* Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

30. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

31. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

32. *Recruiting costs.* a. Subject to b., c., and d. below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

34. *Sabbatical leave costs.* Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

35. *Scholarships and student aid costs.* Costs of scholarships, fellowships and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remissions to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs. (See section J.39.)

36. *Severance pay.* a. Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover and which otherwise meet the conditions of a. above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

37. *Specialized service facilities operated by institution.* a. The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, including the cost of adapting computers for use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of b. or c. below, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under section C.5.

b. The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis, and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommoda-

tion sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year.

c. In the absence of an acceptable arrangement for direct costing as provided in b. above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with the cognizant Federal agency in order to assure equitable distribtuion of the indirect costs.

38. *Special services costs.* Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

39. *Staff benefits.* a. Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each. (See section J.34. for treatment of sabbatical leave.)

b. Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see section J.23.), tuition or remission of tuition for individual employees or their families (see section J.35.), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

40. *Student activity costs.* Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

41. *Student services costs.* Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

42. *Taxes.* a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for: (1) Taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

44. *Travel costs.* a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c., d., e., and f. below, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would:
(1) Require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

45. *Termination costs applicable to research agreements.* a. Termination of research agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this Circular in the case of termination.

b. The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided: (1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if: (1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. *Certification of charges.* To assure that expenditures for research grants and contracts are proper and in accordance with the research agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under research agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the agreements set forth in the application and award documents."

PART II—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO TRAINING AND OTHER EDUCATIONAL SERVICES UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose.* This part extends the scope of Part I: To cover the determination of costs incurred by educational institutions under Federal grants and contracts for training and other educational services.

B. *Application.* The Director will use Parts I and II of this Appendix as a basis for determining allowable costs under grants and cost reimbursement type contracts with educational institutions for work performed under federally supported education service agreements.

C. *Terminology.* The following definitions are to be used in determining the indirect cost of federally sponsored training and other educational services under this Attachment:

1. *Educational service agreement* means any grant or contract under which Federal financing is provided on a cost reimbursement basis for all or an agreed portion of the costs incurred for training or other educational services. Typcial of the work covered by educational service agreements are summer institutes, special training programs for selected participants, professional or technical services to cooperating countries, the development and introduction of new or expanded courses, and similar instructional oriented undertakings, including special research training programs, that are separately budgeted and accounted for by the institution.

The term does not extend to: (a) Grants or contracts for organized research, (b) arrangements under which the Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts such as a cost of education allowance or the normal published tuition rates and fees of an institution, or (c) construction, facility and exclusively general resource or institutional type grants.

2. *Instruction* means all of the academic work other than organized research carried on by an institution, including the teaching of graduate and undergraduate courses, departmental research (see section B.2. of Part I) and all special training or other instructional oriented projects sponsored by the Federal Government or others under educational service agreements.

D. *Student administration and services.* In addition to the five major functional categories of indirect costs described in section F of Part I, there is established an additional category under the title "Student administration and services" to embrace the following:

1. The expenses in this category are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to section J.2. The student administration and services category also includes the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowance or depreciation applicable to the buildings and equipment utilized in the performance of the functions included in this category.

2. The expenses in this category are generally applicable in their entirety to the instruction activity. They should be allocated to applicable cost objectives within the instruction activity, including educational service agreements, when such agreements reasonably benefit from these expenses. Such expenses should be allocated on the basis of population served (computed on the basis of full-time equivalents including students, faculty, and others as appropriate) or other methods which will result in an equitable distribution to cost objectives in relation to the benefits received and be consistent with guides provided in section E.2. of Part I.

E. *Direct costs of educational service agreements.* Direct costs of work performed under educational service agreements will be determined consistent with the principles set forth in section D of Part I.

F. *Indirect costs of the instruction activity.* The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in section D above and in section F of Part I. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in section C.6. of Part I.

G. *Indirect costs applicable to educational service agreements.* The individual items of indirect costs applicable to the instruction activity as a whole should be assigned to: (1) Educational service agreements, and (2) all other instructional work through use of appropriate cost groupings, selected distribution bases, and other reasonable methods as outlined in section E.2. of Part I. A single indirect pool may be used for all educational service agreements provided this results in a reasonably equitable distribution of costs among agreements in relation to indirect support services provided. However, when the level of indirect support significantly varies for work performed either on campus or off campus under a particular agreement or group of agreements, separate cost pools should be established consistent with the principles set forth in section G.1.b. of Part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs, through separate cost groupings, should be excluded from the indirect costs allocable to the service agreements.

H. *Indirect cost rates for educational service agreements.* An indirect cost rate should be determined for the educational service agreement pool or pools, as established under section G above. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in sections G.4. and G.5. of Part I.

J. *General standards for selected items of cost.* The standards for selected items of cost as set forth in sections J.1. through J.46. of Part I applicable to research agreements will also be applied to educational service agreements with the following modifications:

1. *Commencement and convocation costs (J.5.).* Expenses incurred for convocations and commencements apply to the instruction activity as a whole. Such expenses are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

2. *Compensation for personal services (J.7.).* Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of section J.7. of Part I. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) Extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

3. *Scholarships and student aid costs (J.35.).* Expenses incurred for scholarships and student aid are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

4. *Student activity costs (J.40.).* Expenses incurred for student activities are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).* Expenses incurred for student services are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

(OMB Circular A-21)

[FR Doc.73-181 Filed 1-5-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 722, 1427]

EXTRA LONG STAPLE COTTON

Proposed Determinations Regarding 1973 Crop

The Secretary of Agriculture is preparing to make the following determinations and issue regulations with respect

to the 1973 crop of extra long staple cotton (referred to as ELS cotton):

a. Loan level and payment rate.

b. Detailed operating provisions to carry out the program.

The above determinations are to be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1421 et seq.):

a. *Loan level and payment rate.* Section 101(f) of the Act (7 U.S.C. 1441(f)) requires that price support shall be made available to cooperators for the 1968 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 50 percent or more than 100 percent in excess of the loan level established for Middling 1-inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less than 35 cents per pound). On October 17, 1972, the Secretary announced the national average loan rate of 19.50 cents per pound for Middling 1-inch upland cotton (micronaire 3.5 through 4.9), at average location. Section 101(f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate is announced. Section 401 of the Act (7 U.S.C. 1421) requires that, in determining the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture, and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

b. *Detailed operating provisions to carry out the program.* Detailed regulations necessary to carry out the price support program on ELS cotton are also being reviewed for 1973. Provisions of this kind in effect under the current program may be found in the regulations providing the terms and conditions for payments on ELS cotton for 1968 and succeeding years (7 CFR 722.700–719 (1972 ed.), as amended by 37 FR 7147) and in the Cotton Loan Program Regulations (7 CFR 1427.1–28 and 1427.104 (1972 ed.), and as amended by 37 FR 13528).

Prior to making the foregoing determinations and issuing related regulations, consideration will be given to any data, views, and recommendations, which are submitted in writing to the Secretary, Commodity Credit Corporation, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than 30 days after publication of this notice in the FEDERAL REGISTER except that submissions relating to the Cotton Loan Program Regulations must be received not later than 90 days after publication. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 4091, South Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C. on December 29, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73–325 Filed 1–5–73;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1421]

FLAXSEED

1973 Crop Loan and Purchase Program

Notice is hereby given that the Secretary of Agriculture, under the authority of sections 301, 303, and 401 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1447, 1449, and 1421), and sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c), is considering a loan and purchase program for the 1973 crop of flaxseed. Such consideration includes determinations relative to (a) the national average loan and purchase rate for the 1973 crop of flaxseed; (b) the manner of making loans and purchases available to producers; (c) county loan rates; and (d) other flaxseed program matters.

The determinations specified above are to be based on the following:

(a) *The national average loan and purchase rate for the 1973 crop of flaxseed.* The Agricultural Act of 1949 authorizes the Secretary to make loans and purchases available to producers of flaxseed at a level not in excess of 90 percent of the parity price for the commodity. The Act requires that, in determining the level of such rate, consideration be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through such an operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. In determining the loan and purchase rate, particular consideration is required to be given to the levels at which the prices of competing agricultural commodities are being supported.

(b) *The manner of making loans and purchases available to producers.* The Act authorizes the Secretary to make a program available to producers through loans, purchases, or other operations. Consideration is being given to making the program available through farm and warehouse storage loans to, and purchases from, producers. County loan rates and detailed operating provisions will also be reviewed. Program provisions for the 1972 crop of flaxseed may be found in 7 CFR 1421. County loan rates and additional provisions for the 1972 crop of flaxseed may be found in 37 FR 5504, March 16, 1972.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than February 7, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on December 29, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.73–332 Filed 1–5–73;8:45 am]

[7 CFR Part 1421]

RICE

Loan and Purchase Program for 1973 Crop

Notice is hereby given that the Secretary of Agriculture, under the authority of sections 101, 401, and 403 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1441, 1421, and 1423), and sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b, 714c), proposes to make determinations and issue regulations relative to a national average level of support and a loan and purchase program for 1973 crop rice. The program will include (1) loan and purchase rates (value factors), (2) the methods by which loans and purchases will be made, (3) eligibility requirements, (4) storage requirements, (5) sales provisions, (6) area and period of the program, and (7) other operating provisions necessary to carry out the program.

Section 101 of the Agricultural Act of 1949 directs the Secretary to make support available on rice to cooperators, if producers have not disapproved marketing quotas, at a level not in excess of 90 percent nor less than 65 percent of the parity price.

Section 401 of that act requires that, in determining a level of support in excess of the minimum level provided by law, consideration be given to the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported,

the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Current program provisions regarding the rice loan and purchase program may be found in regulations governing loans, purchases, and other operations for grain and similarly handled commodities which appear in Title 7, Part 1421 of the Code of Federal Regulations.

Prior to making any of the foregoing determinations, consideration will be given to data, views, and recommendations which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stablization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than February 7, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during the regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on December 29, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.73-331 Filed 1-5-73;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE FACILITIES

Proposed New Specification for Two-Electrode Gas Tube Protectors

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345-68 to announce a new REA Specification PE-55 for two-electrode gas tube protectors. On issuance of REA Bulletin 345-68, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the 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 Director, Telephone Operations and Standards Division during regular business hours.

A copy of the new REA Specification PE-55 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345-68 announcing the issuance of the new specification is as follows:

REA BULLETIN 345-68

SUBJECT: REA Specification for Two-Electrode Gas Tube Protectors

I. *Purpose:* To announce a new REA Specification PE-55 for Two-Electrode Gas Tube Protectors.

II. *General:* This specification covers requirements for two-electrode gas tube protectors used to protect communication circuits and equipments from damages due to foreign voltages and currents. REA Specification PE-55 becomes effective on June 15, 1973. All two-electrode gas tube protectors furnished for REA projects bid or on orders placed by REA borrowers after that date shall comply in all respects with the new REA Specification PE-55. This does not preclude the adoption of the new specification by manufacturers prior to the effective date.

III. *Availability of specification:* Copies of the new PE-55 will be furnished by REA upon request. Questions concerning the new specification may be referred to the Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202—447-3173.

Dated: December 29, 1973.

R. W. LYNN,
Acting Assistant Administrator—
Telephone.

[FR Doc.73-348 Filed 1-5-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 70-28; Notice 2]

NEW PNEUMATIC TIRES—PASSENGER CARS

Withdrawal of Proposed Modification of Strength Test

The purpose of this notice is to withdraw the proposed amendment to Standard No. 109 published November 10, 1970 (35 FR 17272). That proposal would have established new criteria for calculating the breaking-energy value for Tire Strength in paragraph S5.3 of the standard.

The standard presently requires that the average of five breaking-energy values be used to determine tire strength. This approach has been used for years by the tire industry as a means of comparing tires of different construction and design, and as a means of evaluating the cord strength of the tire casing. The NHTSA proposed in the November 10, 1970, notice that tire strength be based on the lowest value obtained in the test, as it believed using the lowest value would give a more accurate indication of the performance characteristics of the tire.

Comments received were generally opposed to the proposed rule. The major objections of the commenters were that variables such as plunger lubrication, tread element density, gage repeatability, cord splices, and temperature caused the breaking-energy value to vary in either direction.

Recent changes in the construction of passenger car tires, especially the addition of belts under the tread, have made the strength test specified in Standard No. 109 essentially obsolete, even if the test procedure were modified as proposed. According to NHTSA tests, most passenger car tires of these construction types are exceeding strength requirements by 200 to 300 percent.

Based on the comments received and this test data, the proposed rule establishing new criteria for determining tire strength will not be pursued further. The National Highway Traffic Safety Administration intends to pursue a research program which would include both static and dynamic methods for determining the strength of a tire, in order to establish the best method for measuring strength performance.

(Sections 103, 112, 119, 201, Public Law 89-563, 80 Stat. 718, as amended Public Law 91-265, 84 Stat. 262 (15 U.S.C. 1392, 1401, 1402, 1421), and delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on January 3, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.73-319 Filed 1-5-73;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 154, 201, 260]

[Docket No. R-466]

ADVANCES TO SUPPLIERS FOR GAS OUTSIDE CONTINENTAL UNITED STATES

Accounting and Rate Treatment

DECEMBER 29, 1972.

Pursuant to 5 U.S.C. 553 and sections 4, 8, 10, and 16 of the Natural Gas Act (52 Stat. 822, 825, 826, 830; 15 U.S.C. 717c, 717g, 717i, and 717o) the Commission gives notice it proposes to amend, effective for the reporting year 1973:

A. The Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter I, Title 18, CFR.

B. Certain scheduled pages of the Commission's Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18, CFR.

C. Certain regulations prescribed by sections 154.63, in Part 154 Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18, CFR.

In our previous orders dealing with advances, we have not specifically con-

sidered the question of advances made to producers operating outside the United States. Review of the history of advances and of the responses[1] to the renotice of Account 166 in Docket No. R-411 reveals that we should set firm guidelines in this area. This matter is an important policy question on which the Commission desires to receive comments by interested persons expressing their views of the appropriate treatment. The Commission has under consideration the following alternative methods of treating advances to producers operating in the North American Continent but outside the 48 States when such production will be accessible by pipeline to the lower 48 States for which a contractual agreement was made after the issuance of an order resulting from this notice:

Alternative 1. That such advances for gas be recorded in a new account 166.1, Advances for Gas Outside Lower Forty-Eight States, and the unrecovered portion of the advances be allowed in rate base as part of working capital. Under this proposal, the accounting and rate base treatment of such advances shall be the same for these advances as for advances subject to the provisions of Order No. 465, made to producers within the lower 48 States, except as noted herein.

Alternative 2. That such advances for gas be recorded in a new account 166.1, Advance for Gas Outside Lower Forty-Eight States, and carrying charges be capitalized until recovery of the advances commence. As found reasonable in a rate proceeding the unrecovered advance and related carrying charges would be allowed in rate base as part of working capital and the carrying charge component of recovered advances would be allowed as a cost of gas purchased.

If the advance payment fails to produce any gas, only the capitalized carrying charges may be assessed against the pipeline's customers. The capitalized charges shall not be included in rate base, but shall be amortized as a cost-of-service item over a period of 5 years, or such other time as the Commission may find reasonable.

If the advance payment produces gas, but none flows to the pipeline's customers, the pipeline will not be permitted to include the advance payment or the carrying charges in rate base or to amortize either item as a cost-of-service item. However, if some gas flows to the pipeline's customers, but not enough to cover the advance payment, pro rata share of the advance payment and of the capitalized carrying charges may be included in rate base and treatment the same as fully successful nondomestic advance payments.

Under both alternatives, all advances in this area made prior to the issuance of an order resulting from this notice shall be treated on a case by case basis.

The proposed amendments to Part 201 of the Commission's Uniform System of Accounts for Class A and Class B Natural Gas Companies, the Commission's regulations under the Natural Gas Act and the FPC Form No. 2 would be issued under the authority granted the Federal Power Commission by the Natural Gas Act as amended, particularly sections 4, 8, 10, and 16 (52 Stat. 822, 825, 826, 830; 15 U.S.C. 717c, 717g, 717i, and 717o).

[1] See responses associated with R-411 which are in the public file and available for public inspection in the Commission's Office of Public Information.

PART 154—RATE SCHEDULES AND TARIFFS

(A) It is proposed to amend Statement E—Working Capital, in paragraph (f) *Description of statements,* of § 154.63 in Part 154, Rates Schedules and Tariffs, Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations by Adding "166.1" immediately following "Account 166" in the first sentence of the second paragraph. As so amended, that portion of § 154.63 will read as per one of the following alternatives:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(f) *Description of statements.* * * *

[*Alternative 1*] *Statement E—Working Capital.* * * *

The components of working capital may include (a) * * * (b) an allowance for the average of 13 monthly balances of materials and supplies, prepayments, the unrecovered portion of advances to suppliers in Account 166 and 166.1 made under contracts executed prior to January 1, 1974, and gas for current delivery from underground storage.

* * * * *

or

[*Alternative 2*] The components of working capital may include (a) * * * (b) an allowance for the average of 13 monthly balances of materials and supplies, prepayments, the unrecovered portion of advances to suppliers in Account 166 made under contracts executed prior to January 1, 1974, the unrecovered portion of advances to suppliers outside the lower 48 States in Account 166, outstanding subsequent to the commencement of deliveries under the contract (including related carrying charges as defined in Account 166.1) and gas for current delivery from underground storage.

* * * * *

(B) Under Alternative 1, no further amendments to § 154.63 are required. If the Alternative 2 method of treating advances to suppliers for gas outside the lower 48 States by accumulating carrying charges is adopted, the Commission proposes to amend § 154.63(f) of the regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations by:

a. Inserting the following italicized language in the paragraphs describing Schedules E-1 and E-2.

b. Inserting the following new paragraph immediately following the first paragraph of Schedule H (1)-3.

As so amended, these portions of § 154.63 will read:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(f) *Description of statements.* * * *

Statement E—Working Capital * * *

* * * * *

Schedule E-1 Setting forth monthly balances for materials and supplies, prepayments, and advances (*including related carrying charges as defined in Account 166.1*), in such detail as to disclose either by subaccounts regularly maintained on the books or by analysis of the principal items included in the main account, the nature of the charges included therein.

Schedule E-2 Setting forth monthly balances of materials and supplies, prepayments and advances (*including related carrying charges as defined in Account 166.1*), in such detail as to disclose either by subaccounts regularly maintained on the books or by analysis of the principal items included in the main account, the nature of the charges included therein.

* * * * *

Statement H—(1) Operation and Maintenance expenses * * *

Schedule H(1)-3 * * *

If the company receives gas for which it has paid prior to commencement of deliveries under the contract, the carrying charge component of such gas (as defined in Account 166.1) may be included in this schedule

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

(C) The following are proposed amendments and revisions (which are the same for Alternative 1 and Alternative 2, except as otherwise noted) to the Uniform System of Accounts for Class A and Class B Natural Gas Companies in Part 201, Chapter I, Title 18 of the Code of Federal Regulations:

1. In the Chart of Balance Sheet Accounts, add a new account 166.1, Advances for Gas Outside Lower Forty-Eight States, immediately following account "166, Advances for Exploration, Development and Production." As revised, the chart of accounts will read:

Balance Sheet Accounts

* * * * *

ASSETS AND OTHER DEBITS

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

166.1 Advances for gas outside lower 48 States.

* * * * *

2. In the text of the Balance Sheet Accounts, add a new account 166.1, Advances for Gas Outside Lower Forty-Eight States, immediately following account "166, Advances for Gas Exploration, Development and Production." As revised, the new account 166.1 will read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

166.1 Advances for gas outside lower 48 States.

A. This account shall include all advances made for gas (whether called "advances", "contributions", or otherwise) to producers or others operating outside the lower 48 States but within the North American Continent, whereas such production will be accessible by pipeline to

lower 48 States, including advances to affiliated or associated companies, for exploration, development or production (but not to include lease acquisition) of natural gas, when such advances are to be repaid in full by either delivery of gas or other consideration. Under each agreement with payee, such payments must be made prior to initial gas deliveries, or if the agreement provides for advances on a well-by-well basis, each incremental payment must be made prior to deliveries from an incremental well, or prior to Federal and/or State authorization, as appropriate. Noncurrent advances not to be repaid within a 2-year period shall be reclassified and transferred to Account 124, Other Investments, for balance sheet purposes. This transfer is for reporting purposes only and has no effect on accounting or rate making.

B. When a pipeline obtains a working interest as a result of funds advanced to producers, such amounts shall be included in appropriate production accounts.

C. Outstanding advances shall be fully reduced within 5 years, or as otherwise authorized by the Commission, from the date gas deliveries commence or the date it is determined that recovery will be in other than gas. This account shall be credited with advances not fully recovered within the 5-year period, and the unrecovered portion charged directly to Account 426.5, Other Deductions. A sufficient portion of all gas taken should be credited to the related outstanding advance so as to eliminate the advance within the 5-year period or as otherwise authorized by the Commission upon request by the pipeline company. The reduction of the outstanding advance should not be dependent on a buyer purchasing more than 100 percent of the minimum take or pay quantity provided in the contract.

D. Where recovery is by gas, recovered advances shall be credited to this account and charged to the appropriate gas purchase account.

E. When an advance results in a source of proven reserves of natural gas, but none flows to the pipeline company making such advance, the amount of the advance shall be removed from this account and recorded in Account 167, Other Advances for Gas. Any revenues collected as a result of the advance being included in rate base shall be refunded by the pipeline company to their customers within 12 months after the removal of the advance from this account, unless otherwise directed by the Commission. Where there is partial recovery of the advance by gas in this situation, the amount of the advance transferred from this account to Account 167 and the amount of revenues refundable shall be appropriately apportioned.

F. However, if 5 years elapse from the time the advance has been included in this account and during such time no gas deliveries have commenced or no determination has been made that the recovery will be in economic consideration other than gas, the pipeline shall at the end of the 5-year period, transfer the advance from this account to account 167, and cease rate base treatment thereof, unless otherwise directed by the Commission. (Delete this paragraph under Alternative 2 and reletter following paragraphs accordingly.)

G. Whenever, as a result of an advance included in this account, a pipeline receives any amount in excess of a full recovery of the advance, such amount must be credited to Account 813, Other Gas Supply Expenses. If the income or return is received in other than money, it shall be included at the market value of the assets received.

H. If the recipient of an advance is unable to repay it in full, through no fault of the pipeline or contractual provisions, in gas or other assets, the unpaid or nonrecoverable portion must be credited to this account at the time such amount is recognized as nonrecoverable. Nonrecoverable advances significant in amount must be eliminated within 5 years from the date of determination as nonrecoverable by either a charge to Account 435, Extraordinary Deductions, or when authorized by the Commission, by a transfer to Account 186, Miscellaneous Deferred Debits, and amortization to Account 813, Other Gas Supply Expenses. Nonrecoverable advances insignificant in amount should be charged directly to Account 813 in the year recognized as nonrecoverable.

I. No transfers shall be made to or from this account unless otherwise provided herein, except as specifically authorized by the Commission upon request by the pipeline company.

J. Three copies of any agreement concerning advances will be filed with the Secretary within 30 days of the initial related entry in this account.

Note A: This account shall not include advances, as described above, for which a contractual agreement was made prior to the effective date of Order No. 465.

Note B: This account shall not include advances expended for delay rentals, nonproductive well drilling, or abandoned leases, where such advances are related to lease acquisition.

Note C: To keep the Commission informed when an advance is nonrecoverable by any means the company must submit the full details including copies of Federal and State plugging and abandonment reports involved as soon as such fact becomes known.

* * * * *

(D) If Alternative 2, that of treating advances to suppliers for gas outside the lower 48 States accumulating carrying charges in lieu of rate base treatment, is adopted, the Commission proposes to add the following Note D to the proposed new Account 166.1, Advances for Gas Outside Lower 48 States.

Note D: This account may include accumulated carrying charges on advances made in accordance with the above paragraph A, provided such advances have not been afforded rate base treatment. These carrying charges shall be computed in the same manner as "allowance for funds used during construction" as defined in Gas Plant Instruction 3(17). The accumulation of carrying charges must cease upon delivery of the gas related to the advance.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(E) Effective for the reporting year 1973, it is proposed to amend schedule pages 110, Comparative Balance Sheet—Statement A, and 210B. Advances for Gas Prior to Initial Deliveries or Commission Certification (Account 124, 166, and 167) of F.P.C. Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment A hereto.[1]

(F) It is proposed to amend paragraph (c) of § 260.1, Chapter I, Title 18 of the Code of Federal Regulations by revising the schedule title "Advances for Gas Prior to Initial Deliveries or Commission Certification (Accounts 124, 166, and 167)" to read "Advances for Gas Prior to Initial Deliveries or Commission Certification (Accounts 124, 166, 166.1, and 167)." As so amended, that portion of § 260.1(c) will read:

§ 260.1 Form No. 2, Annual report for natural gas companies (Class A and Class B).

* * * * *

(c) * * *

Advances for Gas Prior to Initial Deliveries or Commission Certification (Accounts 124, 166, 166.1 and 167).

* * * * *

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than February 12, 1973, data, views, comments, or suggestions in writing concerning all or part of the amendments and revisions proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report forms pursuant to 44 U.S.C. 3501–3511 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Statistical Policy Division, Office of Management and Budget, Washington, D.C. 20503. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The Staff in its discretion, may grant or deny requests for conference.

[1] Appendix A filed as part of the original document.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-368 Filed 1-5-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Parts 1, 14]

LEGAL SERVICES, GENERAL COUNSEL

Litigation and Claims for Property Loss, Damage and Personal Injury

The following regulatory provisions provide a complete revision and updating of those regulations relating to litigation involving the Veterans' Administration or its personnel, and the disposition of administrative claims for personal injury, property loss, and damage.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (232H), Veterans' Administration, 810 Vermont Avenue NW., Washington, DC 20420. All revent material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting central office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulations that are adopted effective the date of final approval by the Administrator of Veterans' Affairs.

It is proposed to amend Title 38, Code of Federal Regulations to read as follows:

1. In Part 1, § 1.511(a) is amended to read as follows:

§ 1.511 Judicial proceedings generally.

(a) (1) Where a suit has been threatened or instituted against the Government, or a prosecution against a claimant has been instituted or is being contemplated, the request of the claimant or his duly authorized representative for information, documents, reports, etc., shall be acted upon by the General Counsel in central office, or the Chief Attorney in the field station, who shall determine the action to be taken with respect thereto. Where the files have been sent to the Department of Justice in connection with any such suit, the request will be referred to the Department of Justice, Washington, D.C., through the office of the General Counsel, for attention. In all other cases where copies of documents or records are desired by or on behalf of parties to a suit, whether in a court of the United States or any other, such copies shall be furnished as provided in paragraph (d) of this section; otherwise to the court only, and on an order of the court or subpoena duces tecum addressed to the Administrator of Veterans' Affairs or the head of the field station in which the records desired are located requesting the same. The determination as to the action to be taken upon any order received in this class of cases shall be made by the service having jurisdiction over the subject matter in central office or the division having jurisdiction over the subject matter in the field station, except in those cases in which the records desired are to be used adversely to the claimant, in which latter event the order of the court or the subpoena will be referred to the General Counsel in Central Office or to the Chief Attorney in the field station for disposition.

(2) Where a claim under the provisions of the Federal Tort Claims Act has been filed or where such a claim can reasonably be anticipated, no information, documents, reports, etc., will be released except through the Chief Attorney of jurisdiction, who will be limited to release of information which would be available under discovery proceedings, were the matter in litigation. Any other information may be released only after concurrence by the General Counsel.

* * * * *

2. In Part 14, §§ 14.514 through 14.617 are revoked and §§ 14.514 through 14.618 are added to read as follows:

LITIGATION (OTHER THAN UNDER THE FEDERAL TORT CLAIMS ACT)

§ 14.514 Suits by or against United States or Veterans' Administration officials.

(a) *Suits against United States or Veterans' Administration officials.* When a suit is filed against the United States or the Administrator involving any activities of the Veterans' Administration, or a suit is filed against any employee of the Veterans' Administration in which is involved any official action of the employee, not covered by the provisions of §§ 14.600 through 14.617, a copy of the petition will be forwarded to the General Counsel who will take necessary action to obtain the pertinent facts, cooperate with or receive the cooperation of the Department of Justice and, where indicated, advise the Chief Attorney of any further action required.

(b) *Counsel and representation of employees.* The Department of Justice may afford counsel and representation to Government employees who are sued individually as a result of the performance of their official duties. A civil action commenced in a State court against an employee, as the result of an action under color of his office, may be removed to the applicable Federal district court. If a suit is filed against an employee as the result of the performance of his official duties, where the provisions of either 28 U.S.C. 2679 or 38 U.S.C. 4116 are not applicable (see § 14.610), and the employee desires to be represented by the U.S. attorney, the Chief Attorney will obtain a written request to this effect from the employee and furnish it together with a copy of the petition and two copies of a summary of pertinent facts to the General Counsel, who will transmit copies thereof to the Department of Justice for appropriate action.

(c) *Suits by the United States.* In any instance wherein direct submission to a U.S. attorney for institution of civil action has been authorized by the Department of Justice, the Chief Attorney will furnish the U.S. attorney a complete report of the facts and applicable law, documentary evidence, names and addresses of witnesses, and, in cases wherein Veterans' Administration action has been taken, a copy of any pertinent decision rendered. The Chief Attorney will forward two copies of such report and of any proposed pleading prepared by him to the General Counsel, and will render any practicable assistance requested by the U.S. attorney.

§ 14.515 Suits involving loan guaranty matters.

(a) In actions for debt, possession or actions similar in substance (including title actions) in which § 36.4282 or § 36.4319 of this chapter has been complied with, the Chief Attorney is authorized to enter the appearance of and represent the Administrator of Veterans' Affairs as his attorney and to file claims for debt in probate proceedings without prior reference to the General Counsel. Any such action will normally be taken within the time prescribed by law as though there had been valid service of process. In all other types of cases, the Chief Attorney will not enter an appearance or file any pleading on behalf of the Administrator except in imperative emergency until authorization is received from the General Counsel after submission of all relevant facts. In doubtful cases, the Chief Attorney will request instructions from the General Counsel, submitting copy of so much of the pleadings or other papers, together with a a sufficient recital of the facts as will make clear the background, the issues, and the relief sought. The submission also will include names and addresses of adverse parties and attorneys so that immediate action may be taken if injunctive relief seems proper. Where necessary in any case to preserve rights which might be lost by default if there had been proper service of process, appropriate action will be taken by a special appearance, or, in jurisdictions where a special appearance does not serve the purpose or under State statute or decisions will constitute a general appearance for a later date, by an appearance through amicus curiae, to obtain an extension of time, preferably 30 days or more, in which to appear and plead without prejudice. If not feasible to obtain an extension, the Chief Attorney will explain to adverse counsel by letter, and personally, if desirable, the necessity of

deferring all action and will see that the proper judge receives a signed copy of the letter before default day. The letter will point out that there is no valid service of process on the Administrator of Veterans' Affairs but will not base the delay on that alone.

(b) The General Counsel and each Chief Attorney representing the General Counsel is the attorney of the Administrator of Veterans' Affairs for all purposes of 38 U.S.C. 1820 and as such is authorized to represent the Administrator in any court action, or other legal matter arising under said statutory provisions. Said authorization is subject to any applicable statutes and executive orders concerning claims of the United States. A Chief Attorney may enter appearance in such cases, subject to the provisions of §§ 36.4282 and 36.4319 of this chapter and paragraph (a) of this section. Each Chief Attorney is authorized to contract for the employment of attorneys on a fee basis for conducting any action arising under guaranty or insurance of loans or direct loans by the Veterans' Administration; or for examination and other proper services with respect to title to and liens on real and personal property, material incident to such activities of the Veterans' Administration, when such employment is deemed by him to be appropriate. The authority delegated to the Chief Attorney may, with the approval of the General Counsel, be redelegated.

(c) The General Counsel and each Chief Attorney in carrying out his duties as authorized in paragraph (a) or (b) of this section is authorized (1) to contract for and execute for and on behalf of the Administrator, any bond (and appropriate contract or application therefor) which is required in or preliminary to or in connection with any judicial proceeding in which the Chief Attorney is attorney for the Administrator, and to incur obligations for premiums for such bonds and (2) to do all other acts and incur all costs and expenses which in his professional opinion are necessary or appropriate to further or protect the interests of the Administrator in or in connection with prosecuting or defending any cause in any court or tribunal within the United States, which cause arises out of or incident to the guaranty or insurance of loans, or the making of direct loans by the Veterans' Administration, pursuant to 38 U.S.C. Chapter 37.

(d) Except in an emergency, no Chief Attorney will initiate action for appellate review without prior approval by the General Counsel. These limitations do not preclude the filing of a motion for a new trial, appeal to intermediate court with hearing de novo, the giving of notice of appeal, reserving of bills of exception, or any other preliminary action in the trial court which may be necessary or appropriate to protect or facilitate the exercise of the right of appellate review, nor do they preclude the taking of appropriate steps on behalf of the Administrator as appellee (respondent) without prior reference to the General Counsel. Upon the conclusion of the trial of a case, the Chief Attorney will report the result thereof to the General Counsel with recommendation as to seeking appellate review if the result reported is adverse to the position of the Veterans' Administration in the litigation. The reporting Chief Attorney who recommends appellate review will include as a part of his communication, or in exhibits attached, (1) a summary of the evidence; (2) a summary of the law points to be reviewed; (3) citations of statutes and cases; (4) statements of special reasons for recommending appellate review; (5) time limitations for the action recommended; (6) requirements, if any, respecting printing of the record and briefs; (7) the estimated total expenses to be incurred by reason of the appeal, reporting separately the estimated costs for printing the brief and record so that authority for printing may be granted in accordance with prescribed procedure, MP–1, Part II, Chapter 9 [1]; and (8) the recommendation by the Loan Guaranty Officer, or that he does not desire to make a recommendation.

§ 14.516 Escheat or post fund cases.

In any case in which the Veterans' Administration is entitled to possession of assets or property under the escheat provisions of 38 U.S.C. 3202(e), the gifts provisions of 38 U.S.C. Chapter 83 or the General Post Fund provisions of 38 U.S.C. Chapter 85, the Chief Attorney will endeavor to obtain possession of such assets or property in any manner appropriate under local procedure and practice, other than litigation. This procedure would include the making of exploratory inquiry of the person having custody or possession of the assets or property for the purpose of determining whether he would be willing to turn over the property to the Veterans' Administration without litigation. If unsuccessful in this effort, a complete report will be submitted by the Chief Attorney to the General Counsel so that appropriate action may be taken to obtain the assistance of the Department of Justice in the matter.

§ 14.517 Cases affecting the Veterans' Administration generally.

Chief Attorneys will establish and maintain such close liaison with the State and Federal courts as to insure that notice will be afforded the Veterans' Administration on all cases affecting the Veterans' Administration. Such information will be forwarded to the General Counsel promptly in every case.

§ 14.518 Habeas corpus writs.

Any director, manager, or other employee at a field station of the Veterans' Administration who is served with writ of habeas corpus concerning any beneficiary of the Veterans' Administration in his custody or with any other legal process involving his official actions, in addition to taking such steps as, in his judgment, are necessary to protect himself, will immediately notify the Chief Attorney of the region in which he is situated.

[1] Available in any Veterans' Administration station.

PROSECUTION

§ 14.560 Procedure where violation of penal statutes is involved.

(a) The submission to the appropriate U.S. attorney of a violation or suspected violation of the penal provisions of the statutes of the United States will be made by the Chief Attorney, regional office, or center, within whose jurisdiction the alleged offense appears to have been committed. Where the file or record which contains evidence of a penal offense is located in or forwarded to Central Office, the matter will be referred to the General Counsel for development and reference to the proper Chief Attorney or direct to the Department of Justice. Where the file or record is maintained in any other field station, it will be referred to the Chief Attorney of the regional office in whose area the station is located for development and determination as to whether prosecution is indicated and reference to the proper U.S. attorney if in order.

(b) In all instances where, in developing a necessary administrative investigation, there is evidence of a violation of the penal provisions of the Federal statutes, the case will be submitted to the appropriate U.S. attorney. In central office, investigation and security service reports showing any criminal acts will be reported by the General Counsel to the Department of Justice. If such offense seems probable, but an administrative investigation is not necessary, the matter will be reported, without investigation, to the U.S. attorney or the Department of Justice, as the case may be. The Department of Justice is charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence is sufficient to warrant prosecution in any case is a matter for that department. The function of any administrative official is to marshal all evidence within his posession and, when the evidence is sufficient to make a prima facie case of a violation of the statute, to transmit the same to the U.S. attorney for such action as the Department of Justice, acting through the U.S. attorney, may deem necessary. If the U.S. attorney decides to prosecute, the Chief Attorney will cooperate with him as may be requested. Cases deemed essential to protect Veterans' Administration interests or policy will be reported to the General Council if prosecution is delayed or declined.

(c) A report will be made to the Federal Bureau of Investigation concerning criminal matters arising under prior laws authorizing readjustment benefits and war orphans' educational assistance (see sec. 3, Public Law 85–857; 72 Stat. 1262) and current grants of readjustment and educational assistance as authorized in title 38, United States Code. In cases arising under the foregoing acts any evidence or information coming to the at-

tention of a Chief Attorney requiring determination as to whether there may be a violation of a Federal criminal statute will be brought promptly to the attention of the local office or agent of the Federal Bureau of Investigation without attempting to develop any criminal aspects, as will such facts or evidence subsequently discovered in administrative investigation or other action. Copy of the final investigation report in administrative investigation shall be forwarded to the U.S. attorney, if, in the opinion of the Chief Attorney, prosecutive action is necessary for administrative purposes. The Chief Attorney will bring to the attention of the General Counsel any case wherein he is of the opinion that criminal action should be initiated, notwithstanding adverse report or lack of report, by the Federal Bureau of Investigation.

§ 14.561 Administrative action prior to submission.

Before a submission is made to the U.S. attorney in cases involving personnel or claims, the General Counsel, if the file is in Central Office, or the Chief Attorney, regional office or center, if the file is in the regional office or other field station, will first ascertain that necessary administrative or adjudicatory (forfeiture (see Public Law 86-222; 73 Stat. 452), etc.), action has been taken; except that in urgent cases such as breaches of the peace, disorderly conduct, trespass, robbery, or where the evidence may be lost by delay, or prosecution barred by the statute of limitations, submission to the U.S. attorney will be made immediately.

§ 14.563 Collections or adjustments.

When it is determined that a submission is to be made to the U.S. attorney, no demand for payment or adjustment will be made without his advice. However, if, before or after submission, the potential defendant or other person tenders payment of the liability to the United States, payment will be accepted if the U.S. attorney states he has no objection. If the U.S. attorney determines that prosecution is not indicated, or when prosecution has ended, the file will be returned to the appropriate office with a report as to the action taken.

§ 14.583 Crimes or offenses on reservations.

Upon receipt by the Chief Attorney of a report from the Director of any Veterans' Administration hospital or domiciliary located in his regional office area, other than the District of Columbia, indicating a violation of any penal statutes occurring on such Veterans' Administration hospital or domiciliary reservation, he will extend full cooperation and advice to the Director. In so doing, the Chief Attorney will be guided by the provisions of 18 U.S.C. 13 and 3041, and 38 U.S.C. 625. Serious crimes (felonies or misdemeanors) committed on a hospital or domiciliary reservation will be reported direct to the U.S. attorney or local agent of the Federal Bureau of Investigation. The Chief Attorney will give every assistance to the Director in such cases.

FEDERAL TORT CLAIMS

§ 14.600 Federal Tort Claims Act.

(a) The Federal Tort Claims Act (28 U.S.C. 1291, 1346, 1402, 1504, 2110, 2401, 2402, 2411, 2412, and 2671 through 2680) prescribes a uniform procedure for the handling of claims against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

(b) The act provides that: (1) No court action (except those involving a third-party complaint, cross-claim, or counterclaim) shall be instituted unless the claimant shall have first presented his claim to, and it has been finally denied by, the appropriate Federal agency. The failure, however, of the agency to make final disposition of the claim within 6 months after it is filed may, at the option of the claimant, be deemed a final denial of the claim (28 U.S.C. 2675(a));

(2) Where a suit is filed after the denial of the administrative claim, the amount sought is limited to the amount of the claim presented to the Federal agency, except on proof of newly discovered evidence or intervening facts relating to the amount of the claim (28 U.S.C. 2675 (b));

(3) Suits are tried without a jury, and a district court judgment may be appealed to the appropriate U.S. Circuit Court of Appeals, or upon consent, to the Court of Claims of the United States;

(4) Administrative claims must be filed in writing with the appropriate Federal agency within 2 years from the date the claim accrues, and a suit must be filed within 6 months from the date of mailing of the final denial by the agency of the administrative claim (28 U.S.C. 2401(b));

(5) Section 2680 of title 28, United States Code, enumerates certain types of claims for which the United States is not liable under the Federal Tort Claims Act.

PREMATURE SUITS

§ 14.601 Dismissal action.

Where a tort suit against the United States (other than by third party complaint, cross-claim, or counterclaim) is filed without being preceded by an administrative claim (see § 14.600(b)(1)), the Chief Attorney shall promptly, upon receipt of notice of the action thereon, notify the U.S. attorney and the General Counsel, who will, in turn, notify the Department of Justice, that the provisions of 28 U.S.C. 2675(a) have not been complied with, and that the suit appears to be subject to a motion to dismiss for lack of jurisdiction. The General Counsel should be kept advised as to subsequent developments, and should be furnished a copy of any order of dismissal which may be entered by the court.

ADMINISTRATIVE CLAIMS

§ 14.602 Scope and authority to consider claims.

(a) The Administrator and those delegated such authority in § 2.6 (e) and (f) of this chapter are authorized to consider, ascertain, adjust, determine, compromise and settle claims for money damages against the United States in accordance with regulations prescribed by the Attorney General (28 CFR 14.1 et seq.). Any award, compromise, or settlement exceeding $25,000 shall be effected only with the prior written approval of the Attorney General or his designee. In addition, a claim may be compromised or settled only after consultation with the Department of Justice when:

(1) A new precedent or point of law is involved;

(2) A question of policy is or may be involved;

(3) The United States is or may be entitled to indemnity or contribution from a third party and the Veterans' Administration is unable to adjust the third party claim;

(4) For any reason, the compromise of a particular claim, as a practical matter, will, or may, control the disposition of a related claim in which the amount to be paid may exceed $25,000; or

(5) The United States, an employee, agent, or cost-plus contractor, is involved in litigation based on a claim arising out of the same incident or transaction.

(b) Authority is delegated by § 2.6(f) of this chapter to Chief Attorneys to act on claims not exceeding the specified dollar value, except that any claim which comes within the purview of the five categories stated in paragraph (a) of this section will be forwarded to the General Counsel, who will consult with the Department of Justice thereon.

(c) Where multiple claims (including claims of a subrogor and a subrogee) arise from the same incident, and the total of such claims exceeds the amount delegated Chief Attorneys by § 2.6(f) of this chapter, all such claims will be forwarded to the General Counsel for consideration.

(d) For the purpose of §§ 14.600 through 14.617, any reference to the General Counsel includes all other personnel in the General Counsel's office to which authority to handle Federal tort claims has been delegated by § 2.6(e) (1) and (2) of this chapter.

§ 14.603 Proper claimants.

(a) (1) A claim for damage to or loss of property may be presented by the owner of the property, his duly authorizde agent or legal representative.

(2) A claim for personal injury may be presented by the injured person, his duly authorized agent, or legal representative.

(3) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(4) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly. However, when an insurer presents a claim asserting the rights of a subrogee, he shall also present appropriate evidence to support his right.

(5) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

(b) State court procedures relating to the presentation of claims on behalf of mentally incompetent claimants will be complied with. Applicable statutes of limitation are not, however, tolled by the claimant's incompetency.

(c) State court procedures, other than statutes of limitation, relating to the presentation of claims on behalf of minors will be complied with where:

(1) The claimant is represented by an attorney who, at minimal expense and inconvenience, can easily obtain State court approval;

(2) The claimant is not a parent or is otherwise unrelated to the infant;

(3) The minor will reach majority before the expiration of the 2-year period of limitation prescribed by 28 U.S.C 2401(b); or

(4) The amount involved or the permanence and seriousness of personal injuries are of such magnitude as to warrant judicial approval in order to assure that the interests of the minor are fully protected.

§ 14.604 Filing a claim.

(a) Each person who inquires as to the procedure for filing a claim against the United States, predicated on a negligent or wrongful act or omission of an employee of the Veterans' Administration acting within the scope of his employment, will be furnished a copy of SF 95, Claim for Damage, Injury, or Death. The claimant will be advised to submit the executed claim directly to the Chief Attorney having jurisdiction of the area wherein the occurrence complained took place. He will also be advised to submit the information prescribed by § 14.607, to the extent applicable. If a claim is presented to the Veterans' Administration which involves the actions of employees or officers of other agencies, it will be forwarded to the Veterans' Administration General Counsel, and transmitted by him forthwith to the appropriate agency.

(b) A claim shall be deemed to have been presented when the Veterans' Administration receives from a claimant, his duly authorized agent or legal representative, an executed SF 95, or other written notification of an incident, together with a claim for money damages, in a sum certain, for damage to or loss of property or personal injury or death: *Provided, however,* That before compromising or settling any claim, an executed SF 95 shall be obtained from the claimant.

(c) A claim presented in compliance with paragraphs (a) and (b) of this section may be amended by the claimant at any time prior to final Veterans' Administration action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or his duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, the Veterans' Administration shall have 6 months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of the amendment. (See § 14.600(b)(1).)

§ 14.605 Investigation and development.

(a) *Development of untoward incidents prior to receipt of a claim.* (1) A report of any collision involving a Government-owned vehicle which results in property damage or personal injury or death will be made by the operator of the Government vehicle immediately following the accident, on SF 91, Operator's Report of Motor Vehicle Accident, and shall be submitted to the Manager or Director of the station involved. A copy of said report, accompanied by an executed copy of SF 91-A, Investigation Report of Motor Vehicle Accident, will be promptly submitted by the Manager or Director to the appropriate Chief Attorney, who will authorize such additional investigation as the circumstances of the case may warrant.

(2)(i) Any incident resulting in damage to, or loss of, property, other than personal effects of a patient in a Veterans' Administration facility, or in personal injury or death, due apparently or allegedly to the negligent or wrongful act or omission of an employee of the Veterans' Administration acting within the scope of his office or employment, or damage to or loss of Government-owned property caused by other than a Veterans' Administration employee acting within the scope of his office or employment, will be immediately reported on SF 92-A, Report of Accident Other Than Motor Vehicle. The Director of the station where such occurrence took place will promptly transmit a copy of the report to the appropriate Chief Attorney, who will authorize such additional investigation as the circumstances of the case may warrant.

(ii) Where the incident involves the loss of personal effects of a patient in a Veterans' Administration facility, the Director will assist the patient in completing a SF 95, Claim for Damage, Injury, or Death, and will advise the patient that it will be forwarded immediately to the appropriate Chief Attorney for consideration. The Director will forward along with the claim a brief summary of the facts, as well as his recommendation, to the Chief Attorney. The Chief Attorney will expedite his consideration and processing of claims of this nature.

(3) An employee will be designated at each station to investigate motor vehicle collisions and other incidents involving damage to, or loss of privately owned property or personal injury or death, apparently or allegedly resulting from the negligent or wrongful act or omission of an employee of the Veterans Administration acting within the scope of his employment, other than investigation of alleged malpractice, or damage to or loss of Government-owned property caused by other than Veterans Administration employees. In Central Office, the designation will be made by the Manager, Administrative Services, and at all other stations, by the Director.

(4) The Chief Attorney, Veterans Benefits Office, District of Columbia, or the Chief Attorney of the regional office for the area in which a field station is located will be the appropriate Chief Attorney within the purview of this section. The Chief Attorney will be responsible for processing claims involving motor vehicle collisions and other occurrences resulting in property damage, personal injury, or death, within such area. The Chief Attorney, Veterans Benefits Office, will also have jurisdiction, except as otherwise provided in subparagraph (3) of this paragraph over incidents occurring in Veterans Administration Central Office.

(b) *Postclaim requirements.* (1) Claims coming within the jurisdiction of the Chief Attorney (see § 2.6(f) of this chapter) shall be handled in accordance with the provisions of § 14.608;

(2) Where a claim is presented for an amount in excess of that for which authority has been delegated to the Chief Attorney, he will immediately forward a copy of the SF 95 (or other written statement of a claim), specifying the demand in a sum certain, to the General Counsel, along with any existing information concerning the claim. The Chief Attorney will notify the claimant of this referral and will commence his investigation and development. In the course of the investigation, any photographs or other graphic material which can be obtained should be included in the report to be submitted to the General Counsel;

(3) Within 60 days after receipt of a claim, the Chief Attorney will review all evidence available, and prepare a concise, complete report, including a summary of the evidence, his findings of essential facts, citations of applicable local laws, regulations, and decisions, and his conclusion as to the liability of the United States. This report will also include sufficient information so that a determination can be made as to the amount of damages for which the United States could be held responsible, and the Chief Attorney will state his conclusions and recommendations in this area. The Chief Attorney will transmit two copies of this report to the General Counsel,

along with the original and two copies of any applicable medical records which may be available, assembled so they are identical in arrangement with the originals. An extra complete copy of these medical records will be retained by the Chief Attorney which can be forwarded to the U.S. attorney together with the original report of investigation if the claim subsequently reaches the litigation stage. The report itself and the supporting materials, will be indexed, tabbed, and fastened so that it is one unit. If the claimant is a veteran, or the claim involves personal injury or death to a veteran, the veteran's claims folder will be forwarded to the General Counsel along with the report;

(4) In the consideration of claims involving a medical question, the General Counsel will be guided by the views of the Chief Medical Director as to the standard of medical care and treatment, and nature and extent of injuries, the degree of temporary or permanent disability, the prognosis, the necessity for future treatment or physical rehabilitation, and any other pertinent medical aspects of a claim. In claims of this nature, within the jurisdiction of the Chief Attorney, he will be guided by the views of the applicable hospital Director or Chief of Staff where the Director is not a physician.

§ 14.606 Requests for medical information.

(a) Where there is indication that a tort claim will be filed, medical records or other information shall not be released without approval of the Chief Attorney.

(b) Request for medical records, documents, reports, or other information shall be handled in accordance with the provisions of § 1.511(a)(2) of this chapter.

§ 14.607 Evidence to be submitted.

In conducting his investigation into the facts and circumstances giving rise to the claim, the Chief Attorney will consider the following guidelines to the extent applicable:

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payments for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the agency or another Federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that he has, upon request, furnished the report referred to in the first sentence of this subparagraph and has made or agrees to make available to the agency any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the damage to or loss of property or the damages claimed.

§ 14.608 Disposition of claims.

(a) *Disallowance.* In the case of a claim where a determination is made that there is no liability on the part of the United States, the Chief Attorney (if he has jurisdiction under § 2.6(f) of this chapter), or the General Counsel will notify the claimant (or his attorney or legal representative) by certified or registered mail. Notification of final denial may include a statement of reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the agency action, suit in an appropriate U.S. district court may be instituted not later than 6 months after the date of mailing of the notice of final denial.

(b) *Reconsideration of disallowance.* Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b), a claimant, his duly authorized agent, or legal representative, may file a written request with the agency for reconsideration of a final denial of a claim under paragraph (a) of this section. Upon the timely filing of a request for reconsideration, the agency shall have 6 months from the date of filing in which to make a final disposition of the claim, and the claimant's option under 28 U.S.C. 2675(a), shall not accrue until 6 months after the filing of a request for reconsideration. Final agency action on a request for reconsideration shall be effected by the Chief Attorney if the claim is one within his jurisdiction as authorized by § 2.6(f)(1) of this chapter, otherwise by the General Counsel. If the previous denial decision is upheld, the notice shall be by certified mail and the claimant will be advised of his right to bring suit within 6 months.

(c) *Allowance or compromise.* (1) In the case of a claim where a determination is made by the Chief Attorney (if the claim is one for which he has been delegated authority under § 2.6(f)(1) of this chapter), or by the General Counsel, that there is or could be liability on the part of the Government, an attempt will be made to obtain an agreement with the claimant, or his attorney, as to a fair and reasonable settlement or compromise;

(2) If the claim is one being handled by the Chief Attorney, and a tentative settlement agreement is reached, advice will be obtained from the General Counsel as to the availability of funds to pay the amount agreed upon. The claimant's signature, as well as that of his spouse if appropriate, shall then be obtained on SF 1145, Voucher for Payment Under Federal Tort Claims Act, and the Chief Attorney will indicate his approval in the area designated therefor. Where required by the applicable State law, approval of a court of competent jurisdic-

tion will be obtained. He will then forward the voucher, and the order of approval if applicable, to the General Counsel for necessary action to effect payment;

(3) Where the claim is being handled by the General Counsel, and is to be settled or compromised, the appropriate voucher will be forwarded to and executed by the claimant, or his duly authorized agent, and by his spouse if appropriate. Where required by the applicable State law, approval of a court having jurisdiction will be obtained. The General Counsel will then take necessary action to effect payment.

(d) *Attorney fees.* In any claim administratively settled or compromised, no specific portion of the award shall be designated as an attorney fee. However, 28 U.S.C. 2678 prohibits an attorney from charging, demanding, receiving, or collecting for services rendered, fees in excess of 20 per centum of any award, compromise, or settlement made pursuant to 28 U.S.C. 2672. Violation of this prohibition will subject the attorney to a fine of not more than $2,000 or imprisonment for not more than 1 year, or both. When a claimant is represented by an attorney, the voucher for payment shall designate as "payee" both the claimant and his attorney and the check shall be delivered to the attorney whose address shall appear on the voucher.

(e) *Setoff for cost of unauthorized medical treatment.* In any tort claim administratively settled or compromised where the claimant owes the Veterans' Administration for unauthorized medical treatment, there will be set off against the tort claim award the amount of the claimant's indebtedness to the Government. The amout set off is for credit to the appropriation account from which the services were provided. The voucher prepared for settlement of the claim will specify that the amount of the setoff be deposited to the credit of the designated account and that the balance of the award be paid to the claimant.

LITIGATED CLAIMS

§ 14.609 Tort suits following denial of an administrative tort claim.

Where civil action against the United States follows denial of an administrative claim, the General Counsel, upon receipt of notice of the action, will furnish to the Department of Justice a copy of the investigation report and other related materials obtained in connection with the consideration of the administrative claim previously submitted to the agency. The General Counsel will instruct the Chief Attorney to forward to the appropriate U.S. attorney the investigation report and other related materials, including medical records and any other information, which may be appropriate to the litigation. The Chief Attorney will keep the General Counsel advised of subsequent developments, and will render assistance as requested by the U.S. attorney and the General Counsel with respect to the defense of the suit.

§ 14.610 Suits against Veterans' Administration employees arising out of the operation of motor vehicles or based upon medical care and treatment furnished by or for the Department of Medicine and Surgery.

(a) (1) Section 2679 of title 28, United States Code, provides for the defense of suits against Federal employees or their estates arising out of their operation of motor vehicles in the scope of their office or employment with the Federal Government.

(2) Section 4116, title 38, United States Code, provides for the defense of suits, alleging malpractice or negligence in furnishing medical care and treatment, filed against physicians, dentists, nurses, pharmacists, or paramedical or other supporting personnel as a result of an act or omission which occurred while acting within the scope of their employment in or for the Department of Medicine and Surgery.

(b) Any Veterans' Administration employee against whom a civil action or proceeding is brought for damage to property, or for personal injury or death, on account of the employee's operation of a motor vehicle in the scope of his office or employment with the Government or on account of malpractice or negligence in furnishing medical care and treatment which occurred while acting within the scope of his employment in or for the Department of Medicine and Surgery, shall deliver all process and pleadings served upon him, or an attested true copy thereof, forthwith to the Chief Attorney having jurisdiction over the area in which the employee is employed. In addition, upon his receipt of such process or pleadings, or any prior information regarding the commencement of such a civil action or proceeding, he shall immediately so advise the Chief Attorney.

(c) Where civil action against an employee is covered by the provisions of either of the laws cited in paragraph (a) of this section, the Chief Attorney shall promptly, upon receipt thereof, furnish the U.S. attorney for the district embracing the place wherein the action or proceeding is brought, information concerning the commencement of such action or proceeding, and copies of all process and pleadings therein. In addition, the Chief Attorney shall submit a report to the U.S. attorney containing all available data bearing upon the question and state whether the employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose. Two copies of the report will be submitted to the General Counsel. In cases involving the operation of motor vehicles, the report shall include factual information bearing upon the nature of the employee's duties, his authorized destination, the conveyance authorized, whether he had departed from the route authorized or disobeyed the instructions given him, whether at the time of the incident he was engaged in the furtherance of his own personal interests, and any other relevant data. In cases involving allegations of malpractice or negligence in furnishing medical care and treatment, the report shall include factual information bearing upon the nature of the employee's duties and all available facts and circumstances surrounding the alleged act or omission, together with any other relevant information. The Chief Attorney will advise the U.S. attorney of the provisions of either 28 U.S.C. 2679 or of 38 U.S.C. 4116 and render such assistance as may be requested by the U.S. attorney or the General Counsel with respect to the defense of the suit.

ADMINISTRATIVE SETTLEMENT OF TORT CLAIMS ARISING IN FOREIGN COUNTRIES

§ 14.615 General.

(a) *Authority.* Section 236, title 38, United States Code, provides that the Administrator of Veterans' Affairs may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with Veterans' Administration operations abroad.

(b) *Action by claimant.* Claims for property loss or damage may be filed by the owner of the property or his duly authorized agent or legal representative. If the property was insured and the insurer is subrogated, in whole or in part, and if both the owner and the insurer desire to file a claim for their respective losses, they should join in one claim. Claims for personal injury may be filed by the injured person or his agent or legal representative. Claims for death may be filed by the personal representative of the decedent or any other legally qualified person. When filed by an agent or legal representative, the claim must show the title or capacity of the person representing the claimant and be accompanied by evidence of the appointment of such person as agent, legal representative, executor, administrator, guardian, or other fiduciary.

(c) *Time for filing.* A claim may not be allowed under 38 U.S.C. 236 unless it is presented to the Administrator or his designee within 2 years after the claim accrues.

§ 14.616 Form and place of filing claim.

(a) *Form of claim.* Claims arising under 38 U.S.C. 236 will be prepared in the form of a sworn statement and submitted in duplicate. The original copy of the claim will be sworn to or affirmed before an official with authority to administer oaths or affirmations and will contain the following information, at least:

(1) The name and address of claimant;

(2) The amount claimed for injury or death, and for property loss or damage;

(3) If property was lost or damaged, the amount paid or payable by the insurer together with the name of the insurer;

(4) A detailed statement of the facts and circumstances giving rise to the claim, including the time, place, and date of the accident or incident;

(5) If property was involved, a description of the property and the nature and extent of the damage and the cost of repair or replacement based upon at least two impartial estimates;

(6) If personal injury was involved, the nature of the injury, the cost of medical and/or hospital services, and time and income lost due to the injury;

(7) If death is involved, the names and ages of claimants and their relationship to decedent;

(8) The name and official position of the employee of the United States allegedly responsible for the accident or injury, or loss or damage of property;

(9) The names and addresses of any witnesses to accident or incident; and

(10) If desired, the law applicable to the claim.

(b) *Place of filing claim.* Claims arising in the Philippines under 38 U.S.C. 236 will be filed with the Chief Attorney, Veterans' Administration Regional Office, Manila, Republic of the Philippines. Claims arising in other foreign countries will be filed with the American Embassy or Consulate nearest the place where the incident giving rise to the claim took place.

(c) *Evidence to be submitted by claimant*—(1) *General.* The amount claimed on account of damage to or loss of property or on account of personal injury or death shall, so far as possible, be substantiated by competent evidence. Supporting statements, estimates and the like will, if possible, be obtained from disinterested parties. All evidence will be submitted in duplicate. Original evidence or certified copies shall be attached to the original copy of the claim, and sample copies shall be attached to the other copy of the claim. All documents in other than the English language will be accompanied by English translations.

(2) *Personal injury or death.* In support of claims for personal injury or death, the claimant will submit, as may be appropriate, itemized bills for medical, hospital, or burial expenses actually incurred; a statement from the claimant's or decedent's employer as to time and income lost from work; and a written report by the attending physician with respect to the nature and extent of the injury, the nature and extent of treatment, the degree of disability, the period of hospitalization or incapacitation, and the prognosis as to future treatment, hospitalization and the like.

(3) *Damage to personal property.* In support of claims for damage to personal property which has been repaired, the claimant will submit an itemized receipt, or, if not repaired, itemized estimates of the cost of repairs by two reliable parties who specialize in such work. If the property is not economically repairable, the claimant will submit corroborative statements of two reliable, qualified persons with respect to cost, age of the property and salvage value.

(4) *Damage to real property.* In support of claims for damage to land, trees, buildings, fences, or other improvements to real property, the claimant will submit an itemized receipt if repairs have been made, or, if repairs have not been made, itemized estimates of the cost of repairs by two reliable persons who specialize in such work. If the property is not economically repairable, the claimant will submit corroborative statements of two reliable, qualified persons with respect to the value of the improvements both before and after the accident or incident and the cost of replacements.

(5) *Damage to crops.* In support of claims for damage to crops, the claimant will submit an itemized signed statement showing the number of acres, or other unit measure of crop damaged, the probable yield per unit, the gross amount which would have been realized from such probable yield and an estimate of the costs of cultivating, harvesting and marketing the crop. If the crop is one which need not be planted each year, the diminution in value of the land beyond the damage to the current year's crop will also be stated.

§ 14.617 Disposition of claims.

(a) *Disposition of claims arising in Philippines.* All claims arising under 38 U.S.C. 236 in the Philippines, including a complete investigation report and a brief résumé of applicable law, will be forwarded directly by the Chief Attorney to the General Counsel, together with his recommendation as to disposition.

(b) *Disposition of claims arising in foreign countries other than the Philippines.* When a claim is received in an American Embassy or Consulate, the Embassy or Consulate receiving such claim shall make such investigation as may be necessary or appropriate for a determination of the validity of the claim and thereafter shall forward the claim, together with all pertinent material, including a résumé of applicable law and a recommendation regarding allowance or disallowance of the claim, through regular channels of the Department of State to the General Counsel, Veterans' Administration Central Office, Washington, D.C.

(c) *Payment of claims.* Upon determining that there is liability on the part of the United States under 38 U.S.C. 236, the General Counsel, or such other personnel as may be designated by the Administrator, will take the necessary action to effect payment.

CLAIMS FOR DAMAGE TO OR LOSS OF GOVERNMENT PROPERTY

§ 14.618 Collection action.

(a) In a case where the Chief Attorney determines that damage to or loss of Government property under the jurisdiction of the Veterans' Administration resulted from the negligence or other legal wrong of a person other than an employee of the United States, and such damages do not exceed $20,000, he will request payment of the amount of damage from the person liable therefor or his insurer.

(b) The Chief Attorney may collect, compromise, suspend, or terminate collection action on any such claim as is authorized under § 2.6(f) of this chapter, in conformity with the standards in § 1.900 series of this chapter. Any such claim which is not compromised or on which collection action is not suspended or terminated, will be referred by the Chief Attorney direct to the appropriate U.S. attorney along with the information required by §§ 1.951 through 1.953 of this chapter. Any claim in excess of the authorized amount on which voluntary payment in full has not been made, will be transmitted along with the report required by § 14.605(a)(2)(i), a report on credit data (§ 1.952 of this chapter), and any other pertinent information, to the General Counsel for appropriate action.

(c) The General Counsel or those designated in § 2.6(e)(4) of this chapter will take action to collect, compromise, suspend, or terminate collection action on such claims not exceeding $20,000 in conformity with § 1.900 series of this chapter. Any such claims not compromised, or on which collection action is not suspended or terminated in accordance with § 1.900 series of this chapter, will be referred promptly to the Department of Justice for appropriate action.

(d) The provisions of paragraphs (a) through (c) of this section are not applicable to the collection of claims involving damage to General Services Administration Motor Pool System vehicles issued for Veterans' Administration use. Whenever there is any indication that a party other than the operator of a motor pool system vehicle is at fault in an accident, all documents and data pertaining to the accident and its investigation will be submitted to the General Services Administration Regional Counsel of the region that issued the vehicle who has jurisdiction over such matters. Whenever a motor pool system vehicle is involved in an accident, resulting in damage to the property of, or injury to the person of a third party, and the third party asserts a claim against the Veterans Administration based upon the alleged negligence of the vehicle operator, the claim will be considered under § 14.600 et seq.

3. In Part 14, §§ 14.664 through 14.670 are revoked and §§ 14.664 through 14.669 are added to read as follows:

PERSONNEL CLAIMS

§ 14.664 Scope of authority and effective date.

Public Law 88-558 (78 Stat. 767), approved August 31, 1964, authorizes the Administrator or his designee to settle and pay a claim for not more than $6,500 made by a civilian officer or employee of the Veterans' Administration for damage to, or loss of personal property incident to his service. Authority is delegated by § 2.6(e)(5) of this chapter to the General Counsel, Associate General Counsel, Assistant General Counsel (Professional Staff Group D), and the Deputy Assistant General Counsel, of said staff group, or those acting for them, to settle and pay such claims on behalf of the Administrator, and such settlement shall be final and conclusive. Authority is delegated to Chief Attorneys by § 2.6(f)(5) of this chapter to settle and pay on behalf of the Administrator a claim under the Military Personnel and Civilian Employees' Claims Act of 1964,

not exceeding amounts authorized by said section, in accordance with instructions issued by the General Counsel.

§ 14.665 Claims.

(a) The claim must be presented in writing on VA Form 2–4760, Employee's Claim for Reimbursement for Personal Property Damaged or Lost Incident to Employment. It will be submitted to the personnel office where the claim originates within 2 years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after that cause ceases to exist. The claim must be executed and certified by the officer or the employee suffering the loss or damage, or in the event of his death, by the surviving spouse, children, father or mother or both, or brothers or sisters or both. Claims of survivors shall be settled and paid in the order named. All claims must contain the following:

(1) The date, time, and place the loss or damage occurred and the circumstances surrounding such loss or damage, together with the supporting statements of any witnesses who can verify such facts.

(2) In the event of damage, the date of acquisition, original cost, condition before damage, and at least two estimates of the cost of repair or replacement. In the event of loss, the date of acquisition, the original cost, the condition, and an estimate of the reasonable market value of the article or articles.

(3) A statement as to any claims or potential claim he may have for indemnification of the loss or damage against other than the United States and whether he will assign such to the United States and cooperate in its prosecution. Where such claim or potential claim is against a carrier or insurer, evidence that a timely claim has been properly made. Where a recovery from the carrier or his insurer has been obtained or offered, such information shall be included.

(4) In cases involving damage or destruction of personal property by patients or domiciliary members, a statement as to whether a claim was filed pursuant to 38 U.S.C. 233(a)(5) and whether such claim has been finally denied.

(b) The Personnel Officer receiving the claim will forward same to the person designated to investigate accidents at the station pursuant to § 14.605 within 5 days after receipt.

(c) The employee designated pursuant to § 14.605 will ascertain if such claim is complete in all respects and conduct such investigation as is necessary to establish all facts required to properly evaluate the claim both as to merit and the reasonable amount payable for the loss or damage. Where it is indicated that the claimant may have a potential claim against other than the United States, he will secure a suitable assignment of all right and title to such claim, to the extent the United States makes reimbursement, and the agreement of the claimant to furnish such evidence as may be necessary to pursue such claim. If the potential claim is against a carrier or insurer, he will ascertain that the claimant has filed a timely proper claim and procure evidence thereof. He will also include information concerning any offer of settlement the carrier may have made. The completed investigation, original claim and supporting evidence will be forwarded to the appropriate Chief Attorney.

§ 14.666 Chief attorney responsibility.

(a) The Chief Attorney having jurisdiction will conduct such additional investigation as he deems necessary to establish all facts required. If the claimant has indicated he may have a potential claim for indemnification against other than the United States, the Chief Attorney will ascertain that a suitable assignment, legally enforceable, of all right and title to such claim, to the extent the United States makes reimbursement, and the agreement of the claimant to furnish such evidence as may be necessary to pursue such claim is of record. If such potential claim is against a carrier or insurer, he will ascertain that claimant has filed a timely proper claim against the carrier or insurer and review same for legal sufficiency.

(b) If the claim is for an amount within his jurisdiction, the Chief Attorney will take action thereon in accordance with §§ 14.664 through 14.667. If the claim exceeds an amount within his jurisdiction, the Chief Attorney will forward the original claim with the supporting evidence, the initial investigation report, the original of his investigation report, if any, and a recommendation as to disposition of the claim to the General Counsel.

§ 14.667 Claims payable.

(a) No claim shall be paid unless timely filed in proper form as provided in § 14.665 and the preponderance of the evidence establishes that the loss or damage:

(1) Actually occurred and the amount claimed is reasonable,

(2) Was incident to the employee's service and his possession of the property was reasonable, useful or proper under the circumstances,

(3) Did not occur at quarters occupied within the 50 States or the District of Columbia that were not assigned to the claimant or otherwise provided in kind by the United States.

(4) Was not caused wholly or partly by the negligent act of claimant, his agent, or his employee, and that the claimant has no right to indemnification for his loss or damage from other than the United States, except to the extent that he assigns such right to the United States and agrees to furnish evidence required to enable the United States to enforce such right. In the event he has a right to recovery for the loss or damage from a carrier or insurer he will be required to file a timely claim for such recovery before consideration of his claim against the United States.

(b) No claim for the cost of repair or replacement of personal property of employees damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of official duties shall be entertained under §§ 14.664 through 14.667, unless claim filed pursuant to 38 U.S.C. 233(a)(5) (§ 14.78 of this chapter) has been finally denied for the reason that such claim did not meet the criteria established by that law.

§ 14.668 Disposition of claims.

(a) *Disallowed claims.* Claimants will be promptly notified of the disallowance of a claim and the reasons therefor.

(b) *Allowed claims*—(1) *Reimbursement in kind.* Where a claim is allowed and it is determined to be to the advantage of the Government, reimbursement will be made in kind. The official authorizing settlement will request the Director, Supply Service, Department of Medicine and Surgery, to procure the necessary article or articles and deliver same to the claimant.

(2) *Reimbursement by check.* The official authorizing settlement will forward allowed claims, other than those requiring reimbursement in kind, to the Finance activity at the Veterans Administration installation where the claim arose. That activity will audit the claim, which if found proper for payment, will be scheduled on VA Form 4–1423, Voucher and Schedule of Payments, and forwarded to the appropriate Regional Disbursing Office for payment.

§ 14.669 Fees of agents or attorneys; penalty.

The Military Personnel and Civilian Employees' Claims Act of 1964 (Public Law 88–558; 78 Stat. 767) was amended by Public Law 89–185 (79 Stat. 789), on September 15, 1965, by adding a new section which provided that no more than 10 percent of the amount paid in settlement of each individual claim submitted and settled under the authority of the Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim. Any person violating the provisions of this Act is deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved: December 27, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-305 Filed 1- -73 am]

Notices

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

[Order 499–72]

OFFICIAL SEAL

Notice of Establishment

By virtue of the authority vested in me by section 509 of title 28 and section 301 of title 5 of the United States Code, I hereby establish the attached seal as the official seal of the Law Enforcement Assistance Administration.

The seal is symbolic of the responsibilities and direction of the Law Enforcement Assistance Administration. The star represents the Law Enforcement agencies that are working diligently to bring crime under control in this country. The balance superimposed upon the star represents true equality in justice that can only be created by the proper balance in the criminal justice system of law enforcement, courts, and corrections at the local, State, and national levels. This is symbolic of the teamwork of the three great subdivisions working together to create an ideal criminal justice system within these United States.

Dated: December 20, 1972.

RICHARD G. KLEINDIENST,
Attorney General.



[FR Doc.73-338 Filed 1-5-73;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

STAINLESS STEEL WIRE RODS FROM FRANCE

Withholding of Appraisement Notice

Information was received on December 9, 1971, that stainless steel wire rods from France were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of February 17, 1972, on page 3553. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of stainless steel wire rods from France is less, or is likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. The information before the Bureau tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and the adjusted home market price of such or similar merchandise.

Preliminary analysis suggests that purchase price will probably be calculated by deducting from the U.S. f.o.b. inland carrier price, or the delivered customer's premises price, as applicable, U.S. inland freight, brokerage fees, U.S. Customs duties, loading charges, ocean freight, insurance, shipping charges, and inland freight in the home market, as appropriate.

The adjusted home market price will probably be based either on a weighted-average of delivered prices to home market customers or on an f.a.s. producer's warehouse price, as applicable, with a deduction for inland freight. Adjustments to this price will probably be made for differences in packing, credit terms, and commissions.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than the adjusted home market price.

Customs officers are being directed to withhold appraisement of stainless steel wire rods from France in accordance with § 153.48, Customs regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office by January 18, 1973.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than February 7, 1973.

This notice, which is published pursuant to § 153.34(b), Customs regulations (19 CFR 153.34(b)), shall become effective January 8, 1973. It shall cease to be effective July 8, 1973, unless previously revoked.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: January 4, 1973.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.73-467 Filed 1-5-73;9:40 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Idaho 2922; Powersite Cancellation]

IDAHO

Order Providing for Opening of Public Lands

DECEMBER 27, 1972.

By published notice (37 FR 226, Nov. 22, 1972) the U.S. Geological Survey canceled Powersite Classification No. 365 of August 10, 1944, as to the lands described therein.

The purpose of this order is to restore to the operation of applicable public land laws the public lands involved in that notice.

Under the authority delegated by the Bureau of Land Management Order No. 701, dated July 23, 1964 (29 FR 10526), as amended, it is ordered as follows:

1. Beginning at 10 a.m., March 15, 1973, the following described lands are restored to disposition under applicable public land laws, subject to valid existing rights, withdrawals and classifications:

BOISE MERIDIAN, IDAHO

T. 6 S., R. 6 E.,
Sec. 1, SW¼NW¼;
Sec. 2, N½SE¼.

The areas described aggregate 120 acres acres in Owyhee County, Idaho.

2. Lands described as N½S½, Section 5, T. 6 S., R. 6 E., Boise Meridian, are also included in Powersite Classification No. 275, but are patented lands.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.73-315 Filed 1-5-73;8:45 am]

Office of Oil and Gas

NATIONAL PETROLEUM COUNCIL

Notice of Cancellation of Meeting

The meeting of the Technical Subcommittee of the National Petroleum Council Committee on Petroleum Resources Under the Ocean Floor, January 9, 1973, 9:30 a.m. to 5:30 p.m., NPC Conference Room, 1625 K St., NW., Washington, D.C., is cancelled. Notice of this meeting was published in FR Doc. 72-22351, page 28768, on December 29, 1972.

DAVID R. OLIVER,
Acting Director.

[FR Doc.73-388 Filed 1-5-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[NTIS Order EIS-72-5778-D]

PROPOSED COMMITMENT OF ACREAGE TO NEW BEET SUGAR PRODUCING AREA, HILLSBORO, N. DAK.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Agricultural Stabilization and Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed Commitment of Acreage to a New Beet Sugar Producing Area in the vicinity of Hillsboro, N. Dak., USDA-ASCS-ES (Adm.) 73-2. The 1971 amendments to the Sugar Act of 1948, in order to make acreage available for the growth and expansion of the beet sugar industry, provides that the Secretary of Agriculture shall allocate as needed the acreage required to yield not more than a total of 100,000 tons, raw value, of sugar for localities to be served by new or substantially enlarged existing sugar beet processing facilities. Allocations are to be for a period of 3 years and limited for any one processing facility to the acreage required to yield a maximum of 50,000 short tons, raw value, of sugar and a minimum of 25,000 short tons, raw value.

The environmental statement applies to the growing of approximately 30,000 acres of sugar beets in the Red River Valley of North Dakota and Minnesota near Hillsboro, N. Dak., in Traill County. The sugar beets will be planted on mostly dryland farming acreage used in rotation with other crops (primarily wheat, corn, and soybeans), the acreage having previously been devoted to such crops.

This draft environmental statement was filed with the Council on Environmental Quality on December 15, 1972.

Copies are available for inspection at USDA, Agricultural Stabilization and Conservation Service, Room 3658, 14th and Independence Avenue SW., Washington, D.C. 20250.

Copies may be obtained from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the statement above when ordering.

Comments concerning the proposed action and request for additional information should be addressed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, Room 3752, 14th and Independence Avenue SW., Washington, D.C. 20250. Comments should be received by February 7, 1973, in order to be considered in the preparation of the final environmental statement.

Signed at Washington, D.C., on December 29, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-329 Filed 1-5-73;8:45 am]

[NTIS Order EIS-72-5777-D]

PROPOSED COMMITMENT OF ACREAGE TO NEW BEET SUGAR PRODUCING AREA, WAHPETON, N. DAK.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Agricultural Stabilization and Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed Commitment of Acreage to a New Beet Sugar Producing Area in the vicinity of Wahpeton, N. Dak., USDA-ASCS-ES (Adm.) 73-3. The 1971 amendments to the Sugar Act of 1948, in order to make acreage available for the growth and expansion of the beet sugar industry, provides that the Secretary of Agriculture shall allocate as needed the acreage required to yield not more than a total of 100,000 tons, raw value, of sugar for localities to be served by new or substantially enlarged existing sugar beet processing facilities. Allocations are to be for a period of 3 years and limited for any one processing facility to the acreage required to yield a maximum of 50,000 short tons, raw value, of sugar and a minimum of 25,000 short tons, raw value.

The environmental statement applies to the growing of approximately 30,000 acres of sugar beets in the Red River Valley of North Dakota and Minnesota near Wahpeton, N. Dak., in Dwight Township. The sugar beets will be planted on mostly dryland farming acreage used in rotation with other crops (primarily wheat, corn, and soybeans), the acreage having previously been devoted to such crops.

This draft environmental statement was filed with the Council on Environmental Quality on December 15, 1972.

Copies are available for inspection at USDA, Agricultural Stabilization and Conservation Service, Room 3658, 14th and Independence Avenue SW., Washington, D.C. 20250.

Copies may be obtained from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the statement above when ordering.

Comments concerning the proposed action and request for additional information should be addressed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, Room 3752, 14th and Independence Avenue SW., Washington, D.C. 20250. Comments should be received within 30 days in order to be considered in the preparation of the final environmental statement.

Signed at Washington, D.C. on December 29, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-328 Filed 1-5-73;8:45 am]

Soil Conservation Service

OGUNQUIT SAND DUNE LAND STABILIZATION MEASURE THRESHOLD TO MAINE PROJECT, MAINE

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a draft environmental statement for the Ogunquit Sand Dune Land Stabilization Measure USDA-SCS-ES-RD-(ADM)-73-1-(D).

The environmental statement concerns a plan of stabilizing a 28-acre sand dune in the Ogunquit Village area, York County, Maine. The planned works of improvement include restoring and stabilizing a 28-acre barrier dune through the placement of sand, plantings of vegetation, and the installation of erosion and pedestrian control measures.

This draft environmental statement was filed with CEQ on December 29, 1972.

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

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5105 A, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA, Soil Conservation Service, Federal Office Building, Orono, Maine 04473.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the name and number of statement above when ordering.

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

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

Comments concerning the proposed action and requests for additional information should be addressed to Donald T. Dinsmore, State Conservationist, USDA, Federal Office Building, Room 202A, Orono, Maine 04473.

Comments must be received within 30 days of the date of publication of this notice in order to be considered in the preparation of the final environmental statement.

KENNETH E. GRANT,
Administrator,
Soil Conservation Service.

DECEMBER 29, 1972.

[FR Doc.73-333 Filed 1-5-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-321]

SEA TANKERS, INC.

Notice of Application

Notice is hereby given that application has been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed Applicant, and/or related persons or firms, employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805 (a) of the Merchant Marine Act, 1936, as amended, will be required for each such Applicant if its application for operating-differential subsidy is granted.

The following Applicant has requested permission involving the domestic intercoastal or coastwise services described below:

Name of applicant. Sea Tankers, Inc. (Sea Tankers).

Description of domestic service and vessels. The applicant, Sea Tankers, is a subsidiary of Overseas Shipholding Group, Inc. (Shipholding), whose subsidiaries have engaged in domestic coastwise, intercoastal and noncontiguous petroleum trades with tanker vessels, and the applicant has requested written permission for it and its related companies to continue such operations. The following tanker vessels are owned by the applicant and related companies, all subsidiaries of Shipholding:

Ship	*Owner*
Overseas Alaska	Intercontinental Bulktank Corp.
Overseas Alice	Do.
Overseas Aleutian	Ocean Transportation Co., Inc.
Overseas Ulla	Do.
Overseas Artic	Overseas Bulktank Corp.
Overseas Valdez	Do.
Overseas Joyce	Overseas Oil Carriers, Inc.
Overseas Anchorage	Globe Seaways, Inc.
Overseas Vivian	Ocean Tankships Corp.
Overseas Rose (Alpha Reserve)	Sea Tankers.
Beta Reserve	Do.
Overseas Evelyn (Gamma Reserve)	Do.

Written permission is now required by the applicant, Sea Tankers, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on January 12, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., January 16, 1973, in Room 4896, Department of Commerce Building, 14 and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Administration.

Dated: January 4, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-414 Filed 1-5-73;8:45 am]

Office of the Secretary

[Dept. Organization Order 30-3A]

PATENT OFFICE

Organization and Functions

This order effective December 15, 1972, supersedes the material appearing at 27 FR 11469 of November 21, 1962.

SECTION 1. *Purpose.* This order delegates authority to the Commissioner of Patents and prescribes the functions of the Patent Office.

SEC. 2. *Status and line of authority.* .01 The Patent Office is hereby continued as a primary operating unit of the Department of Commerce. First established as an independent bureau under the direction of a Commissioner of Patents by the general revision of patent laws enacted by Congress July 4, 1836 (5 Stat. 117), it became a bureau of the Department of Commerce by Executive Order of April 1, 1925, in accordance with the authority contained in the act of February 14, 1903 (32 Stat. 830). When the patent laws were codified as Title 35, United States Code, effective January 1, 1953, the Patent Office was continued as an office in the Department of Commerce.

.02 The Commissioner of Patents (hereinafter called the Commissioner), who is appointed by the President by and with the advice and consent of the Senate, shall be the head of the Patent Office. He shall be principally assisted by a Deputy Commissioner and four assistant commissioners, whose titles and status are specified below. The First Assistant Commissioner (Deputy Commissioner) and the first two assistant commissioners are provided for by 35 U.S.C. 3 and are appointed by the President by and with the advice and consent of the Senate.

a. The Deputy Commissioner (First Assistant Commissioner under 35 U.S.C. 3).

b. The Assistant Commissioner for Patents (an assistant commissioner under 35 U.S.C. 3).

c. The Assistant Commissioner for Trademarks (an assistant commissioner under 35 U.S.C. 3).

d. The Assistant Commissioner for Legal Affairs.

e. The Assistant Commissioner for Administration.

.03 The Deputy Commissioner or, in the event of a vacancy in that office, the assistant commissioner appointed under 35 U.S.C. 3 who is senior in date of appointment, shall act as Commissioner during a vacancy in that office until a Commissioner is appointed and takes office. In the absence of the Commissioner, the Deputy Commissioner shall act as Commissioner. If the Deputy Commissioner is likewise absent or that office is vacant, one of the assistant commissioners appointed under 35 U.S.C. 3 or the Assistant Commissioner for Legal Affairs or the Solicitor of the Patent Office shall act as Commissioner in an order of precedence prescribed by the Commissioner.

.04 The Commissioner shall report and be responsible to the Assistant Secretary for Science and Technology.

SEC. 3. Delegation of authority. .01 Pursuant to the authority vested in the Secretary of Commerce by 35 U.S.C. 3 and Reorganization Plan No. 5 of 1950, the functions of the Patent Office and its officers specified in Title 35 of the United States Code, as amended, are hereby vested in the Secretary of Commerce and redelegated to the Commissioner of Patents.

.02 Pursuant to the authority vested in the Secretary of Commerce by law, the Commissioner of Patents is hereby delegated authority to perform the following functions vested in the Secretary of Commerce.

a. The functions in Title 15, Chapter 22 of the United States Code, which pertain to trademarks.

b. The functions in Executive Order 10096 of January 23, 1950, and the Executive Order 10930 of March 24, 1961, which pertain to inventions made by Government employees.

c. The functions in 42 U.S.C. 2181 and 2182, which pertain to inventions relating to atomic weapons, and in 42 U.S.C. 2457, which pertain to property rights in inventions made in performance of work under contract for the National Aeronautics and Space Administration.

d. Such functions under other authorities of the Secretary of Commerce as are applicable to performing the functions assigned in this order.

.03 Exercise of the functions delegated in paragraphs .01 and .02 of this section shall be subject to such policies or directives as may be prescribed by the Secretary of Commerce or the Assistant Secretary for Science and Technology.

.04 The Commissioner of Patents may, except as precluded by law or regulation, redelegate his authority to employees of the Patent Office subject to such conditions in the exercise of the delegated authority as he may prescribe.

SEC. 4. *Functions.* The Patent Office shall perform the following functions:

.01 Examine applications for patent to determine if they meet the requirements of law for the issuance of patents and, upon such determination, granting patents.

.02 Administer special laws and regulations as to secrecy of certain inventions, licenses for foreign filing, and those relating to atomic energy and space technology.

.03 Decide the ownership of patents and the rights to inventions made by Government employees, as provided by Executive Orders 10096 and 10930.

.04 Provide for the publication, storage, dissemination, and exchange of patents and related documentation.

.05 Maintain systems and facilities providing appropriate access to United States and foreign patents and other technical literature for use of the examiners and the public.

.06 Examine applications for the registration of trademarks to determine their entitlement to registration under the law; give public notice of trademarks allowed for registration and publish registered trademarks; maintain the principal and supplemental registers of trademark registrations, and provide for public access to such registers and related trademark records.

.07 Issue patents and certificates of trademark registration.

.08 Reissue defective patents and issue certificates of correction of patents and trademark registrations.

.09 Maintain records as to proprietary interests in patents and trademarks and applications therefor.

.10 Carry on or authorize studies and programs, separately or in coordination with other United States, foreign, and international agencies, regarding domestic and international patent and trademark law.

.11 Perform other functions required, or which the Commissioner deems necessary and proper, in exercising the authority delegated herein.

Effective date: December 15, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.73-320 Filed 1-5-73;8:45 am]

[Dept. Organization Order 30-3B]

PATENT OFFICE

Organization and Functions

This order effective December 15, 1972, supersedes the material appearing at 36 FR 9078 of May 19, 1971.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Patent Office. Department Organization Order 30-3A prescribes the scope of authority and functions.

S53. 2. *Organization structure.* The principal organization structure and line of authority of the Patent Office shall be as depicted in the attached organization chart. A copy of the organization chart is attached to the original document on file in the Office of the Federal Register.

SEC. 3. *Office of the Commissioner.* The Commissioner determines the policies and directs the programs of the Patent Office and is responsible for the conduct of all activities of the Patent Office. He is principally assisted by a Deputy Commissioner and four Assistant Commissioners who shall have the main duties as specified below:

a. The Deputy Commissioner (First Assistant Commissioner under 35 U.S.C. 3) shall assist the Commissioner in the direction of the Patent Office with immediate responsibility for the Office of Petitions and shall perform the duties of the Commissioner in the latter's absence.

b. The Assistant Commissioner for Patents (an assistant commissioner under 35 U.S.C. 3) shall provide administrative and policy direction for the patent examining and related operations which consist of the organizational elements enumerated in section 5 of this order. He is assisted by a Deputy Assistant Commissioner who shall, among other duties, have immediate responsibility for the patent examining groups and shall perform the duties of the Assistant Commissioner during the latter's absence.

c. The Assistant Commissioner for Trademarks (an assistant commissioner under 35 U.S.C. 3) shall provide administrative and policy direction to the trademark registration and related operations which consist of the organizational elements enumerated in section 6 of this order.

d. The Assistant Commissioner for Legal Affairs shall be the chief law officer of the Patent Office and as applicable shall provide administrative and policy direction to the organizational elements enumerated in section 7 of this order. Pursuant to Department Organization Order 10-6, he shall be subject to the overall authority of the Department's General Counsel with respect to legal and legislative matters involving the Patent Office, other than in connection with the issuance of patents or the registration of trademarks.

e. The Assistant Commissioner for Administration shall be the principal advisor to the Commissioner on the formulation and application of management policies and shall provide administrative, management, and operational support services to components of the Patents Office. In addition, he shall provide administrative and policy direction to a staff assigned to his office as well as to the organizational elements enumerated in section 8 of this order. He shall be assisted by a Deputy Assistant Commissioner who shall perform the duties of the Assistant Commissioner during the latter's absence.

SEC. 4. *Offices reporting to the Commissioner.* .01 The Offices of Petitions shall receive, docket, maintain records, and take other appropriate action with respect to petitions to the Commissioner submitted under applicable law and regulations; assign petitions to appropriate officials for decision or recommend and prepare decisions for review and approval by the Deputy Commissioner; and recommend changes in office policy, practices, and procedures, where the need for such appears evident from the records of the office.

.02 The Office of Government Inventions and Patents shall administer Executive Order 10096, as amended by Executive Order 10930 and related regulations, including the rendering of final decisions on the ownership of patents and the rights to inventions made by Government employees, and advise the Commissioner on matters involving the Committee on Government Patent Policy (of the Federal Council for Science and Technology). It shall also conduct research, liaison, and coordinate functions needed to carry out Executive Order 10096 and to advise the Commissioner on Committee matters; provide executive secretariat support to the Committee; and assist in the development and formulation, to the extent appropriate, of a uniform Government-wide policy.

.03 The Office of Advanced Systems Development shall apply analytical basic research techniques to the development of new machine-assisted experimental search, retrieval, and display systems; to the exploration and application of advanced technology for the betterment of operating systems; and to increasing

the effectiveness of technical information dissemination and accessing measures. This work is directed primarily to providing solutions to hitherto unresolved problems and to the development of experimental or test applications, or simulations of original techniques or operations. It shall assist in the installation, pilot use, and evaluation of experimental systems in operating environments.

.04 The Office of Information Services shall advise and represent the Commissioner on information matters; conduct programs fostering public understanding of the American patent system and the functions, services and administrative publications of the Patent Office; develop publication policies; provide direction and assistance in developing new and revised publications; and assure conformity with policies, regulations, and standards concerning publications and publication practices.

SEC. 5. *Offices reporting to the assistant Commissioner for patents.* .01 The Office of Patent Program Control shall develop procedures for and establish quality, quantity, and other performance standards relating to the conduct of the patent examination and classification functions; establish program activity targets and continually evaluate status against program objectives; provide training to examiners in patent practices and procedures; and monitor compliance with examination and classification standards and procedures.

.02 The Office of Patent Classification shall develop, implement, and maintain subject matter classification systems for patent search files of prior art; evaluate and adapt experimental or other search systems developed elsewhere; determine requirements for and initiate procurement of foreign patent and literature abstracting services for use by examiners; and provide technical specifications, guidance, advice, and assistance to the contracting officer in such procurements; coordinate the classification of U.S. and foreign patent documents and nonpatent literature; and participate in developing and fostering harmonization of the United States and the International Patent Classification systems.

.03 The Examining Groups shall examine applications for patents to ascertain if the applicants are entitled to patents under the law and grant patents to those so entitled. Each examining group shall perform this function for patent applications falling within the generic category assigned to it. The number of examining groups and the coverage of the generic categories shall be determined by the Commissioner.

SEC. 6. *Offices reporting to the Assistant Commissioner for Trademarks.* .01 The Office of Trademark Program Control shall develop guidelines governing trademark examining procedures; establish program activity targets and continually evaluate status against program objectives; and provide instruction in trademark practice and procedures and coordinate trademark administrative support activities.

.02 The Trademark Trial and Appeal Board shall be responsible for hearing and deciding adversary proceedings involving interfering applications, oppositions to registration, cancellations, and concurrent use proceedings; and for hearing and deciding appeals from final refusals of the trademark examiners to allow the registration of trademarks.

.03 The Trademark Examining Operation shall be responsible for the classification of trademark applications into classes of goods and services, the examination and processing of these applications, and the registration of trademarks, service marks, and certification marks; and maintain the principal and supplemental registers of trademarks.

SEC. 7. *Offices reporting to the Assistant Commissioner for Legal Affairs.* .01 The Office of the Solicitor shall handle all litigation to which the Commissioner is a party and provide other legal services, including advice and assistance on legislative matters, and maintenance of the law library.

.02 The Examiners-in-chief sitting as a Board of Patent Appeals shall be responsible for hearing and deciding appeals from adverse decisions of examiners upon applications for patents.

.03 The Board of Patent Interferences shall conduct patent interference proceedings and make final determinations in the Patent Office as to priority of invention. The Board shall also hear and decide questions concerning property rights in inventions in the atomic energy and space fields brought before it under the provisions of sections 2182 and 2456 (d) and (e) of title 42, U.S.C.

.04 The Office of Legislation shall develop recommendations and advise policy and action concerning matters which may require changes in the patent and trademark laws; review and prepare analysis of bills or drafts of legislation concerning patent or trademark matters received for technical appraisal; prepare legislative proposals and, after appropriate clearance, draft legislation and supporting documentation for clearance with the Department's Office of the General Counsel and the Office of Management and Budget, for consideration by the Congress; and maintain liaison with patent and trademark bar associations, industry, and others concerned with proposed and pending legislation.

.05 The Office of International Affairs shall coordinate the development of policy and program recommendations or positions respecting international patent and trademark affairs, including all proposed new or modified agreements under the Paris Union, Patent Cooperation Treaty, or like treaties; maintain liaison in such matters with the Office of the Secretary, the Department of State, and concerned elements of the public; and participate in negotiating patent and trademark matters in establishing international agreements and in the implementation of programs affecting Patent Office commitments or responsibilities in these areas.

SEC. 8. *Offices reporting to the Assistant Commissioner for Administration.* .01 Management Planning Organizations:

a. The Office of Budget shall formulate, interpret, and execute budgetary and fiscal policies; establish and maintain a comprehensive budget program collaborating with cost center officials in developing budget and fiscal plans; develop and present budget requests; allocate and maintain budgetary accountability of available funds; maintain external liaison in budgetary matters; and review and evaluate the fulfillment of budget-based program commitments.

b. The Office of Management and Organization shall plan and conduct studies designed to improve organization, methods, procedures, workflow, work measurement, managerial techniques, and resource utilization, or otherwise increase efficiency, effectiveness and economy of operations; develop and manage a system for the issuance of internal administrative orders and instructions; promote development of the Patent Office management improvement program and coordinate the collection, review and submission of reportable plans and accomplishments thereon; coordinate a program for the management and control of external reports; and make special studies as required.

c. The Office of Program Planning and Evaluation shall formulate plans for and coordinate the development of Patent Office-wide long and short range program objectives within the framework of budgetary constraints; define, project, and allocate the manpower and other resources required to achieve Patent Office-wide objectives; develop and monitor a management information system which prescribes code structures for and consolidates all administrative management systems into a single integrated data base to provide information designed to measure performance and achievement against planned objectives; and develop and issue a wide variety of timely internal analytical and interpretive reports to the managers of the Patent Office.

.02 Public service organizations:

a. The Office of Publications shall schedule and manage the processing and movement of allowed patent application files in procuring the creation of full patent text machine language data base and the composition and printing of weekly patent issues and related announcements in the Official Gazette; provide requisition and scheduling services for trademark publications; monitor the quality or performance by contributing sources and maintain close liaison with U.S. Government Printing Office; and prepare and issue patent grants and periodic publications of patent indexes.

b. The Office of Patent and Trademark Services shall provide the materials and services offered directly to the public, many of which are provided on a fee

basis. These shall include recording instruments that transfer property rights to patents and trademarks; furnishing copies of patents, trademark registrations, and office records to examiners and others in the Office, as well as to the public; providing drafting services; and maintaining appropriate collections of pertinent technical and scientific information such as United States and foreign patents, periodicals, books, and other publications for use by the public. It shall also conduct an initial examination of patent applications for compliance with law and regulation as to form and certain matters of factual content; grant or deny a filing date based on such examination and forward to the Examining Groups those granted a filing date; acknowledge the acceptance or rejection of applications for examination; originate documentation of pending applications; initially assign accepted applications to units of the examining groups for examination; and maintain records on the status and location of all applications.

.03 Administrative service organizations:

a. The Office of Computer Services shall be responsible for providing data processing services to other elements of the Patent Office. This shall include the conduct of systems analysis and equipment evaluation studies directly related to the design and development of systems and programs for applications of computer techniques; preparation or procurement and testing of computer programs, and supplemental data processing services; operation of all general purpose ADP equipment including that which may be approved for use within another organization unit as an integral part of its operations; and maintenance of a comprehensive library of programs, including those developed or procured by other organization units.

b. The Office of Finance shall develop and maintain the financial accounting system of the Patent Office, perform accounting operations for the revenue, trust funds, and appropriation of the Patent Office, including maintenance of general accounts and related fiscal records, preparation of financial statements and reports, audit and certification of vouchers for payment, issuance of deposit account statements, initiation of action to collect amounts due the Patent Office, and administration of the payroll system and related employee accounts; and provide financial advice and opinions.

c. The Office of General Services shall plan and administer a broad Office-wide program of general services, including procurement control; property, space, and facilities management; communications, records, files, mail, and forms management; administrative printing; and clearance of all requirements involving contractual procurements, including liaison with the Department, in connection therewith.

d. The Office of Personnel shall administer activities relating to recruitment, placement, employee relations, equal employment opportunity programs for employees, training and career development, incentive awards, performance rating, position classification and wage administration, group-management relations, and various employee benefit programs.

.04 The Office of Technology Assessment and Forecast shall continually assess the status of technological activities in all countries; compare inventive activity in the United States relative to other nations; and forecast developments on a world-wide basis.

Effective date: December 15, 1972.

GUY W. CHAMBERLAIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 73-321 Filed 1-5-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

OBSTETRICS AND GYNECOLOGY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions sets forth in section 10(a) (1) and (2) of the Act:

Committee Name	Date/time/place	Type of meeting and contact person
Obstetrics and Gynecology Advisory Committee.	Jan. 26, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open—9 a.m. to 10 a.m., closed after 10 a.m.; Victor Berliner, M.D., Room 14B-04, 5600 Fishers Lane, Rockville, MD 20852, 301—443-3492.

Purpose. Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in obstetrics and gynecology.

Agenda. Postcoital use of DES for contraception; biometric investigations for causal relationship between use of DES during pregnancy and incidence of vaginal cancer in offspring.

Agenda items are subject to change as priorities dictate.

During the open session shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act and the Secretary's notice of determination of September 27, 1972, published in the FEDERAL REGISTER of October 5, 1972 (37 FR 20995).

Dated: January 2, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-317 Filed 1-5-73;8:45 am]

Office of Education

NATIONAL ADVISORY COMMITTEE ON THE EDUCATION OF SPANISH AND MEXICAN AMERICANS

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Committee on the Education of Spanish and Mexican Americans will be held on January 10, 1973, at 9 a.m., local time, in Room 1160, FOB-6, 400 Maryland Avenue SW., Washington, D.C.

The National Advisory Committee on the Education of Spanish and Mexican Americans is established under section 1 of Executive Order 11007, U.S.C. 20. The Committee is established to advise the Commissioner of Education on problems central to the education of Spanish speaking children and adults, particularly those of bilingual, bicultural families.

The meeting of the Committee shall be open. The proposed agenda includes a review of subcommittees reports for the total annual report to the Commissioner of Education. Records shall be kept of all committee proceedings (and shall be available for public inspection at the Office for Spanish Speaking American Affairs, located in Room 1155, FOB-6, 400 Maryland Avenue SW., Washington, D.C.).

Signed in Washington, D.C., on December 29, 1972.

GILBERT CHAVEZ,
Director for Spanish Speaking American Affairs.

[FR Doc.73-336 Filed 1-5-73;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on Vocational Education will be held on January 12, 1973, from 9 a.m. to 5 p.m. local time, and on January 13, 1973, from 9 a.m. to 12 noon, local time, at the Hotel Monteleon, 214 Royal Street, New Orleans, LA.

The National Advisory Council on Vocation Education is established under section 104 of the Vocational Education amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning

the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under the act, review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress; and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

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

Report on Project Baseline;
Report on "Occupational Education 1976";
Report on Conference on Continuing Education as a National Capital Investment by Herbert E. Striner;
Report on the Status of the Indian Education Study;
Office of Education Report on the Organizational Structure of the Deputyship for Occupational Education;
Presentation by Louisiana Advisory Council; and
Presentation by Louisiana State Government Officials on Occupational Education in Louisiana.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Council's Executive Director, located in Suite 852, 425 13th Street NW., Washington, DC 20004.

Signed at Washington, D.C., on December 21, 1972.

CALVIN DELLEFIELD,
Executive Director.

[FR Doc.73-322 Filed 1-5-73;8:45 am]

Office of the Secretary

REVIEWING AUTHORITY (CIVIL RIGHTS)

Delegation of Authority Regarding Certain Administrative Proceedings

Section IB of the Delegation of Authority to the Reviewing Authority (Civil Rights) is amended to read as follows:

B. *Duties and Functions in regard to Administration of Executive Order 11246.* The Reviewing Authority (Civil Rights) shall have the authority to carry out the responsibilities of the "agency head" described in 41 CFR 60-1.26(b)(1), 41 CFR 60-1.26(b)(2)(v) as it relates to the imposition of sanctions where the contractor or subcontractor's answer does not raise issues of fact or law or where the contractor or subcontractor contests the allegations of the notice other than by filing an answer, and 41 CFR 60-1.26(b)(2)(vi), in connection with the administration of the provisions of Chapter 60 ("Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor") of Title 41 of the Code of Federal Regulations (41 CFR Chapter 60); with the exceptions that the Secretary of Health, Education, and Welfare as agency head, shall retain the authority to prescribe procedural rules pursuant to 41 CFR 60-1.26(b)(1) and that decisions by the Reviewing Authority may be reviewed by the Secretary as provided by 45 CFR Part 82. The Reviewing Authority (Civil Rights) shall have the authority to convene hearings, to designate hearing officers, to select the time and place for hearings, to render final decisions in formal hearings held pursuant to 41 CFR 60-1.26(b) and to take actions consistent with the authority delegated to it.

Dated: December 28, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.73-341 Filed 1-5-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

TRANSPORTATION OF HAZARDOUS MATERIALS

Special Permits Issued

Pursuant to Docket No. HM-1, rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during December 1972:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6600	Shippers registered with this Board to ship a gas generator, and certain compressed gases in an inflator assembly patterned after DOT Specification 39.	Highway, rail Passenger-carrying aircraft, cargo only aircraft and cargo vessel.
6601	Union Carbide Corp., New York, N.Y., to ship compressed gases as prescribed in § 173.34(E)(15) except cylinders may be older than 35 years.	Highway, rail, passenger-carrying aircraft, cargo only aircraft, and cargo vessel.
6602	Shippers registered with this Board to ship a gas generator and argon-helium in an inflator assembly patterned after DOT Specification 39.	Highway.
6604	Intsel Corp., New York, N.Y., and Ugine Kuhlmann of America, Inc., New York, N.Y., to ship dichlorodifluoromethane in a non-DOT specification portable tank.	Highway, cargo vessel.
6605	Intsel Corp., New York, N.Y., and Ugine Kuhlmann of America, Inc., New York, N.Y., to ship monochlorodifluoromethane in a non-DOT specification portable tank.	Highway, cargo vessel.
6606	Trojan-U.S. Powder, Allentown, Pa., to ship surplus trinitrotoluene (TNT) in non-DOT specification fiberboard boxes built in compliance with military specification PPP-B-636.	Highway.
6608	Shippers registered with this Board to ship fissile and large quantities of radioactive materials, n.o.s. in NFS Fuel Cask, Model NFS-4.	Highway.
6609	Shippers registered with this Board to ship liquid caustic soda in DOT 111A100W1 tank car tanks having insulation covered with an elastomeric coating instead of a metal jacket.	Rail.
6700	Shippers registered with this Board to ship certain corrosive liquids in non-DOT specification reusable, molded, laminated polyethylene containers of 55-gallon capacity.	Highway, rail, cargo vessel.
6701	Shippers registered with this Board to ship hexafluoropropylene oxide in DOT 110A500-W tanks.	Highway, rail.
6705	Shippers registered with this Board to ship corrosive liquids in DOT 12B fiberboard boxes sealed with a specified tape.	Highway.

Following is a list of requests for special permits which were denied during December 1972:

Denied—Subject

1. Request by FMC Corp., New York, N.Y., for a special permit to ship phosphorous in rebuilt tank cars exceeding total car gross weight limitation specified in 49 CFR 179.13.

ALAN I. ROBERTS,
Secretary.

[FR Doc.73-369 Filed 1-5-73;8:45 am]

CIVIL AERONAUTICS BOARD

DOMESTIC PASSENGER-FARE INVESTIGATION

Notice of Deadline for Filing Comments

Notice is hereby given that any petitions for modification of Order 72-8-50, August 10, 1972, Domestic Passenger-Fare Investigation Phase 7—Fare Level, or any other Board order prescribing fares, which seek increases in present fares premised on the cost of security measures directed by the Federal Aviation Administration shall be filed with the Board on or before January 19, 1973. Answers shall be filed on or before February 2, 1973.

Dated at Washington, D.C., January 3, 1973.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73-350 Filed 1-5-73;8:45 am]

[Dockets Nos. 21446, 21447; Order 73-1-9]

HUGHES AIRWEST

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of January 1973.

By Order 69-12-94, dated December 23, 1969, the Board authorized Hughes Airwest (Airwest), to suspend service at Sun Valley-Hailey-Ketchum (Sun Valley), and Burley-Rupert (Burley), Idaho, for a period of 3 years. The Board provided that the suspension authority would terminate if an air taxi operator failed to provide at least one daily round trip between Sun Valley and Burley, on the one hand, and Boise and Twin Falls, on the other hand.

On October 20, 1972, Airwest filed an application for renewal of its suspension authorization at Sun Valley and Burley for an additional 3-year period.[1] In support of its application Airwest alleges, inter alia, that the factors which formed the basis for the Board's decision in 1969 are still applicable; in addition, there are presently no airports available to serve Sun Valley and Burley capable of accommodating aircraft of the size operated by the carrier; and that the acquisition of small aircraft capable of serving those points would be inordinately expensive and uneconomical.

No answers to Airwest's application have been filed.

Upon consideration of the pleadings and all the relevant facts, we have tentatively decided to authorize Airwest to suspend service at Sun Valley and Burley for an additional 3-year period, conditioned upon provision of replacement service by Trans Magic Airlines, an air taxi operator, subject to essentially the same conditions as are presently in effect. We have tentatively concluded that the suspension/substitution arrangement at Sun Valley and Burley continues to be in the public interest from an overall transportation standpoint.[2]

We have also examined the facts presented herein in light of findings in a recent court case [3] involving air taxi replacement services where the court indicated that the Board should consider whether the statutory conditions for exemption from certification continue to exist. As discussed below, we tentatively find that, with respect to Trans Magic, the statutory conditions and guidelines for exemption from certification continue to exist.[4]

Trans Magic, which provides commuter replacement services at Sun Valley and Burley, has conducted air taxi operations since February 17, 1969. As of December 31, 1971, Trans Magic provided short-haul commuter air services in a total of 28 markets, including Sun Valley and Burley. Trans Magic transported 11,643 passengers and performed 5,634 flights in 1971. Revenue passenger miles performed by Trans Magic for the calendar year 1971 were 1,926,963, as compared to the local service industry average for the same period of 872,373,888. Thus, Trans Magic's total RPM's for calendar year 1971 were approximately two-tenths of 1 percent of the average RPMS for each of the certificated local service carriers.[5] For the calendar year 1971, Trans Magic carried 251 passengers between Sun Valley and Boise, 64 passengers between Sun Valley and Twin Falls, 1,021 passengers between Burley and Boise, and 11 passengers between Burley and Twin Falls. In addition, the carrier maintains aircraft liability insurance required by the Board in Part 298 of the Board's Economic Regulations.

On the basis of the foregoing, and on the basis of our findings set forth in Order 72-9-39, September 12, 1972, and our conclusion therein that the certification process is generally inappropriate in a replacement commuter carrier, we tentatively conclude that it would not be in the public interest to require Trans Magic to undergo a certification proceeding in order to provide replacement services for Airwest at Sun Valley and Burley. Trans Magic's replacement services are neither of sufficient magnitude nor do they hold such prospects of economic success as to warrant their separate certification.

We further tentatively find that certification would be an undue burden on Trans Magic by reason of the limited extent of, and unusual circumstances affecting its operations. As described above, the carrier's operations are of limited extent in terms of both the replacement services involved and the overall scope of its operations. Furthermore, the very nature of the small aircraft to which Trans Magic is restricted makes the operations limited in extent. The accommodations of these aircraft not only limit the competitive capability of Trans Magic, but also limit the amount of traffic it can carry and the length of the markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certification procedures would impose a severe financial burden on Trans Magic wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden not only because of the substantial cost of certification procedures, but also because certification would deprive Trans Magic of the necessary operating flexibility it must have to conduct non-subsidized services with small aircraft in short-haul, low-density markets.

We are also satisfied that there are no safety considerations which would warrant a determination that the substitution arrangement is contrary to the public interest. Trans Magic must conduct its operations in strict conformity with Federal Aviation Regulations promulgated by the Secretary of Transportation, who is charged by law with insuring the highest degree of safety in air transportation. Indeed, Trans Magic has had a successful operating history.[6]

Consequently, for the reasons set forth above, we tentatively find and conclude that:

1. Airwest should be authorized to suspend service temporarily at Sun Valley and Burley, subject to the condition that such suspension shall terminate if, at any time, Trans Magic fails to operate at least one daily round trip between Sun Valley and Burley, on the one hand, and Boise and Twin Falls, on the other hand;

2. The authority granted in paragraph 1 should expire 3 years from the date of the order finalizing this order.

Interested persons will be given 21 days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to the specific facts in issue, and to support such objections with detailed economic or legal analysis.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and granting the requested suspension;

2. Any interested person having objection to the issuance of an order making final the proposed findings, conclusions, and suspension authorization set forth herein shall, within 21 days after service of a copy of this order, file with the Board and serve upon all persons listed in Appendix A attached hereto, a statement of objections, together with such statistical data and other materials in evidence relied upon to support the stated objections; answers to such objections shall be filed within 14 days thereafter;

3. Any interested person requesting an evidentiary hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part

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[1] Pursuant to § 377.10(a) of the Board's Special Regulations, the applicant stated its intention to rely upon 5 U.S.C. 558(c) for a continuation of its present authorization which expires, by its terms, on Dec. 23, 1972.

[2] Specifically, we adhere to our prior findings that the suspension would improve Airwest's financial posture and, in light of the air taxi substitute service, not adversely affect the traveling public.

[3] Air Line Pilots Association, International v. C.A.B. 458 F. 2d 846 (C.A.D.C. 1972).

[4] These statutory conditions and guidelines were discussed in Order 72-9-39, Sept. 12, 1972. This order was adopted in response to the remand to the Board from the U.S. Court of Appeals of the Board orders which were in issue in the ALPA case.

[5] The traffic statistics submitted by commuters are confidential for a period of 1 year. However, pursuant to section 298.06 of the Board's Economic Regulations, the Board, on its own motion, finds that it is in the public interest to disclose this information.

[6] We have informally checked with the FAA and they report that Trans Magic has excellent operations with good management, maintenance and training, and has had no safety or maintenance violations of FAA Regulations during the last 12 months.

or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be served upon all persons listed in Appendix A, below.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX A

SERVICE LIST

The Honorable Don Samuelson, Governor of the State of Idaho, State Building, Boise, Idaho 83701.
The Honorable Mayor, City of Boise, City Hall, Boise, Idaho 83702.
The Honorable Mayor, City of Sun Valley, P.O. Box 43, Sun Valley, ID 83353.
The Honorable Mayor, City of Hailey, City Hall, Hailey, Idaho 83333.
The Honorable Mayor, City of Ketchum, City Hall, Ketchum, Idaho 83340.
The Honorable Mayor, City of Burley, City Hall, Burley, Idaho 83318.
Sun Valley Air, P.O. Box 639, Boise, ID 83701.
Koteen and Burt, 1000 Vermont Avenue NW., Washington, DC 20005.
Richard A. Fitzgerald, Staff Vice President, Regulatory Affairs, Hughes Airwest, San Francisco International Airport, San Francisco, Calif. 94128.
The Honorable Mayor, City of Rupert, City Hall, Rupert, Idaho 83350.
The Honorable Mayor, City of Twin Falls, City Hall, Twin Falls, Idaho 83301.
The Postmaster General, Attn: Assistant Postmaster General, Bureau of Transportation, Post Office Department, Washington, D.C. 20260.
Idaho Aeronautics Commission, Boise Municipal Airport, 3103 Airport Way, Boise, ID 83705.
United Air Lines, Inc., P.O. Box 66100, Chicago, IL 60666.
Trans Magic Airlines, Joslin Fields, Twin Falls, Idaho 83301.
P. Payne, Manager, Burley Municipal Airport, Burley, Idaho 83318.
J. C. Fox, Chairman, Blaine County Airport Commission, Hailey Friedman Memorial Airport, P.O. Box 307, Hailey, ID 83333.

[FR Doc.73-352 Filed 1-5-73;8:45 am]

[Dockets Nos. 21520, etc., Order 73-1-3]

MOHAWK AIRLINES, INC., ET AL.

Final Order Regarding Suspensions of Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of January 1973. Application of Mohawk Airlines, Inc., Dockets 21520, 21335, and 21533, Agreements CAB 21361 and 21371, for authority to suspend service at Poughkeepsie, Massena, and Ogdensburg, N.Y., and Rutland, Vt.; application of Northeast Airlines, Inc., Docket 21350, for authority to suspend service at Augusta/Waterville and Lewiston/Auburn, Maine; application of Allegheny Airlines, Inc., Docket 24020, Agreement CAB 22801, for authority to suspend service at Lancaster and Reading, Pa.; agreement between Texas International Airlines, Inc. and Metroflight Airlines, Inc., doing business as Houston Metro Airlines, Agreement CAB 22961.

The first two of the above-captioned cases were initially before the Board early in 1970, when we authorized Mohawk Airlines and Northeast Airlines to temporarily suspend service at the named New York and New England points subject to the provision of replacement air taxi services.[1] The Board's actions were reviewed by the United States Court of Appeals for the District of Columbia Circuit and remanded on January 14, 1972, for further proceedings to determine whether, under the circumstances, the replacement air taxi operations could be provided pursuant to the existing Part 298 exemption from certification or whether certification should be required.[2] On September 12, 1972, the Board issued an order to show cause (Order 72-9-39) wherein we tentatively determined that certification was not required in these cases and that the Mohawk and Northeast suspensions/substitutions should again be approved.[3]

Objections to the finalization of the show cause order have been received from the State of Maine and from the Air Line Pilots Association, International (ALPA); Allegheny Airlines, Inc., and Delta Air Lines, Inc., have filed responses to the objections.[4]

ALPA does not directly controvert the factual foundation of the order to show cause. Rather, it asserts that the Board is not in a position to determine the issues remanded by the Court of Appeals because there exist "many subsidiary factual disputes, inaccuracies or evidentiary gaps," and that evidentiary hearings are in any event required as a matter of law in light of the remand by the Court. ALPA renews its contentions that the Board has overstepped its statutory exemption authority and that the full panoply of certification-type proceedings is required to provide for the temporary suspension of certificated service in conjunction with substitution arrangements with Part 298 air taxi commuter operators. ALPA also objects to the Board's conclusion that labor protective provisions should not be imposed in the case of the suspension/substitute service arrangements remanded by the Court, and renews its request for such provisions, arguing that the Board may impose the standard labor protective formula without recourse to any further proceedings.

The basic thrust of ALPA's objections is a challenge to the Board's concept of Part 298 commuter carriers and their appropriate role within the air transportation system. As we noted in the show cause order, our tentative conclusions herein were reached in light of our recent review of this issue in the Part 298 Weight Limitation Investigation,[4a] and the record developed therein in a full evidentiary hearing at which ALPA was a participant. For the reasons stated in Order 72-7-61 and in the show cause order, we reaffirm our determination that Part 298 exemption authority continues to be a lawful and appropriate means of regulation of the particular replacement services at issue herein.

Nothing in the Act or the Board's original action promulgating Part 298 warrants the conclusion that the impact of air taxi operations upon the certificated system must be measured by the economic circumstances of 1938 or 1952. On the contrary, it seems self-evident that any determination of the public interest and of "limited extent" or "unusual circumstances" causing "undue burden" must be made in the context of economic realities as known at the time of decision. And, given the circumstance that the role and impact of the scheduled noncertificated carriers as measured against the certificated carriers has remained essentially unchanged, as we have found to be the case, it is not contrary to the purposes of the Act to continue the exemptions here involved. If exemption was proper in 1952, when Part 298 was promulgated, it is equally proper now. This is the case whether we compare the industry as a whole or the individual carriers here involved.

Moreover, ALPA's position is burdened by a curious inconsistency. ALPA opposes replacement services in the three remanded cases and in 28 other dockets which it deems comparable (see Order 72-9-39 at 2, footnote 2). However, it has not specifically objected to replacement services by the Allegheny Commuter at 14 other points, even though it appears that the traffic in the Allegheny Commuter markets far outstrips the

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[1] Orders 70-1-130 (Jan. 27, 1970), 70-2-23 (Feb. 6, 1970), and 70-3-62 (Mar. 13, 1970).

[2] Air Line Pilots Association, International v. CAB, 458 F. 2d 846 (C.A.D.C., 1972).

[3] We also consolidated therein and approved Allegheny Airlines' suspension and substitution at Lancaster and Reading, Pa., and a ground services agreement between Texas International Airlines (TXI) and Metroflight Airlines, Inc., an air taxi operator, in the Houston-Galveston market. While neither of these two latter cases was before the Court, we believed them to be properly considered in the context of the Court's opinion. Since the entry of the show cause order the arrangement between TXI and Metroflight has been terminated. Accordingly, the application for approval of Agreement CAB 22961 is moot and is hereby dismissed. We have in the interim issued an order to show cause tentatively proposing to delete Galveston from TXI's certificate of public convenience and necessity, as requested by TXI by an application dated July 7, 1972. See Order 72-11-26 (Nov. 9, 1972), finalized by Order 72-12-51 (Dec. 12, 1972).

[4] ALPA's objection was not timely filed. However, under all of the circumstances, we will grant its accompanying motion to file an otherwise unauthorized document. We will similarly grant Allegheny's and Delta's motions for leave to file their respective responses. Allegheny has also filed a motion to sever for separate decision the matters in Docket 24020. In light of the disposition we make herein, that motion is now moot and is hereby dismissed.

[4a] Order 72-7-61 (July 18, 1972).

traffic in the other substitution instances.[5] Thus, its assertions of the widespread impact of replacement commuter carriers upon certificated operations have a hollow ring. Rather than being a "substantial * * * feature of the air transportation system," as charged by ALPA, the subject replacement arrangements (even when taken together with the other arrangements which, ALPA argues, require certification, and together with Allegheny Commuter operations) constitute a very modest part of commuter operations and an infinitesimal—albeit valued—portion of the scheduled air transportation system as a whole.[6]

With respect to the factual disputes and "evidentiary gaps" which assertedly preclude the Board's action herein, ALPA has made no offer of proof demonstrating that the factual findings upon which the Board relied are in error or otherwise inadequate. Most, if not all, of the issues which ALPA would have us explore in an evidentiary hearing are matters of either law, policy, or legislative fact, with respect to which a hearing would be either inappropriate or unnecessary. Moreover, we find that ALPA's contentions of evidentiary gaps are unfounded.

For example, ALPA questions our appraisal of the average costs of certification proceedings as these bear upon the issues of the public interest in, and the undue burden of, certification. However, it is evident, not only from the Reopened TAG-Wright Case but from the level and type of participation by air taxi operators in the Part 298 Weight Limitation Investigation, and from their generally meager financial status, that certificate procedures "would impose a substantial financial strain on air taxis," Order 72-7-61 at 34. ALPA has not shown that this conclusion is unreasonable or without basis.

Similarly, the weight to be accorded the relative stability of certificated service in general vis-a-vis commuter carrier service in general (with respect to frequency of service, fares, and the ability to weather financial crisis) is a largely irrelevant consideration here, contrary to ALPA's contentions. The simple reason is that the Board's approvals herein are conditioned upon the provision of stated levels of substitute service, with the certificated carrier retaining its obligation to step in should the commuter carrier falter in any way.[7] Moreover, support agreements between the certificated carriers and the commuter carriers, where applicable, provide a further measure of stability to the replacement services. In any event, we have found that the flexibility provided by Part 298 services is in the public interest in the case of the short-haul, low-density operations involved here, particularly where surface transportation is a viable alternative to air service. ALPA has made no showing that this finding is contrary to fact.

We find ALPA's other allegations of "gaps" equally unpersuasive, and believe that our findings with respect to the issues remanded by the Court of Appeals have an adequate basis, making further proceedings, such as evidentiary hearings or oral argument, unnecessary or inappropriate. Accordingly, we will reaffirm and make final our determinations set forth in the order to show cause.[8]

Turning to the issue of labor protective provisions, we tentatively concluded in our initial orders in the cases remanded by the Court of Appeals that the public interest did not require the imposition of labor protective provisions as a condition for approval of the suspension/substitution arrangements. The court, in remanding, did not pass on the question of whether the Board should have initially imposed conditions or ordered hearings thereon, nor did it give any independent grounds for remand of this issue. Rather, it stated there should now be available "hard evidence on which to make a determination," and thought that, in the event we again approved the suspension/substitutions, "ALPA would be entitled to demonstrate that a need for protective conditions exists," 458 F. 2d at 852.

The order to show cause reaffirmed our initial determination. However, we indicated our intention to rely upon the New England Service Investigation, in which evidentiary hearings were imminent, as a "forum and mechanism for considering the need for labor protective conditions" (Order 72-9-39 at 14).[9] We also invited the parties herein, in responding to the show cause order, to proffer facts to demonstrate the need for protective provisions.

ALPA, while arguing that we are in error, has failed to offer any facts to substantiate its claims that protective provisions are required. Instead, it simply reiterates the same contentions which we have previously considered and rejected. Thus, it asserts that the Mohawk and Northeast suspensions here at issue require the imposition of labor protective conditions in and of themselves, and, in any event, that the Board ought to consider the Northeast suspensions as part of a general pattern of suspensions of service by that carrier in New England, and therefore impose conditions pursuant to the Board's Seven States precedent.[10]

With respect to the latter point, ALPA has made no showing whatever in the New England Service Investigation relating to the need for labor protective provisions in the case of Northeast, despite ample opportunity to do so.[11] Nor has it made any serious attempt to do so in this proceeding, notwithstanding general allegations of an overall impact upon Northeast's employees. ALPA has yet to

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[5] Answer of Allegheny Airlines to response of ALPA to Order 72-9-39, filed Oct. 30, 1972, at 5. Allegheny asserts that the Allegheny Commuter carried 435,000 passengers in 1971 compared to a total of 166,000 passengers carried by the substitute commuter carriers to whose continued exemption ALPA objects.

[6] It is evident that the replacement Allegheny Commuter operations, in which the air taxi commuter operations are conducted pursuant to Part 298 authority, are subject to the same objections which ALPA makes against the other replacement arrangements. Thus, for present purposes we consider the Allegheny Commuter in the same light as other substitution services.

[7] While we have not generally conditioned our approvals on the maintenance of any particular fare levels, the Board retains power over the agreements and may amend or revoke its approval—thus, there is no need to prescribe detailed restrictions in this regard. See, e.g., Order 69-12-73 (Dec. 16, 1969) at 10-11. Moreover, we have previously determined that the possible detriment of higher fares by air taxis in some markets was outweighed by the public benefits of the suspension/substitutions, and by the fact that the issue of higher fares could be considered in the New England area in the New England Service Investigation (Order 72-6-63, June 15, 1972, at 5).

[8] ALPA also asserts that the Board failed to explore the possibility of requiring the certificated carriers to serve those short-haul, low-density markets with small aircraft such as the ones used by air taxi operators. It cites our staff's study, Service to Small Communities, for the proposition that such operations "will result in substantially superior financial results." However, the Court of Appeals, while remanding the Mohawk and Northeast cases, did not disturb the Board's findings that the air taxis would provide better and more economic service, see 458 F. 2d at 849. Moreover, the staff study itself concluded, as have we, that a commuter carrier would achieve better results with small aircraft in most situations than would a certificated carrier, Service to Small Communities, Part II, at 23, 25, 27, 100-117. See also, Order 72-7-61, wherein we concluded that "[a]ir taxis conduct nonsubsidized services of a kind that certificated carriers, by and large, have not been able to operate successfully even with Federal subsidy—i.e., services in extremely short-haul, low-density markets where surface transportation modes are often an attractive travel alternative," at 32-38.

[9] The question of labor protective provisions was included as an issue in the Investigation at the request of ALPA, made at the prehearing conference on Mar. 14 and 15, 1972. The hearings commenced on Sept. 20, 1972, 8 days after the show cause order herein was issued, and ended on November 3, 1972.

[10] Seven States Area Investigation, 30 CAB 473 (1960). The Board's imposition of protective conditions in that case, in the context of extensive suspensions, was predicated "upon an affirmative showing in the record that the suspensions and deletions with respect to these carriers are likely to cause substantial employee dislocation which should, in the public interest, be alleviated, and upon the lack of any evidence that such employee protection will be financially burdensome to either carrier. The existence of these factors differentiates this matter from two earlier suspension cases,[12] in which, absent a genuine showing of need, the Board declined to fashion those protective conditions which we find to be required here.

[12] Southeast Renewal-United Suspension Case, 15 CAB 61 (1952), Frontier Certificate Renewal Case, 14 CAB 519 (1951)." (30 CAB at 475.

[11] In fact, ALPA did not even enter an appearance in the evidentiary hearings in that proceeding.

come forward with facts which would demonstrate that Northeast's New England suspensions were the cause of any substantial curtailment of employment, as contrasted to curtailment caused by that carrier's service retrenchment in other markets.[12] It has yet to address itself to the question of whether the imposition of labor protective provisions would have been unduly burdensome to Northeast, a particularly relevant consideration in light of Northeast's financial circumstances at that time.[13] Accordingly, we are not persuaded that the Seven States issue has been presented to us in any meaningful way.[14]

ALPA's contentions with respect to the Mohawk suspensions at Poughkeepsie, Massena, Ogdensburg, and Rutland are even less persuasive. Thus, ALPA points to a decline in Mohawk's pilot and copilot employment (from 401 on June 30, 1969, to 344 on December 31, 1971) as proof that the impact of the suspensions was such as to warrant labor protective provisions. However, whatever the figures cited by ALPA may show, they most certainly do not support the proposition that Mohawk's suspensions caused pilot unemployment. On the contrary, Form 41 reports would seem to indicate that the suspensions had no discernible effect whatever.[15]

Date	Pilots and copilots employed	Total employed
1969		
Mar. 31	395	2,427
Apr. 30 [1]		
June 30	401	2,479
Sept. 30	392	2,504
Dec. 16 [2]		
Dec. 31	388	2,474
1970		
Jan. 27 [3]		
Feb. 6 [4]		
Mar. 31	303	2,553
June 30	375	2,506
Sept. 30	389	2,460
Dec. 31	387	2,551
ALPA strike (Nov. 12, 1970 to May 9, 1971).		
1971		
June 30	357	2,285
Sept. 30	345	2,233
Dec. 31	344	2,205
1972		
Apr. 11 [5]	343	2,209

[1] Order 69-4-137, ground services agreement.
[2] Order 69-12-73, route transfer with Northeast, plus suspensions/substitutions.
[3] Order 70-1-130, Poughkeepsie.
[4] Order 70-2-23, Massena, Ogdensburg, Rutland.
[5] Merger with Allegheny.

If any conclusion at all is permissable from this skeletal data, it might be that ALPA's strike was significantly more instrumental in reducing employment than any other single factor.

There remains the question of whether the Board should impose labor protective conditions, or institute hearings thereon, at this time. We find in the negative. To begin with, it seems apparent, as we have noted, that the suspensions herein for which ALPA seeks relief did not and do not in and of themselves have the type or extent of impact upon employees which would warrant labor protective provisions. Nor do we think that we are required, under the circumstances, to institute another proceeding simply on the basis of ALPA's allegations. Secondly, the Board would not be in a position to make a determination of the applicability of the Seven States policy in the case of Northeast (now Delta) without examining in depth the entire circumstances surrounding all of Northeast's suspensions, including those not in issue in this proceeding. We see no necessity for engaging in this type of investigation, however, in light of ALPA's failure to utilize the opportunity accorded it in the New England Service Investigation to make a showing in this regard. Finally, as we have noted, the circumstances surrounding Northeast have changed substantially with the Delta merger and the pendency of the New England Service Investigation.[16] The public interest standard governing that proceeding includes the question of whether, and to what extent, air carrier employees should be provided protection from the changes found to be required by the Board. In the absence of any showing that labor protective provisions are appropriate or required now, we leave that question to the Investigation. We are not disposed to impose retroactive and/or interim relief simply on the basis of unsubstantiated allegations.

In sum, nothing in the nature of the evidence which ALPA would seek to adduce in an evidentiary hearing persuades us that we have exceeded the boundaries of the Board's discretion in proceeding by way of the show cause order. On the contrary, it is evident that the issues herein are in sharp focus, and that the dispositive facts pertinent to their resolution have been more than adequately ascertained. And while we have not attempted to deal with each and every one of ALPA's allegations, suffice it to say that we have examined them all, and none of them persuade us that we will err by making final the findings and conclusions reached in the Order to Show Cause.

Turning to the objections of the State of Maine, it does not request an evidentiary hearing, nor does it controvert the suspension/substitution arrangements per se. Rather, Maine faults our tentative resolution in Docket 21350, insofar as the Board would approve the temporary replacement of Delta by Executive Airlines in the Augusta/Waterville and Lewiston/Auburn markets without (1) requiring separate substituted service by the commuter carrier at both Augusta and Waterville; (2) imposing an "Allegheny Commuter" type of arrangement; and (3) requiring the filing of joint fares between the air taxi and Delta and permitting joint fares with other connecting certificated carriers.[17]

Maine has not shown that the requested relief is required in the interim pending the final resolution of these and other basic issues of service to these communities in the New England Service Investigation. We think that the Investigation, rather than this proceeding, provides the proper opportunity for dealing with these issues and in the interim that

[12] See Order 70-3-62 (Mar. 13, 1970) at 2 Fn. 4, where we noted Northeast's uncontested assertion that the prime, if not sole, reason for the furloughs complained of by ALPA was the substantial reduction of schedules in certain Florida and other non-New England markets. Northeast's schedule reductions in other markets on their face were designed to ease a gross financial burden, and under these circumstances a strong showing would be required that the imposition of labor protective provisions with respect to employees affected thereby would be either appropriate or in the public interest. *Cf.*, Trans World Airlines, Inc., Capacity Limitation Agreement, Order 71-8-91 (Aug. 19, 1971).

[13] See, for example, Frontier Airlines, Inc., Suspensions, Order 72-1-100 (Jan. 28, 1972), where we denied a request for labor protective provisions on grounds, inter alia, "that such an action would tend to nullify one of the principal benefits of suspension, i.e., the reduction in costs which the carrier will experience" (at 11). We further noted that "Frontier's current financial position makes the financial savings that result from these suspensions of prime importance and may well, in fact, save more jobs in the long run than it loses" (at 12). Similarly, Northeast's financial position at the time of the suspensions was serious, if not critical, and the suspensions were aimed at ameliorating that situation; the imposition of labor protective conditions might well have obviated the benefits of the suspensions to Northeast and caused even greater dislocations to employees should Northeast have failed.

[14] Moreover, ALPA has not seriously controverted our conclusion that the suspensions at Augusta/Waterville and Lewiston/Auburn do not, in and of themselves, warrant protective conditions. Rather, it simply repeats its contention that these suspensions, plus others, demonstrate a "need," and now requests protective conditions on the basis of these speculative allegations, notwithstanding that ALPA has had a forum—the New England Service Investigation—wherein to substantiate its claims.

[15] Form 41 reports for Mohawk show the following pattern:

[16] The merger of Northeast into Delta has not only enhanced the Northeast employees' general opportunities but also provides that Delta offer reemployment to all Northeast personnel furloughed after Nov. 11, 1969, no matter when they were furloughed or for what reason, to the extent that openings occur. Delta-Northeast Merger Case, Orders 72-5-73/74 (served May 19, 1972), at 35. This provides some measure of protection to such members of ALPA as may in fact have been furloughed as a result of Northeast's New England suspensions.

[17] Maine also asserts that the order is unclear on the question of the termination date of the granted authority. However, our tentative findings were that the authority "should expire on Mar. 13, 1973" (Order 72-9-39, App. A at 4). We fail to see how we could have stated our intention any more clearly. Maine states that it does not object to this date, and we will thus not pursue this matter any further.

Delta simply stands in the shoes of Northeast.

For the reasons set forth in Order 72-9-39 and herein, and pursuant to the authority of sections 401(j), 408(a)(5), 412(b), 416, and other relevant provisions of the Federal Aviation Act of 1958 and the Board's regulations, *It is ordered*, That:

I. 1. CAB Agreement 21361 is approved, subject to compliance by Allegheny Airlines, Inc., with the Railway Labor Act, and subject further to the following conditions:

(a) Any financial transactions between Allegheny Airlines, Inc., and Command Airways, Inc., be appropriately appended to Allegheny's Form 41 reports and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Allegheny and various other replacement carriers;

(c) Command Airways shall, with respect to the operations between Poughkeepsie and Binghamton, keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, dated May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement approved by the Board to which the holder becomes a party;

(d) Approval of the foregoing agreement does not constitute approval for ratemaking purposes, and in no event shall Allegheny receive any subsidy, directly or indirectly, for the operations performed or the services provided by either party pursuant to the agreement;

2. To the extent necessary to relieve Allegheny Airlines of its obligations to provide services in excess of two daily round trips, Monday through Friday, between Poughkeepsie and Binghamton, Allegheny Airlines is authorized to suspend service temporarily at Poughkeepsie, N.Y., subject to the conditions that:

(a) Allegheny shall not itself resume service at Poughkeepsie without Board approval during the period in which Command Airways is providing at least two daily round trips, Monday through Friday, between Poughkeepsie and Binghamton, N.Y., and Agreement CAB 21361 is in effect; and

(b) Such suspension shall immediately terminate if Command Airways ceases to provide regularly the service in (a) above; and

3. The authority in paragraphs 1 and 2, above, shall expire on January 27, 1973, 3 years from the effective date of the original order granting such authority.

II. 1. Agreement CAB 21371, is approved, subject to compliance by Allegheny Airlines, Inc., with the Railway Labor Act and subject further to the following conditions:

(a) Any financial transactions between Allegheny Airlines and Air North, including but not limited to such matters as payment by Allegheny Airlines of underwriting costs, and the amounts and nature thereof, shall be appropriately appended to the Form 41 reports of Allegheny Airlines and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Allegheny and various other replacement carriers;

(c) Approval of this agreement does not constitute approval for ratemaking purposes, and in no event shall Allegheny Airlines receive any subsidy, directly or indirectly, for the financial guarantees paid by Allegheny or for the operations performed or the services provided by either party pursuant to the agreement;

(d) Air North will use the same formula as is used by certificated carriers (Order 69-9-68, dated September 12, 1969, or any subsequent amendments thereto) in making adjustments, if any, in fares and rates to be charged for services provided pursuant to the agreement herein;

(e) Air North shall, with respect to the operations concluded pursuant to this agreement, keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, dated May 13, 1966, and a signed counterpart of any amendment which may be approved by the Board and to which the holder becomes a party;

2. Pursuant to section 408(a)(5) of the Federal Aviation Act of 1958, as amended, the acquisition by Allegheny Airlines of control over Air North, Inc., is temporarily exempted from the requirements of section 408 of said Act to the extent necessary for the implementation of Agreement CAB 21371;

3. To the extent necessary to relieve Allegheny Airlines of its obligation to provide services in excess of those provided for by Agreement CAB 21371, Allegheny is authorized to temporarily suspend service at Massena, Ogdensburg, and Ogdensburg-Massena, N.Y., and Rutland, Vt., subject to the conditions that:

(a) Allegheny Airlines shall not itself resume service at such points, without Board approval, during the period in which Air North is providing, pursuant to Agreement CAB 21371, the minimum service described in the Appendix attached to Order 70-2-23 (as temporarily amended by Order 72-8-127); and

(b) Such suspension shall immediately terminate if Air North ceases to provide regularly the service specified in said Appendix;

4. The authority in paragraphs 1, 2, and 3 shall remain in effect for a period of 10 years from the service date of Order 70-2-23, unless sooner terminated by the Board.

III. 1. Delta Air Lines, Inc., in authorized to suspend service at Augusta/Waterville and Lewiston/Auburn, Maine, conditioned upon compliance by Delta with the Railway Labor Act;

2. The authority granted herein shall be subject to the condition that such suspension shall immediately terminate if at any time during the 3-year period the air taxi service to Augusta/Waterville and/or Lewiston/Auburn should for any reason cease or fall below the levels of service described below:

(a) Eight daily round-trip flights, Monday through Friday, in the Boston-Augusta/Waterville market for the period May 1 through October 31;

(b) Six daily round-trip flights, Monday through Friday, in the Boston-Augusta/Waterville market for the period November 1 through April 30;

(c) Four daily round-trip flights Saturday and Sunday in the Boston-Augusta/Waterville market for the period May 1 through October 31;

(d) Three daily round-trip flights Saturday and Sunday in the Boston-Augusta/Waterville market for the period November 1 through April 30;

(e) Five daily round-trip flights in the Boston-Lewiston/Auburn market;

3. Executive Airlines shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, dated May 13, 1966, and a signed counterpart of any amendment which may be approved by the Board and to which the holder becomes a party;

4. The authority in paragraphs 1 and 2 above shall expire on March 13, 1973, 3 years from the effective date of the original order granting such authority.

IV. 1. Agreement CAB 22801, is approved subject to the following conditions:

(a) Any financial transactions between Allegheny Airlines, Inc., and Reading Aviation Service, Inc., be appropriately appended to Allegheny's Form 41 reports and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Allegheny and various other replacement carriers;

(c) Approval of this agreement does not constitute approval for ratemaking purposes, and in no event shall Allegheny receive any subsidy, directly or indirectly, for the operations performed or the services provided by either party pursuant to the agreement;

(d) Reading Aviation Service shall, with respect to the operations conducted pursuant to this agreement, keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, dated May 13, 1966, and a signed counterpart of any amendment which may be approved by the Board and to which the holder becomes a party;

2. Pursuant to section 408(a)(5) of the Federal Aviation Act of 1958, as amended, the acquisition by Allegheny of control over Reading Aviation Service, is temporarily exempted from the requirements of section 408 of the Act to the extent necessary for the implementation of Agreement CAB 22801;

3. Reading Aviation Service is temporarily exempted from the provisions of Part 298 of the Board's Economic Regulations to the extent that it would otherwise prevent that carrier from transporting mail in conformance with the provisions of Agreement CAB 22801;

4. The entire compensation for the transportation of mail to be received by Reading Aviation shall be the compensation payable by Allegheny as provided by the subject agreement. Reading Aviation shall not be eligible for additional mail compensation under section 406 for services rendered between the points specified in the agreement;

5. To the extent necessary to relieve Allegheny of its obligation to provide service in excess of those provided for by Agreement CAB 22801, Allegheny is authorized to temporarily suspend service at Lancaster and Reading, Pa., subject to the conditions that:

(a) Allegheny shall not itself resume service to Lancaster and Reading, without Board approval, during the period in which Reading Aviation is providing at least four daily round trips 7 days a week between Lancaster/Reading and Philadelphia, and at least two daily round trips 7 days a week between Lancaster/Reading and Newark; and

(b) Such suspension shall terminate immediately if Reading Aviation Service ceases to provide regularly the service specified in (a) above;

6. The authority granted in ordering paragraphs 1, 2, 3, 4, and 5, above is effective for a period of 10 years, unless sooner terminated by the Board.

V. Agreement CAB 22961 between Texas International Airlines, Inc., and Metroflight Airlines, Inc. doing business as Houston Metro Airlines, be and it hereby is dismissed.

VI. The Motion of Allegheny Airlines to Sever, dated October 12, 1972, be and it hereby is denied (all Dockets except Agreement CAB 22961).

VII. The Motion of the Air Line Pilots Association, International to file an otherwise unauthorized document, dated October 16, 1972, be and it hereby is granted (all dockets).

VIII. The Motion of Allegheny Airlines for leave to File, dated October 30, 1972, be and it hereby is granted (Dockets 21520, 21335 and 21533, Agreements CAB 21361 and 21371; Docket 24020, Agreement CAB 22801).

IX. The Contingent Motion for Leave to File of Delta Air Lines, Inc., dated October 30, 1972, be and it hereby is granted (Docket 21350).

X. A copy of this order shall be served upon all persons listed in Appendix B to Order 72-9-39.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73-351 Filed 1-5-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental Impact statements received by the council from December 26 through December 29, 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 SERVICE

Draft, December 27

Fire Ant Control Program. The statement refers to the imported Fire Ant Cooperative Federal-State Control and Regulatory Program for 1973, under which 24 million acres (in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas), will be aerially treated. The agent to be used is mirex, at a dosage rate of one-seventeenth of an ounce per acre. Nontarget species will be affected. (ELR Order No. 05818, 51 pages) (NTIS Order No. EIS-72 5818-D)

AGRICULTURAL STAB. AND CONSERV. SERVICE

Draft, December 22

Rural Environmental Assistance Program. The statement refers to a program under which the Federal Government shares with farmers and ranchers the cost of carrying out approved soil, water, woodland, and wildlife conservation and pollution abatement practices on their land. Adverse effects may occur during the construction of water-storage and other facilities, or result from the improper use of chemical control agents. (ELR Order No. 05805, 120 pages) (NTIS Order No. EIS-72 5805-D)

Draft, December 15

New Beet Sugar Area, Wahpeton, N. Dak. and Minnesota. The proposed action is the commitment (under the Sugar Act of 1948) of 30,000 acres of the Red River Valley to the production of sugar beets, which will serve a new beet processing facility in Wahpeton, N. Dak. Counties involved are Richland in North Dakota and Wilkins in Minnesota. (ELR Order No. 05777, 20 pages) (NTIS Order No. EIS-72 5777-D)

New Beet Sugar Area, Hillsboro, N. Dak. and Minnesota. The proposed action is the commitment (under the Sugar Act of 1948) of 30,000 acres of the Red River Valley to the production of sugar beets, which will serve a new beet processing facility in Hillsboro, N. Dak. Counties involved are Traill, Cass, and Walsh in North Dakota, and Norman in Minnesota. (ELR Order No. 05778, 21 pages) (NTIS Order No. EIS-72 5778-D)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973-5391.

For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, D.C. 20545, 202—973-7373.

Draft, December 21

Calcined Solids Storage Additions, Idaho; county: Butte. The statement refers to the construction of long-term storage bins for radioactive wastes solidified in the Waste Calcinating Facility of the Nuclear Reactor Testing Station. A small amount of radioactive particulate matter will be discharged during operation of the transport facility from the calciner. The radiation exposure at the site boundary is estimated to be less than one mRem/yr. (ELR Order No. 05803, 64 pages) (NTIS Order No. EIS-72 5803-D)

Draft, December 22

Donald C. Cook Station, Michigan; county: Berrien. The statement concerns the proposed continuation of construction permits and the issuance of operating licenses to the Indiana & Michigan Electric Co., and the Indiana & Michigan Power Co., for the start-up and operation of the station. Each of the two units will employ a pressurized-water reactor to produce 3,250 MWt and 1,100 MWe. Discharge of heat will be made to Lake Michigan by a 1,645,000 g.p.m. once-through cooling system, with measurable effects upon aquatic biota expected. Approximately 650 acres of lakeshore duneland have been committed to the station, precluding recreational use. Construction of the station has started industrialization of an ecologically unique area which should be perserved. (ELR Order No. 05815, 264 pages) (NTIS Order No. EIS-72 5815-D)

Draft, December 21

Future High Level Waste Facilities, South Carolina; counties: Aiken and Barnwell. The statement refers to the proposed addition to present radioactive waste management facilities of 4, 1.3 million gallon tanks, a waste evaporator, and associated auxiliaries at the Savannah River Plant. The tanks will be constructed of stainless steel and will be enclosed in a steel-lined underground concrete containment vessel. They will be used for interim storage of radioactive wastes generated by the production of nuclear materials. The evaporator will be used to dewater the wastes by a factor of one third. There will be temporary construction disruptions. Small amounts of radioactivity will be released during operation of the evaporator. (ELR Order No. 05801, 76 pages) (NTIS Order No. EIS-72 5801-D)

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Colonel Cliff M. Whitehead, Room 5E 425, The Pentagon, Washington, D.C. 20330, 202—695-2889.

Final, December 22

Air Force Academy Airmanship Program, Colorado; county: El Paso. The statement refers to the proposed construction of new facilities at the USAF Academy Airstrip, in order to allow the relocation of an existing program at Peterson Field, where heavy aircraft operations create a hazardous condition for student pilots. The new facilities would include an additional parallel taxiway (75 feet by 3,500 feet), a crosswind runway (75 feet by 2,500 feet), a parking apron and three "T" hangars, an operations building, and a 42 foot-high tower. Comments made by: UPA, DOI, DOT, State agencies and concerned citizens. (ELR Order No. 05813, 235 pages) (NTIS Order No. EIS-72 5813-F)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693-7168.

Draft, December 20

New Haven Harbor, Conn. The proposed navigational maintenance project consists of dredging the main channel from Long Island Sound to the Tomlinson Bridge to its authorized depth of 35 feet and disposal of an estimated 800,000 cubic yards of spoil material. Spoil will be deposited in the New Haven Dump Grounds. Adverse environmental effects include alteration of pelagic and benthic habitat, temporary increases in turbidity and siltation, and resuspension of nonbiodegradable chemical pollutants. (ELR Order No. 05798, 65 pages) (NTIS Order No. EIS-72 5798-D)

Draft, December 27

Aquatic Plant Control Program, Florida. The statement refers to the proposed use of the chemical 2, 4-D in order to control the growth and dispersal of water hyacinth in the water of the State of Florida. The action will result in a temporary deterioration of water quality, with the amount of dissolved oxygen available for other life being reduced; nontarget (broadleaf) species will be affected; the elimination of hyacinth could provide an opportunity for the spread of other problem plants; sports fishing in the vicinity of treated plant may be temporarily curtailed. (ELR Order No. 05817, 149 pages) (NTIS Order No. EIS-72 5817-D)

Draft, December 19

Chagrin River, Ohio; county: Lake. The purpose of this action is to alleviate flooding at the city of Eastlake and to provide recreation facilities. The proposed project involves construction of two breakwaters and a system of levees, extensive channel enlargement and realinement, two groins and some beach fill, all to be provided by the Corps of Engineers; and some parking, boat launching, and other recreational facilities to be provided by local interests. Adverse effects include disruption during construction and damage to the fishery habitat by channelization. (ELR Order No. 05790, 14 pages) (NTIS Order No. EIS-72 5790-D)

Draft, December 12

Union City Dam, Pa.; county: Erie. The statement refers to the proposed construction of a 580-acre conservation pool at the existing detention reservoir. Approximately 5.8 miles of stream environment will be eliminated. Wildlife habitat would be eliminated on the inundated 580 acres, and reduced on 2,120 acres of surrounding Federal land. (ELR Order No. 05768, 22 pages) (NTIS Order No. EIS-72 5768-D)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202—755-0940.

Draft, December 29

Wastewater Treatment, North Broward, Fla.; county: North Broward. The statement refers to the proposed construction of wastewater master pumping stations, wastewater transmission mains a wastewater treatment plant and an ocean outfall. The facilities will result in the elimination of raw sewage discharge in Pompano Beach. (ELR Order No. 05830, 90 pages) (NTIS Order No. EIS-72 5830-D)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386-6084.

Draft, December 13

Saluda Project 516 (Lake Murray), S.C.; counties: several. The statement refers to an application filed by the South Carolina Electric & Gas Co. for permission to grant easements to Watergate Partnership for the use of 2.83 acres of land in the Lake Murray Reservoir. Watergate Partnership proposes to develop four causeways, one of which incorporates a bridge section; and a pipeline along a portion of the lake bottom for discharge of treated domestic waste. The bridge and causeways will provide access to five islands consisting of 43.85 acres. (ELR Order No. 05771, 60 pages) (NTIS Order No. EIS-72 5771-D)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use, Planning Division, Washington, D.C. 20410, 202—755-6186.

Draft, December 12

Fairmont Estates, Texas; county: Harris. The statement refers to the proposed acquisition and development of 1,320 acres funded by a mortgage to be insured under the provisions of title X of the National Housing Act (Public Law 73-479). The site, located in the city of Pasadena, will be developed to provide living accommodations for 17,500 people, with shopping facilities and supportive facilities. Development of the area will result in decreased water quality and the need to provide solid waste and sewage disposal systems (ELR Order No. 05767, 22 pages) (NTIS Order No. EIS-72 5767-D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426-4355.

Federal Aviation Administration

Draft, December 22

Tierra Rejada Airport, Calif.; county: Ventura. The statement refers to the proposed construction of a new general aviation airport in the Tierra Rejada Valley. The total project includes the acquisition of 170 acres of land, the relocation of the Moorpark Road and its associated telephone and powerlines, and the construction of flood control facilities. Initial development of the facility will consist of a single main runway 3,700 feet by 75 feet, a parallel taxiway, and approximately 50,000 sq. yds. of aircraft parking apron. There will be increases in noise and air pollution. (ELR Order No. 05814, 124 pages) (NTIS Order No. EIS-72 5814-D)

Draft, December 12

Duplin County Airport, N.C.; county: Duplin. The proposed project contemplates the construction of a new general aviation airport in the town of Kenansville. Initial construction will include a paved and marked 3,700 feet by 75 feet runway; a stub taxiway with edge lighting; a 200 feet by 300 feet aircraft parking apron; and installation of medium intensity lighting, rotating beacon, wind sock and segmented circle. Approximately 185 acres of rural land have already been acquired for the airport site. There will be increases in noise levels and air pollution due to aircraft operation. (ELR Order No. 05761, 45 pages) (NTIS Order No. EIS-72 5761-D)

FEDERAL HIGHWAY ADMINISTRATION

Draft, December 27

County Road 63, Alabama; county: Marshall. The statement considers two alternate locations for the improvement of 4.6 miles of Route 63, beginning at U.S. 431 and ending south of the city of Grant. Adverse effects of the project are the acquisition of several acres of land, dislocation of several families, some erosion and water pollution and a change in some small wildlife habitat. (ELR Order No. 05820, 16 pages) (NTIS Order No. EIS-72 5820-D)

Alabama 35, Alabama; counties: Jackson and DeKalb. The statement refers to the proposed widening, improving, and relocating of Alabama Highway No. 35. Project length is 5.3 miles. The amount of land required for right-of-way and the number of displacements will depend upon the route selected. (ELR Order No. 05821, 33 pages) (NTIS Order No. EIS-72 5821-D)

Draft, December 8

Long Island Sound Bridge, New York; counties: Westchester and Nassau. The proposed project is the construction of a bridge crossing of Long Island Sound with approaching highways connecting I-287 and I-95; length is 16.5 miles. The number of displaced families and businesses will depend upon the alternate chosen. The facility will result in regional growth changes to Westchester, Nassau, and Suffolk Counties, N.Y., and Fairfield County, Connecticut. The project will require a section 4(f) review to obtain land from the Playland Park in Rye. Wetlands traversed by the project are Kirby Pond and areas surrounding Manurseny Island. There will be increases in noise pollution that will effect 3 area schools. Increases in air and water pollution will occur. (ELR Order No. 05748, 318 pages) (NTIS Order No. EIS-72 5748-D)

Draft, December 12

Dakota Street, South Dakota; county: Brown. The statement refers to a proposed comprehensive street system for the city of Aberdeen. The project contemplates reconstructing a 2-mile segment of Dakota Street, extending from U.S. 12 to Fairground Road, and improving a 1-mile rural section, extending from Fairground Road to FAS 845. A bicycle path and improved sidewalks are proposed for the entire project. Three structures and the Chicago-North Western Depot will be displaced. Increased noise and air pollution may affect an elementary school. (ELR Order No. 05759, 111 pages) (NTIS Order No. EIS-72 5759-D)

Final, December 21

L.R. 16059—Cook Forest State Park, Pa.; county: Clarion. The project is the improvement of L.R. 16059 which travels through Cook Forest State Park; length is 5.7 miles. A section 4(f) statement will be required to obtain 0.23 acre from the State park. Comments made by: USDA, DOI, DOT, EPA, HEW, regional and State agencies. (ELR Order No. 05800, 105 pages) (NTIS Order No. EIS-72 5800-F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.73-349 Filed 1-5-73;8:45 am]

FEDERAL POWER COMMISSION

TONGASS NATIONAL FOREST ET AL.

Order Vacating Land Withdrawals

JANUARY 2, 1973.

The Alaska Power Administration, U.S. Department of the Interior, has reviewed the land withdrawals created for the 38 projects designated above and recommended revocation of these withdrawals in their entirety which are described below, thereby requiring Commission consideration under section 24 of the Federal Power Act.

The estimated prime power potential of the subject power sites ranges from 0 to 470 kw.

Proceedings for 14 of the 38 projects ended without issuance of a license while 24 of the projects were licensed. Project No. 1880 (335 horsepower) was the only project which had an authorized installed capacity over 200 horsepower. All licenses and permits have expired, been terminated, or surrendered, and the subject lands are no longer utilized for hydroelectric development.

Sixteen of the 24 projects that were licensed served fish canneries, four served mining operations, two served sawmills, one served the town of Hyder (1970 population 49), and one was never constructed. Many of the enterprises which were served by the projects have been discontinued. Those that are still operating receive power from other sources. The town of Hyder obtains power from diesel generation in Stewart, B.C.

Most of the projects were located in isolated areas and some were abandoned years ago without proper restoration of the Federal lands involved. Enforcement of any regulation pertaining to land restoration would not appear to be impaired by the proposed revocation of the subject land withdrawals.

Development, or redevelopment, of these small hydroelectric sites is considered unlikely because electric energy is available from other existing sources or equivalent power could be obtained at less cost from portable diesel generators. In any event, revocation of the withdrawals would not prevent future use of the lands for hydroelectric development.

The U.S. Geological Survey has concurred with the Alaska Power Administration's recommendations.

The Commission finds:

The withdrawals of the subject lands pursuant to the applications for Projects Nos. 63, 207, 212, 241, 297, 353, 402, 404, 511, 580, 599, 731, 783, 793, 794, 807, 812, 840, 876, 954, 1023, 1043, 1082, 1085, 1098, 1162, 1204, 1207, 1230, 1286, 1315, 1322, 1357, 1429, 1880, 1947, 1969, and 2046 serve no useful purpose and should be vacated in their entirety.

The Commission orders:

The withdrawals of the subject lands pursuant to the applications for Projects Nos. 63, 207, 212, 241, 297, 353, 402, 404, 511, 580, 599, 731, 783, 793, 794, 807, 812, 840, 876, 954, 1023, 1043, 1082, 1085, 1098, 1162, 1204, 1207, 1230, 1286, 1315, 1322, 1357, 1429, 1880, 1947, 1969, and 2046 are hereby vacated in their entirety.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

1. PROJECT NO. 63

Tongass National Forest, Alaska; Beardslee Creek, tributary to William Henry Bay, on the west side of Lynn Canal

All lands enclosed by a line 200 feet outside the high water mark of the reservoir of approximately 175 acres formed by a log dam about 12 feet high, all lands within 100 feet of the center line of a conduit consisting of wood-stave pipe, 4,400 feet in length, extending from said dam, all lands within 100 feet of the powerhouse, and within 100 feet of a channel approximately 1,100 feet in length along North Fork of Beardslee Creek, by which water is returned from said powerhouse to Beardslee Creek, all as more fully shown and described on a map entitled "Alaska Endicott Mining & Milling Co.—Application for Preliminary Permit—Exhibit B," as filed in the office of the Federal Power Commission on January 3, 1922.

(*Approximately 260 acres.*)

2. PROJECT NO. 207

Little Susitna River Basin, near Palmer, Alaska

All lands within one-fourth mile of Fishhook Creek lying between the 1400- and 1550-foot contours (datum mean sea level).

All lands within one-fourth mile of Little Susitna River lying between the 1000- and 1550-foot contours (datum mean sea level).

(*Approximately 850 acres.*)

3. PROJECT NO. 212

Tongass National Forest, Alaska; Chichagof Island

All lands below the 150-foot contour, draining into two unnamed lakes and into a short stream connecting the two lakes, all located between one-half mile and 1½ miles inland from the head of Didrickson Bay; and all lands within 500 feet of the middle course of the stream approximataely one-half mile long which forms the outlet of the lower of the two lakes and drains into the tidal arm at the northwest corner of Didrickson Bay; a strip of land 500 feet in width extending along the easterly shore of the tidal arm from its southerly point to the outlet of the above-mentioned creek. These features are shown on a map designated as "Exhibit 'A'" and entitled "Proposed Power Development, Hirst-Chichagof Mining Co.," filed in the office of the Federal Power Commission on May 10, 1921.

(*Approximately 250 acres.*)

4. PROJECT NO. 241

Tongass National Forest, Alaska; Stream at head of Pavlof Harbor, Freshwater Bay Chichagof Island

All lands within the surveyed boundary of the reservoir or within 50 feet outside thereof, and all lands within 50 feet of the center line of the conduit location, all as shown and more particularly described on a map designated as "Exhibit F" and entitled "Map to Accompany Application to U.S. Forest Service for Final Permit for Water Power Project at Pavlof Harbor—Freshwater Bay—Alaska, by Freshwater Bay Lumber Co. of Douglas, Alaska," and filed in the office of the Federal Power Commission on August 18, 1921.

(*Approximately 15 acres.*)

5. PROJECT NO. 297

Craigie Creek, tributary to Willow Creek, Susitna River Basin, near Palmer, Alaska

All lands within one-eighth of Craigie Creek between elevations 2,200 feet and 2,700 feet (datum mean sea level).

(*Approximately 160 acres.*)

6. PROJECT NO. 353

Tongass National Forest, Alaska

All lands of the United States lying within 50 feet of the center line of the transmission line location 21,500 feet in length, extending from the town limits of Skagway, along the Skagway River, in a northerly direction to the powerhouse location, all as shown on a map designated "Exhibits J and K" and entitled "Home Power Co., Skagway, Alaska," and filed in the office of the Federal Power Commission on May 21, 1927.

(*Approximately 29 acres.*)

7. PROJECT NO. 402

Archangel Creek, tributary to Little Susitna River, near Palmer, Alaska

All lands lying within one-fourth mile of Archangel Creek from the mouth of Reed Creek downstream to the junction of Archangel Creek with Little Susitna River.

(*Approximately 480 acres.*)

8. PROJECT NO. 404

Chugach National Forest, Alaska; Port Wells, Prince William Sound

All lands within 50 feet of the centerline of the pipeline, approximately 4,100 feet in length, extending westerly from the powerhouse on the west shore of Harrison Lagoon to the outlet of an unnamed lake on Lagoon Creek; all lands within a radius of 200 feet of the center of the powerhouse, all lands within 200 feet of the shores of the lake; all as shown on an amended map entitled "Preliminary Application for License for Minor Power Projects at Harrison Lagoon, Alaska"; filed in the office of the Federal Power Commission on December 8, 1924, and made a part of the license by Amendment No. 1, dated February 7, 1925.

(*Approximately 20 acres.*)

All lands of the United States lying within 50 feet of the centerline of the constructed transmission line location, approximately 6,300 feet in length, extending southwesterly from the powerhouse on the west shore of Harrison Lagoon to the Granite mine stamp-mill as shown on the above-described map.

(*Approximately 14 acres.*)

9. PROJECT NO. 511

Tongass National Forest; Thumb Creek, tributary to Salmon River, near Hyder, Alaska

Project No. 511 affected lands lying along Thumb Creek from its mouth to a point about three-fourths mile upstream. A precise boundary was not established for this project.

(*Acreage not determined.*)

10. PROJECT NO. 580

Tongass National Forest, Fish Creek, tributary to Salmon River, near Hyder, Alaska

All lands within .2 of a mile of that section of Fish Creek between the south line of

surveyed Fish Creek Lode Claim No. 5 (Survey No. 1482) and the Salmon River Highway, a distance of approximately .6 mile.

(Approximately 183 acres.)

11. PROJECT NO. 599

Archangel Creek, tributary to Little Susitna River, near Palmer, Alaska

All lands lying within 100 feet of "Lower Lake" located approximately 2 miles up Archangel Creek from its confluence with Reed Creek; also all other lands lying within the project area shown on a map designated "Exhibit F" and entitled: "Map Accompanying Application of Fern Gold Mining Co., for License for Water Power Project, Archangel Creek, Willow Creek Mining District, Territory of Alaska," filed in the office of the Federal Power Commission on April 10, 1925.

(Approximately 6 acres.)

12. PROJECT NO. 731

Tongass National Forest, Alaska; Kupreanof Island, Gunnock Creek, near Kake

All lands within the triangular shaped "Power Location" and all lands within 50 feet of the center line of the constructed conduit location 2,308 feet in length extending from said "Power Location" along Gunnock Creek northerly to the dam site; and all lands within 50 feet of the 1¼ acre storage reservoir above the dam, all as shown on a map entitled "Water Power Project, Sanborn-Cutting Co., Kake, Alaska," and filed in the office of the Federal Power Commission on July 28, 1926.

(Approximately 8 acres.)

All lands lying within 50 feet of the center line of the transmission line location extending approximately 3,740 feet between the powerhouse on Gunnock Creek and the north boundary of the patented tract known as U.S. Survey No. 963, as shown on the above described map.

(Approximately 8 acres.)

13. PROJECT NO. 783

Tongass National Forest, Alaska; Prince of Wales Island

All lands within 200 feet of the reservoir above the constructed dam on Chomly Creek and all lands within 50 feet of the center line of that portion of the constructed conduit extending 2,250 feet from said dam to the south boundary of the Chomly cannery site, all as shown on a certain map designated "Exhibit F" which formed a part of the license issued by the Federal Power Commission on May 24, 1927.

(Approximately 12 acres.)

14. PROJECT NO. 793

Tongass National Forest, Alaska; Baranof Island

All lands lying within 200 feet of the marginal limits of Deep Lake, and all lands lying within 50 feet of the centerline of the flume and conduit locations extending along Red Bluff Creek for a distance of approximately 1,200 feet to the Wakefield Fisheries cannery on Red Bluff Bay, all as shown on a map designated "Exhibit F" and entitled "Map showing project boundary accompanying application for license of Wakefield Fisheries, situated on north shore of Red Bluff Bay 1½ nautical miles northwest from entrance, Baranof Island," and filed in the office of the Federal Power Commission on April 12, 1927.

(Approximately 24 acres.)

15. PROJECT NO. 794

Tongass National Forest, Alaska; Chichagof Island

All lands within 50 feet of the centerline of the flume and conduit location extending from the 2-foot dam across Margaret Creek for a distance of approximately 3,800 feet to the point of intersection of the pipeline with the south boundary of U.S. Survey No. 1657, the trade and manufacturing site for which patent has been applied for by the Deep Sea Salmon Co., all as shown on a map designated "Exhibit F" and entitled "Map showing project boundaries accompanying application for license of Deep Sea Salmon Co., situated on Margaret Creek, Port Althorp, No. end of Chichagof Island, Alaska," and filed in the office of the Federal Power Commission on April 12, 1927.

(Approximately 9 acres.)

16. PROJECT NO. 807

Chugach National Forest, Alaska; Knight Island

All lands within 25 feet of the centerline of the conduit location extending 1,300 feet upstream along the unnamed creek on south side of Drier Bay, Knight Island, as shown on a map designated "Exhibit E" and entitled "Map accompanying application of Gorman Packing Corp. for license for water power project, Unnamed Creek on Drier Bay, Knight Island, Alaska," and filed in the office of the Federal Power Commission on May 18, 1927.

(Approximately 2 acres.)

17. PROJECT NO. 812

Tongass National Forest, Alaska, Prince of Wales Island

All lands of the United States lying within 200 feet of the marginal limits of a reservoir formed by a 7-foot dam across Harris Creek, and all lands of the United States lying within 50 feet of the centerline of the flume location extending 1,286 feet downstream from said dam along Harris Creek to the powerhouse location on the bank of the creek, all as shown on a map designated "Exhibit J" and entitled "Map showing Project Boundaries accompanying application for license of Kassan Gold Co., situated on Harris Creek, 1.7 miles southwest of Hollis, Twelvemile Arm, Kassan Bay, Prince of Wales Island, Alaska," and filed in the office of the Federal Power Commission on June 3, 1927.

(Approximately 10 acres.)

18. PROJECT NO. 840

Tongass National Forest; Spruce Creek, at the head of Windham Bay on the mainland of southeastern Alaska

All lands within 50 feet of the centerline of a proposed pipeline to extend 1,956 feet in a southerly direction from the point of intake (elevation 1,775 feet) at the 20-foot dam to be built at the outlet of a small basin in the creek valley, to the delivery point at the northwest corner of the Jacob Marty amalgamating and concentrating mill, and all lands within 50 feet of the maximum flow line of the reservoir to cover approximately 40 acres above said dam, all as shown on a map designated "Exhibit E" and entitled "Spruce Creek Power Project, Windham Bay, Tongass National Forest, Alaska, map to accompany application of Jacob Marty mines for license for minor project," and filed in the office of the Federal Power Commission on October 8, 1927.

(Approximately 57 acres.)

19. PROJECT NO. 876

Tongass National Forest, Alaska, Prince of Wales Island

All lands within 50 feet of the maximum flow line of a small reservoir of 300 feet elevation, created by a constructed dam 50 feet long and 8 feet high on an unnamed creek entering the North Arm of Moira Sound adjacent to the west side of applicant's salmon cannery at latitude 55°07' N., longitude 132°08' W., and all lands within 50 feet of the centerline of the conduit line location extending 2,200 feet from said dam to a water wheel located at slightly more than tidewater elevation in the cannery building, all as shown on a map designated "Exhibit E" and entitled "The Starr Collinson Packing Co., North Arm Moira Sound, Tongass National Forest, Alaska, Map to accompany application for license for Minor Project," and filed in the office of the Federal Power Commission on February 4, 1928.

(Approximately 6 acres.)

20. PROJECT NO. 954

Tongass National Forest; Granite Creek, tributary to Salmon River, near Hyder, Alaska

This project was redesignated as Project No. 1043 (described below) after a transfer of ownership.

(Acreage not determined.)

21. PROJECT NO. 1023

Tongass National Forest, Alaska, Baranof Island

All lands within the powerhouse site and dam site; all lands within 25 feet of the centerline of the pipeline location from the dam site to the powerhouse site, and approximately 1,000 feet in length; all lands within 50 feet of the maximum flow line of Cliff Lake Reservoir; all as shown on a map designated "Exhibit F" and entitled "Deep Cove Power Project, Baranof Island, Tongass National Forest, Alaska, Map to Accompany Application of the Atlas Packing Corporation for License for Minor Project, Surveyed October 3, 1928, by Wellman Holbrook," and filed in the office of the Federal Power Commission on October 3, 1929.

(Approximately 13 acres.)

22. PROJECT NO. 1043

Tongass National Forest; Granite Creek, tributary to Salmon River, near Hyder, Alaska

All lands within the power house site, 200 feet-square, and all lands within 50 feet of the constructed diversion dam on Granite Creek; all lands within 50 feet of the centerline of the flume and pipeline extending from the diversion dam to the powerhouse; all lands lying within 50 feet of the centerline of the transmission line location extending from the power house to the town of Hyder, all as shown on a map designated "Exhibit F" and entitled "Granite Creek Project, Tongass Power and Light Co., Hyder, Alaska," and filed in the office of the Federal Power Commission on December 16, 1929.

(Approximately 33 acres.)

23. PROJECT NO. 1062

Tongass National Forest, Alaska, Prince of Wales Island

All lands lying within the project boundaries surrounding the small diversion dam on

Linkum Creek and all lands lying within 50 feet of the centerline of the pipeline location along said creek between the dam and the boundary line of U.S. Survey No. 280; all as shown on a map designated "Exhibit F" and entitled "Map showing project boundaries accompanying application for license of Booth Fisheries Co. situated on Linkum Creek, Kasaan Bay, East Coast of Prince of Wales I., Southeast Alaska," and filed in the office of the Federal Power Commission on April 15, 1930.

(Approximately 1 acre.)

All lands of the United States on the North Shore of Kasaan Bay lying within 50 feet on either side of the pipeline location and extending approximately 200 feet beyond the diversion dam on Linkum Creek, all as shown on a map designated "Exhibit F" and entitled "Map accompanying Application of the Pacific American Fisheries, Inc., for Amendment of License No. 1082 for a Water Power Project on Linkum Creek, Kasaan Bay, East Coast of Prince of Wales Island—Territory of Alaska," and filed in the office of the Federal Power Commission on April 30, 1937.

(Approximately 7.60 acres.)

24. PROJECT NO. 1085

Tongass National Forest; Glory Creek, near Port Houghton on the mainland of southeastern Alaska

All lands of the United States lying within 100 feet of Glory Creek from its mouth to the proposed dam site, a distance of approximately three-quarters of a mile; and all lands of the United States lying within 750 feet of Glory Creek from the proposed dam site to a point three-quarters of a mile above the dam site; all as shown on a map designated and entitled "Exhibits H and I, Glory Creek Project," and filed in the office of the Federal Power Commission on April 21, 1930.

(Approximately 154 acres.)

25. PROJECT NO. 1093

Snowbird Creek, a tributary of Anchorage Bay, an arm of Chignik Bay, on the south coast of the Alaska Peninsula

All United States lands lying within 100 feet of the timber diversion dam on Snowbird Creek, and within 100 feet of the center line of a wood pipeline 1,480 feet in length from diversion dam to the boundary of trade and manufacturing site (U.S. Survey No. 306), all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Booth Fisheries Co. Situated on Snowbird Creek, Anchorage Bay, an arm of Chignik Bay, Alaska Peninsula, Alaska," and filed in the office of the Federal Power Commission on June 5, 1930.

(Approximately 4 acres.)

26. PROJECT NO. 1162

Tongass National Forest, Alaska, Baranof Island

All lands within 100 feet of the flume pipeline, and all lands within 100 feet of the unnamed creek between the diversion dam and a point 200 feet upstream, except lands included within the Northwestern Herring Company cannery site; all as shown on a map designated "Exhibits C & F" and entitled "Northwestern Herring Co., Port Conclusion, Alaska," and filed in the office of the Federal Power Commission on April 9, 1931.

(Approximately 7 acres.)

27. PROJECT NO. 1204

Chugach National Forest; Hanley Creek, tributary to McClure Bay, Port Nellie Juan, Alaska

All lands within 50 feet of the centerline of the flume and pipeline extending from the present diversion dam to the east boundary of cannery site of the Copper River Packing Co., under special use permit by the Forest Service, and all lands within 50 feet of Hanley Creek between Hanley Lake and the present diversion dam; all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License (Minor Project) of Copper River Packing Co.," and filed in the office of the Federal Power Commission on April 2, 1932.

(Approximately 5 acres.)

28. PROJECT NO. 1207

Chugach National Forest; Sahlin Creek, tributary to Sheep Bay, about 13 miles northwest of Cordova, Alaska

All lands within 25 feet of the centerline of the flume and pipeline extending from Sahlin Creek to a sawmill on the shore of Sheep Bay, and all lands embraced in the powerhouse site on Sheep Bay adjacent to the mouth of Sahlin Creek; all as shown on a map designated "Exhibit E" and entitled "Sahlin Creek Power Project, Sheep Bay, Chugach National Forest, Alaska, map to accompany application of H. G. Cloes for license for minor project," and filed in the office of the Federal Power Commission on May 9, 1932.

(Approximately 1 acre.)

29. PROJECT NO. 1230

Chugach National Forest; Stevens Creek, tributary to Orca Inlet, Alaska

All lands within 50 feet of the centerline of the tunnel, flume, and pipeline, extending from an intake on Stevens Creek to and beyond the shore of Orca Inlet, and all lands within 50 feet of the intake and main water wheel; all as shown on a map designated "Exhibit E" and entitled "Premier Salmon Co., Alaska, Chugach National Forest, Map to accompany application for license for minor project," and filed in the office of the Federal Power Commission on December 13, 1932.

(Approximately 2 acres.)

30. PROJECT NO. 1286

Tongass National Forest, Prince of Wales Island, Tunnel Creek, near Dolomi Bay, Alaska

All lands of the United States lying within 200 feet of the normal water levels of Upper and Lower Lakes; and all lands of the United States lying within 1,000 feet of the normal water level of Paul Lake from the old mouth of the creek to a point 3,500 feet eastward therefrom; all as shown on a map entitled "General Map & Profile, Tunnel Creek Project, Dolomi, Alaska, of the B. C. Alaska Mines American Inc., Ketchikan, Alaska, dated July 1934," and filed in the office of the Federal Power Commission on August 6, 1934.

(Approximately 46 acres.)

31. PROJECT NO. 1315

Dahl Creek, near Hood Bay, Admiralty Island, Alaska

All lands of the United States on the north shore of Hood Bay included within the project boundaries surrounding the powerhouse site and the intake dam on Dahl Creek; also all lands within 20 feet of each side of the centerline of the pipeline location between the dam and powerhouse; all as shown on the project map designated "Exhibit A" and filed in the office of the Federal Power Commission on May 23, 1935.

(Approximately 1 acre.)

32. PROJECT NO. 1322

Unnamed Lake near Port Hobron, Sitkalidak Island, Alaska

All lands of the United States lying within the project boundary as shown on a map designated "Exhibit H" and entitled "Map Accompanying Application of Chirikof Island Cattle Company for Preliminary Permit for Water Power Project on a Small Unnamed Lake on Sitkalidak Island, Alaska," and filed in the office of the Federal Power Commission on July 23, 1935.

(Acreage not determined.)

33. PROJECT NO. 1357

Tongass National Forest, Goemere Creek (Box Canyon), Tributary to Washington Bay, Kuiu Island, Alaska

All lands of the United States on the north shore of Washington Bay lying within 50 feet of the dam on Box Canyon and all lands lying within 50 feet of the centerline of each of two pipeline locations leading from the diversion dam to the fish-packing plant, all as shown on a map designated "Exhibit F" and entitled "Storfold & Grondahl Packing Company, Kuiu Island, Alaska, Tongass National Forest, Map to accompany application for license for minor project, Survey by J. M. Wyckoff, F. R. May 25, 1932," and filed in the office of the Federal Power Commission on December 18, 1935.

(Approximately 1.5 acres.)

34. PROJECT NO. 1429

Kodiak Island, Alaska

All lands of the United States on the west shore of Uyak Bay lying within 50 feet on either side of the pipeline location and extending 50 feet beyond the flood area above the diversion dam, as shown on a map entitled "Domenici Power Project, Uyak Bay, Kodiak Island, Alaska, Map to accompany application of Herbert T. Domenici for license for minor project, Surveyed July 20, 1936, by Harold E. Smith, Dist. Ranger," and filed in the office of the Federal Power Commission on March 31, 1937.

(Approximately 3.26 acres.)

35. PROJECT NO. 1880

Chugach National Forest, Hanley Creek Tributary to McClure Bay, Port Nellie Juan, Alaska

All lands lying within a strip 100 feet in width embracing the dam, pipeline, powerhouse and transmission line right-of-way locations, and all lands lying within a line parallel to and 50 feet distant, horizontal measurement, from the mean high water level of Hanley Lake, all as shown on a revised map designated "Exhibit J, K, & L" and entitled "Map Showing Project Boundaries Accompanying Application for License (Major Project) of Copper River Packing Company," and filed in the office of the Federal Power Commission on January 26, 1943.

(Approximately 45.9 acres.)

36. PROJECT NO. 1947

Gull Rock Creek (Johnson Creek), Tributary to Turnagain Arm of Cook Inlet, About 6 Miles Northwest of Hope, Alaska

All lands of the United States lying within the project boundary surrounding the dam,

flume, penstock, pipelines, powerplants, and tailraces, as shown on a map designated "Exhibit K" and entitled "Map to Accompany Application for License for Minor Project of E. M. Turpin on Gull Rock Creek—Turnagain Arm, Alaska," filed in the office of the Federal Power Commission on March 15, 1946.

(Approximately 1.582 acres.)

37. PROJECT NO. 1969

Chena Slough, Near Fairbanks, Alaska

All lands of the United States lying within the project boundary as shown on a map designated "Exhibit K" and entitled "Power Project of Cline S. Koonz, Fairbanks, Alaska," and filed in the office of the Federal Power Commission on June 3, 1947.

(Acreage not determined.)

38. PROJECT NO. 2046

Unnamed Stream at the Head of Bear Cove, an Arm of Kachemak Bay, Kenai Peninsula, Alaska

Project No. 2046 affected lands lying along the unnamed stream at the head of Bear Cove. A precise boundary was not established for this project.

(Acreage not determined.)

[FR Doc.73-366 Filed 1-5-73;8:45 am]

[General Order 464]

ESTABLISHMENT OR MANAGEMENT OF ADVISORY OR INTERAGENCY COMMITTEES

Administrative Manual

DECEMBER 19, 1972.

Federal Power Commission Administrative Manual—Establishment or Management of Advisory Committees or Interagency Committees, Instruction No. AM 1X60.1, Date: December 19, 1972; Supersedes: AM 1X60.1 dated August 14, 1964, 1X31.1 dated May 2, 1972.

1. *Purpose.* The purpose of this general order instruction is to implement the Commission's administrative and policy responsibilities relative to the establishment and management of advisory committees or interagency committees pursuant to the provisions of the Federal Power Act, 16 U.S.C. 791(a) et seq., the Natural Gas Act, 15 U.S.C. 717(a) et seq., the Federal Advisory Committee Act, 86 Stat. 770, and Office of Management and Budget Circular A-63, "Committee Management", draft November 27, 1972, copy attached.[1] Both types of committees are defined infra, section 3.

Federal Power Commission Administrative Manual Instruction AM 1X60.1, dated August 14, 1964, provided guidelines for the establishment and management of committees of various types, including interagency committees, public advisory committees, international commissions, councils, boards, and internal Commission staff committees involving two or more offices or bureaus. That Instruction was designed to meet the requirements of inter alia Bureau of the Budget Circular A-63 dated March 2, 1964, and Executive Order No. 11007 dated February 26, 1962, 27 FR 1875. That Circular is superseded by Circular A-63 draft November 27, 1972.[2] Executive Order No. 11007 is superseded by Executive Order No. 11671 dated June 5, 1972, 37 FR 11307. Executive Order No. 11671 is superseded in part by Executive Order No. 11686 dated October 7, 1972, 37 FR 21421, which order is, in turn, to be superseded January 5, 1973, by reason of the provisions of the Federal Advisory Committee Act.

Instruction No. 1X31.1 dated May 2, 1972, sets forth the legal framework for various advisory committees established under the National Gas Survey pursuant to Executive Order Nos. 11007 and 11671.

In addition to advisory committees established under the National Gas Survey, the Commission has established various advisory committees under the National Power Survey and the Alaska Power Survey pursuant to Executive Order No. 11671. Exhibit I hereto lists the various advisory committees established by the Commission under the three surveys.

Exhibit II hereto [2] lists various interagency committees upon which a Federal Power Commission member or staff representative serves. None of these committees were established by this Commission or its Chairman.

The President directed as follows in Executive Order No. 11686, section 2: "The Director of the Office of Management and Budget shall * * * (3) prescribe administrative guidelines and management controls for * * * committees composed wholly of full-time officers or employees of the Federal Government (interagency committees not subject to the provisions of the (Federal Advisory Committee) Act), as well as for advisory committees covered by the act." Circular A-63, draft November 27, 1972, adopts a number of the statutory requirements which are applicable to advisory committees and applies them to interagency committees. The Circular is organizationally divided into Parts I and II, one part being specifically directed to each of the two types of committees. Circular A-63 states in part as follows:

ADVISORY COMMITTEES

Part I, section 7a. The head of each agency shall insure compliance with the (Federal Advisory Committee) Act and this circular and shall issue appropriate implementing regulations * * * to all advisory committees established or used by the agency and shall be consistent with the agency's regulations implementing the Freedom of Information Act.

Each agency may establish (as a part of its regulations or otherwise) additional administrative guidelines and management controls for advisory committees established by the agency.

INTERAGENCY COMMITTEES

Part II, section 4(c). Each agency shall establish uniform administrative guidelines and management controls for interagency committees established by that agency.

As will be seen infra, the application of these general requirements of Circular A-63 produces a number of common provisions equally applicable to the management of advisory committees and interagency committees. Accordingly, this instruction has been prepared to simplify Commission requirements by using common provisions where possible and to distinguish between the two types of committees where necessary.

Additionally, it is important to note that advistory committees, established and utilized by the Commission in the conduct of the Alaska Power Survey, the National Gas Survey, and the National Power Survey, are subject to specific orders, rules, and regulations of the Commission in each instance. Nothing in this general order supersedes those requirements and constraints; rather, it sets forth, in summary form, general policy considerations and requirements arising from the provisions of Circular A-63. Congressional policies reflected in the Federal Advisory Committee Act, 86 Stat. 770, include the following purposes (Circular A-63, part I, section 2):

(a) Limiting the number of advisory committees to those that are essential and terminating any advisory committees which are not fulfilling their purposes;

(b) Insuring effective use of advisory committees and their recommendations, while assuring that decisional authority is retained by the responsible Federal officers;

(c) Providing standards and uniform procedures with respect to creation, operation, and duration of advisory committees;

(d) Insuring that adequate information is provided to the Congress and the public regarding advisory committees and insuring adequate opportunities for access by the public to advisory committee meetings.

The basic organic statutory authority of the Commission for the establishment and utilization of advisory committees in the conduct of the three surveys is as set forth in the Federal Power Act, 16 U.S.C. 791(a) et seq., and the Natural Gas Act, 15 U.S.C. 717(a) et seq. To those engaged in survey work and advisory committee activities, Freedom of Information Act, 5 U.S.C. 552, provisions apply as do requirements of the antitrust laws, and most recently, the Federal Advisory Committee Act provisions, 86 Stat. 770.[3]

2. *Scope.* This instruction applies to all advisory committees established or utilized by the Commission, as well as to all interagency committees upon which a

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[1] The covering memorandum of the Office of Management and Budget, dated November 27, 1972, indicates that the draft Circular is to be interpreted as an interim regulation of the Director pursuant to the Federal Advisory Committee Act. Accordingly, the provisions of regulations prescribed by this order are subject to possible change upon the issuance of any final regulations by the Director, Office of Management and Budget. The draft circular is referred to hereinafter as Circular A-63, without reference to its interim status, except where contextual relationship make a more definitive reference appropriate.

[2] Exhibits I–IV and a copy of Circular A-63 draft filed as part of the original document.

[3] In the context of the Commission's prior actions and established administrative regulations governing advisory committees utilized in the National Gas Survey (Instruction 1X31.1 (section 3)), the Commission gave general guidance relative to general legal principles applicable to advisory committee meetings, which guidance is equally applicable herein and should be recognized. See Exhibit III, filed as part of the original document.

Federal Power Commission member or staff representatives serves. Federal Power Commission internal committees established within a single office or bureau of the Commission are the responsibility of the concerned Commission office or bureau head, and those involving two or more offices or bureaus are the responsibility of the Commission's executive director. Both of these types of internal Commission committees are excluded from this instruction.

3. *Designations and Definitions.* (a) The Chairman of the Federal Power Commission is the designated Advisory and Interagency Committee Management Officer of the Commission (Circular A–63, Part I, sections 7 b, c, d, 8, 9, 10, 11, 12, 13; Part II, sections 4, 5, 6, 7). In the exercise of that responsibility, the executive director of the Commission shall assist the chairman so as to:

(i) Exercise control and supervision over the establishment, procedures, and accomplishments of all advisory committees established or utilized by the Commission, as well as all interagency committees upon which a Federal Power Commission member or staff representative serves;

(ii) Assemble and maintain within the files of the Commission committee reports, records, and other papers;

(iii) Carry out upon behalf of the Commission the Freedom of Information Act provisions as they relate to the activities of such committees;

(iv) Provide administrative remedies for noncompliance with the provisions of the Federal Advisory Committee Act and Circular A–63; and

(v) Discharge all reporting, review and budgetary requirements arising from activities of the Commission and advisory committees and interagency committees with respect to the Director, Office of Management and Budget, Committee Management Secretariat, Department of Justice, Office of Legal Counsel.

(b) The Office of Public Information of the Federal Power Commission is the designated office for public inspection and copying of advisory committee records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other documents which were made available to or prepared for or by advisory committees, all subject to the Freedom of Information Act provisions, section 1.36, Public Information and Requests, of the Commission's rules of practice and procedure, 18 CFR 1.36, and Part I, section 10b, Access to Records, Circular A–63. That office is also the designated office for public inspection and copying of records, reports, and documents of interagency committees, subject to Freedom of Information Act provisions and § 1.36 of the Commission's rules of practice and procedure. As a matter of convenience to the general public, a description of general file materials of this type shall be maintained at each of the five regional offices of the Federal Power Commission (Atlanta, Ga., Chicago, Ill., Fort Worth, Tex., New York, N.Y., and San Francisco, Calif.). The Commission's established procedures for duplication of materials available for public inspection and copying shall apply with respect to the foregoing advisory committee materials. The cost of reproduction shall be in accordance with established Commission charges, currently 8 cents per page.

(c) The term "advisory committee", as used herein, means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof that is not composed wholly of full-time officers or employees of the Federal Government which is established or utilized by the Federal Power Commission in the interest of obtaining advice or recommendations to the Commission in connection with the performance of duties imposed upon the Commission by law and determined to be in the public interest by the Commission. (Federal Advisory Committee Act sections 3(2)(c), 9(a)(2), 86 Stat. 770, 773–4.) The term includes all advisory (including industry advisory and industrial advisory) committees listed on Exhibit I and previously established and utilized by the Commission in accordance with the provisions of Executive Orders 11007 and 11671. See Executive Order 11007, section 2(a)(b), 3 CFR 573; Executive Order 11671, section 1(6)(7), 3 CFR ——, 37 FR 11307; Circular A–63, part I, sections 3b, 4.

The term "advisory committee" is a generic term used to denote advisory groups, whether formal or informal, which are "established" or "utilized" by a Government agency "in the interest of obtaining advice or recommendations" and are possessed of some or all of the following characteristics: "fixed membership, usually selected by a Federal official or determined on the basis of Federal law"; "established by a Federal official or on the basis of Federal law * * * the initiative for its use as an advisory body * * * came from a Federal official"; "a defined purpose of providing advice regarding a particular subject * * * subjects"; "an organizational structure"; and "regular or periodic meetings" (Circular A–63, part I, section 4a(1)). The term includes subcommittees or subgroups of the foregoing, whether formal or informal; the formal type being "one which independently possesses most of the requisites of an advisory committee (fixed membership, separate staff, regular meetings, etc.)"; and the informal type being "one possessing few of those requisites (e.g., during a particular meeting, an advisory committee might divide itself into several subgroups to permit simultaneous discussion of several topics) * * * several committee members who confer informally with regard to a matter relating to the committee" (Circular A–63, part I, section 4a(4)). Operational groups are not covered by the term (Circular A–63, part I, section 4a(5)). Where a group is both operational and advisory, the group is to be treated as an advisory committee to the extent that the advisory functions are separable or not incidental to operational functions (ibid). The term does not include committees "composed wholly of full-time officers or employees of the Federal Government." (Circular A–63, part I, section 4b(1)). Also excluded are the Advisory Commission on Intergovernmental Relations, the Commission on Government Procurement, advisory committees established or utilized by the Central Intelligence Agency or the Federal Reserve System, local civic groups "whose primary function is that of rendering a public service with respect to a Federal program", State or local committees "established to advise State or local officials", or persons or organizations which have contractual relations with Federal departments or agencies and which do not have a substantive advisory relation with the agency of the type set out supra[4] (Circular A–63, part I, section 4b (2)–(6)).

In the context of the Commission's prior actions and established administrative regulations governing advisory committees utilized in the National Gas Survey, Instruction No. 1X31.1 (section 2), the Commission gave specific guidance as to the definition of "advisory committee", which guidance is equally applicable herein and should be recognized.[5]

(d) The term "interagency committee" means any committee, board, commission, council, conference, panel, task force, or other similar group established by a Federal official, department or agency and providing advice or recommendations, for coordinating or operational purposes relative to respective activities of departments or agencies or for other stated purposes, and which has been or will be in existence more than 12 months, and all of whose membership consists exclusively of full-time Federal Government officers or employees, representing more than one department or agency (Circular A–63, part II, sections 2(a)(b); 3, 6).

(e) The term advisory committee "charter" means the Federal Power Commission order or orders establishing or utilizing an advisory committee (Circular A–63, part I, section 8(d)).

(f) The term interagency committee "charter" means the statements, orders, proclamations, or other documents establishing or continuing an interagency committee, issued by the Federal Power Commission, its Chairman, or by some other authorized department or agency of the Federal Government or official thereof, or any statute establishing such committee (Circular A–63, part II, section 6(b)).

4. *General Policy Guidelines and Directives of the Commission For Administrative Control Activation, Operation and Retention of Advisory Committees and Interagency Committees.*—(a) *Administrative.* Subject to applicable statutory requirements and guideline administrative authority and responsibilities of the Director, Office of Management and

[4] Circular A–63, part I, section 4b(6) states: "* * * For example, a consulting firm hired by an agency to provide advice regarding a matter would not be subject to the Act." * * *"

[5] See Exhibit IV, filed as part of the original document.

Budget, relative to the establishment or management of advisory committees or interagency committees, uniform administrative guidelines, and management controls shall be applied to such committees insofar as appropriate (Circular A–63, part I, sections 6a, 7; part II, section 4(a)(b)(c)(d)). To that end, the Advisory and Interagency Committee Management Officer of the Commission will maintain systematic information on the nature, functions, activities, operations, and accomplishments of each advisory committee established or utilized by the Commission as well as interagency committees upon which a Federal Power Commission member or staff representative serves.

(b) *Establishment in general.* Advisory committees and interagency committees should be established only when they are determined to be essential and their objectives cannot be accomplished within the framework of existing organization (Circular A–63, part I, sections 2, 8; part II, sections 3, 6). The number of committees shall be kept to the minimum necessary to the accomplishment of the foregoing, taking into consideration changes in assigned responsibilities, merger or abolition of, existing committee structures so as to determine whether—each such committee is carrying out its assigned purpose, and such purposes and assigned responsibilities are consistent with applicable statutes or Presidential directives. Committees should be revised, merged, or abolished when they are determined to be without purpose as established. (Federal Advisory Committee Act, sections 2, 5; 86 Stat. 770, 771–2). Unless otherwise provided by statutory requirement or Presidential directive, advisory committees and interagency committees should not continue in existence beyond 2 years from the respective dates of their formation, except where the establishing governmental authority renews such committee by appropriate action prior to the end of such period or a renewal thereof (Circular A–63, part I, section 9; part II, section 6).

(c) *Establishment of advisory committees.* Advisory committees should be established or utilized only when specifically authorized by statute or Presidential directive or specifically determined as a matter of formal record by an agency such as this Commission, and its Chairman, to be in the public interest in connection with the performance of duties imposed by law upon the Commission. (Federal Advisory Committee Act, section 9(a), 86 Stat. 773.) In the case of advisory committees to be established, such formal determination shall be completed after Commission consultation with the Director, Office of Management and Budget (Committee Management Secretariat of the Office of Management and Budget), concurrence in the proposal by the Secretariat, and timely notice published in the FEDERAL REGISTER by the Commission's Chairman certifying that the creation of such committee is in the public interest and providing a description of the purpose and nature of the proposed advisory committee. Unless otherwise permitted by the Committee Management Secretariat for good cause, 30 days published notice will be given prior to formal action of the Commission establishing or utilizing such advisory committee (Circular A–63, part I, section 8a).

As indicated in section 3(e) supra, the respective charters of advisory committees are the Commission order or orders establishing or utilizing such committees. Upon the issuance of such orders, the respective committee charters shall be deemed to be filed with the Commission and copies of each Commission order thereupon shall be transmitted by the Secretary of the Commission to the Chairman, Committee on Commerce, U.S. Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress (Circular A–63, part I, section 8d(1)).[6] Until the issuance of such Commission orders "no advisory committee shall meet or take any action" (Circular A–63, part I, section 8d(3)). Commission orders shall set forth the information as specified in section 9(c) of the Federal Advisory Committee Act, 86 Stat. 774.[7]

Advisory committees shall be established or utilized in accordance with advisory committee charters (Circular A–63, part I, section 8c). Unless otherwise specifically provided by statutory requirement or Presidential directive, the function of advisory committees is solely that of advising or recommending (Circular A–63, part I, section 8c (1)–(2)). Determinations of policy to be expressed or actions to be taken with respect to such advice or recommendations are matters solely for Federal governmental determination and expression by the appropriate governmental official, department or agency (ibid). Necessarily, the advice and recommendations of advisory committees should be the result of independent judgment of such committees and not inappropriately influenced by the appointing governmental authority or any special interest (Federal Advisory Committee Act, section 5(b)(3), 86 Stat. 771; Circular A–63, part I, section 8b (3)–(4)). The membership of advisory committees should be "fairly balanced in terms of the points of view represented and the committee's function * * * No strict rule of proportional representation * * * is applicable * * * there is to be no discrimination on the basis of race, color, national origin, religion, or sex." (ibid).

(d) *Establishment in interagency committees*—Interagency committees should be established or continued only when specifically authorized by statute or Presidential directive or specifically determined as a matter of formal record, by a department or agency such as this Commission, or its Chairman, to be in the public interest in connection with the performance of duties imposed by law upon the Commission (Circular A–63, part II, sections 5, 6(a)).

As indicated in section 3(f) supra, the respective charters of interagency committees are the statements, orders, proclamations or other documents issued by the Federal Power Commission, its Chairman, or some other authorized department or agency of the Federal Government or official thereof, or any statute, establishing or continuing such committees. Except where otherwise provided by statutory requirement, Presidential directive, or directive of the Director, Office of Management and Budget, any interagency committee to be established or continued by this Commission, or its Chairman, shall be deemed to have an approved charter of this Commission when such committee is specifically determined as a matter of formal record by this Commission, or its Chairman, to be in the public interest in connection with the performance of duties imposed upon the Commission by law (Circular A–63, part II, section 6(a)(b)). "[U]ntil after a committee charter has been approved by the head of * * * agency establishing" interagency committees, other than statutory or Presidential, shall not meet (Circular A–63, part II, section 6(b)).

Interagency committees shall be established or continued in accordance with interagency committee charters (Circular A–63, part II, section 6(b)). To the extent authorized by the Commission, or its Chairman, and as may be prescribed or permitted by statutory requirement, Presidential directive, or directives of the Director, Office of Management and Budget, such charters will disclose information as referred to in section 3(d)

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[6] The Federal Advisory Committee Act, section 9(c), 86 Stat. 773–4, states in part: "No advisory committee shall meet or take any action until an advisory committee charter has been filed * * * with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. * * * A copy of any such charter shall also be furnished to the Library of Congress."

[7] Section 9(c) provides for disclosure of general types of information which may be described as follows: (i) The committee's official designation or name; (ii) The committee's objectives, scope of activity and defined purposes; (iii) The description of the committee's duties for which it is responsible, and, if not solely advisory, a specification of the specific authority for such nonadvisory functions; (iv) The membership roster of the committee; (v) The time duration of the committee or the period of time necessary for the discharge of the committee's purposes and the committee's termination date if less than 2 years from the date of the committee's establishment; (vi) The estimated number and frequency of committee meetings; (vii) The extent to which the Commission has assumed responsibility for providing financial or other material support for the committee, along with the estimated annual operating costs in dollars and man-years for committee operation so supported; (viii) The official or officials of the Commission to whom the committee reports; and (ix) The date of the Commission order or orders establishing or utilizing the committee, which constitute the date the advisory committee charter is filed with the Commission.

supra, and such other information comparable to that specified for advisory committees and referred to in section 4 (c) supra, insofar as the latter may be relevant and within the Commission's knowledge.

(e) *Termination of advisory committees and interagency committees.*—Unless otherwise provided by statutory requirement, advisory committees and interagency committees shall be established for periods of not more than 2 years from their respective dates of establishment. They should thereupon terminate unless otherwise renewed by appropriate action of the establishing governmental authority for a successive period of not more than 2 years (Circular A–63, part I, section 9; part II, section 6(c)). "Each * * * advisory committee which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless it is renewed * * * prior to the latter date * * *. Before * * * renewed * * * the agency head must determine that such renewal is necessary * * *. Such determination shall be made not more than 60 days before the scheduled date of termination. * * * the agency head shall publish notice of the renewal in the FEDERAL REGISTER and shall file a new charter." (Circular A–63, part I, section 9a(1)). With respect to interagency committees, the circular states "an interagency committee shall terminate not later than 2 years from the date of its formation unless the establishing authority makes a formal determination not more than 60 days prior to the date of scheduled termination that its continued existence is in the public interest." (Circular A–63, part II, section 6(c)).

(f) *Advisory committee meetings, notice, public participation, conduct, access to data, reporting and record keeping.*—There shall be full public disclosure of information relative to the number, purpose, activities, functions, membership and costs of advisory committees. (Federal Advisory Committee Act, section 2, 86 Stat. 770). To this end and unless otherwise mandated to serve the purposes of a statutory requirement, Presidential directive, requirement or determination of the Director, Office of Management and Budget, provision of an advisory committee charter, rule, regulation, or order of the Commission, or its Chairman, the Commission will publish timely notice of each meeting of advisory committees established or utilized by the Commission, including the name of the committee, dates, times, places, agendas, and purposes of meetings and a summarization of the manner in which the public may participate therein; publication shall be made in the FEDERAL REGISTER, supplemented by such other forms of individual or public notification as the Commission, or its Chairman, determines appropriate or as may be prescribed or permitted by the Director, Office of Management and Budget (Circular A–63, part I, section 10a(2)).

The meetings of all advisory committees established or utilized by the Commission shall be open to the public, and interested persons shall be permitted to attend, appear before, or file statements with such committees unless otherwise required to serve the purposes of a statutory requirement,* Presidential directive, determinations of the Director, Office of Management and Budget, or provision of an advisory committee charter, rule, regulation, or order of the Commission or its Chairman.

The meetings of all advisory committees established or utilized by the Commission shall be under the chairmanship of, or in the presence of, a Federal governmental official, full-time salaried officer or employee. None of the advisory committees shall hold any meetings except at the call of, or with the advance approval of such Federal governmental official, in the presence of such official, and with an agenda approved by such official. The Federal governmental official has designated responsibilities for opening, assisting in the conduct of all advisory committee meetings and adjourning any meeting whenever he determines adjournment to be in the public interest (Federal Advisory Committee Act, section 10(e)(f), 86 Stat. 775; Circular A–63, part I, section 10a(1)(5)).

Any person appointed by the Commission to an advisory committee has the right to attend any duly called meeting of his particular committee. In addition, if such person is unable for any reason to attend a duly called meeting of his committee and desires to have someone else represent him at the meeting, he may submit the name of his delegate in advance to the Federal governmental official, the full-time salaried officer or employee of the Commission assigned to the committee as chairman or otherwise. The names of persons proposed for attendance should be submitted to such Commission officer or employee in advance of the meeting date, in order that appropriate arrangements may be made prior to the time of the meeting. Any person who is a committee member or delegate, as set forth above, who intends to present or submit a written report, study, or other document at any meeting of an advisory committee shall submit, in advance of the meeting date, if possible, but in any case prior to its presentation to other members of the committee, a copy of such report, study or document to the full-time salaried officer or employee of the Commission assigned to the committee. Copies of such report, study, or document may, with the advance approval of such officer or employee, be circulated among the other members of the committee concerned prior to the meeting, but discussion and comments among committee members with respect thereto shall be reserved for the advisory committee meeting. Circulation of any written materials among committee members arising from an advisory committee meeting shall be subject to advance approval of the full-time salaried officer or employee of the Commission assigned to the committee.

As provided in Circular A–63, part I, section 10a(3)(b)(iii)–(v): "Any member of the public who wishes to do so

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* Examples may be helpful with reference to advisory committees as they have been established by the Commission in respect to the Alaska Power Survey, National Gas Survey, and National Power Survey and the provisions of the Federal Advisory Committee Act. In the several Commission orders establishing the survey advisory committees (see Exhibit I hereto), the Commission and its Chairman have determined as a matter of policy that—public notice of all meetings of survey advisory committees shall be given at least 7 days in advance of the meeting except where impracticable to do so or in an emergency situation, in which events shorter advance notice may be given, such notice to be given by publication in the FEDERAL REGISTER, by publication in local media as appropriate, by press releases, mail or in such other ways as may be prescribed or permitted by the Director, Office of Management and Budget, giving the name of the committee, dates, times, places, agendas, and purposes of all such meetings and a summarization of the manner in which the public may participate therein; and that all meetings of survey advisory committees shall be open to the public and any interested person may attend, appear, before, or file statements with any such committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee, its chairman or established committee procedures which may require advance committee approval of oral presentations and allow or preclude the questioning of committee members or other participants, all subject to reasonable rules or regulations as may be prescribed or permitted by the Director, Office of Management and Budget, the Federal Government official in whose presence such meeting is being held, or further administrative regulation, and all as may be appropriate for the conduct of the survey and committee affairs, considering the number of persons in attendance, the nature and extent of their proposed individual participation and the time, resources and facilities available to the Commission and the committee. Section 10(d) of the Federal Advisory Committee Act, 86 Stat. 775, provides that if the establishing governmental authority determines, in writing, supported by reasons that Freedom of Information Act requirements preclude public participation in any committee meeting, a written determination to that effect is to be made. The committee is then required to report at least annually, setting forth a summary of its activities and such related matters as would be informative to the public, consistent with the policy of the Freedom of Information Act provisions as set forth in 5 U.S.C. 552(b). Public notice of advisory committee meetings is not required when the Director, Office of Management and Budget determines that notice would be inconsistent with national security considerations (Circular A–63, part I, section 10a(2)(a)). Any request for such national security determination with respect to a meeting or series of meetings must be submitted in writing to the Director, normally 30 days or more in advance of any such meeting (Circular A–63, part I, section 10a(2)(d)). Specific requirements of the Director, Office of Management and Budget apply when an advisory committee meeting is to be closed in whole or part to public participation. They are set forth in Circular A–63, part I, section 10a(3)(c) and should be referred to in such instances.

shall be permitted to file a written statement with the committee, before or after the meeting. * * * To the extent that the time available for the meeting permits, interested persons may be permitted by the committee or its chairman to present oral statements * * *. A committee may establish procedures requiring such persons to obtain advance approval for such participation * * *. Participation by * * * the public in committee meetings [except as set forth supra] or questioning of committee members or other participants shall not be permitted except in accordance with procedures established by the committee."

The meetings of all advisory committees established or utilized by the Commission shall be recorded in detailed minutes prepared, and certified as accurate, by the secretary or alternate secretary of the committee as appointed by the Chairman of the Commission, which person shall also be designated by the respective advisory committee chairman to record minutes (Circular A–63, part I, section 10a(4)). In addition to minutes, there shall be kept verbatim transcripts of all advisory committee meetings as may be required by the Commission or its Chairman. The minutes shall include:

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued, or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as the Secretary or Alternate Secretary of the committee, and the advisory committee chairman's certification as to the accuracy of such minutes.

Advisory committees established or utilized by the Commission shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises.

Subject to Freedom of Information Act provisions (5 U.S.C. 552), § 1.36, Public Information and Requests, of the Federal Power Commission Rules of Practice and Procedure, 18 CFR 1.36, and section 10b of the Office of Management and Budget Circular A–63, there shall be available for public inspection and copying in the Commission's Office of Public Information, the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other documents which were made available to or prepared for or by each advisory committee established or utilized by the Commission, as they are contained within the files of the Commission. Referring to the Federal Advisory Committee Act, section 10(b), 86 Stat. 774, Circular A–63 states in part: "the quoted language shall be broadly construed. * * * Access to advisory committee documents is subject to the exemptions contained in 5 U.S.C. 552(b). When the only basis for denying access to a document is exemption (5) [interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency] access may not be denied unless the agency head * * * determines that such denial is essential to protect the free exchange of internal views and to avoid undue interference with agency (or advisory committee) operation." (part I, section 10b(2)(3)).

As pointed out further in Circular A–63, the Federal Advisory Committee Act does not require that transcripts be kept of advisory committee meetings.* "However, section 11(a) of the Act provides as follows: 'Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts * * * advisory committee meetings.' The requirement of availability of transcripts is subject to the exceptions discussed above in paragraph 10.b(3)." (Circular A–63, part I, section 10b(6)).

Subject to Freedom of Information Act requirements and national security considerations, all advisory committees shall provide to the Library of Congress copies of all reports made to the Commission by each advisory committee (copies to be supplied in octuplicate), together with background papers prepared by consultants for a committee, where appropriate, as determined by the Chairman of the Commission or the Committee Management Secretariat of the Office of Management and Budget (Circular A–63, part I, section 11d). These materials shall be forwarded to the Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540. Annually, each advisory committee shall compile and report publicly, its membership, functions and actions (Circular A–63, part I, section 8b(5)).

* By specific orders of the Commission authorizing the Alaska Power Survey, the National Gas Survey, and the National Power Survey (Exhibit I hereto, filed as part of the original document), verbatim transcripts are required with respect to Executive Advisory Committee meetings.

(g) *Interagency committee meetings, notice, public participation, conduct, access to data, reporting and record keeping.* The provisions governing committee activities of interagency committees established or continued by the Federal Power Commission, or its Chairman, shall be as set forth in the appropriate interagency committee charter.

Access to records, reports, and documents of interagency committees as contained within the files of the Commission shall be subject to Freedom of Information Act (5 U.S.C. 552) provisions and § 1.36, *Public Information and Requests*, Federal Power Commission rules of practice and procedure, 18 CFR 1.36.

(h) *Advisory committees, administrative remedies.* With respect to advisory committees established or utilized by the Commission, the following administrative procedural remedies shall obtain before the Commission with respect to complaints for alleged noncompliance with the provisions of the Federal Advisory Committee Act, Circular A–63, or other implementing regulations issued pursuant to authority of the Director, Office of Management and Budget, or any rule, regulation or order of this Commission (Circular A–63, part I, section 13):

(i) Requests for access to advisory committee documents shall be filed and processed procedurally in accordance with the provisions of § 1.36, *Public Information and Requests*, of the Commission's rules of practice and procedure, 18 CFR 1.36; and

(ii) All other requests, applications, complaints, or petitions in respect to advisory committees shall be filed and processed procedurally in accordance with the provisions of § 1.7, *Petitions*, of the Commission's rules of practice and procedure, 18 CFR 1.7.

Request for access to advisory committee documents pursuant to paragraph (i) may be tendered at any time and complaint filings pursuant to paragraph (ii) shall be tendered within 60 days of the date of the alleged noncompliance.

(i) *Support services, advisory committees, and interagency committees.* Unless otherwise provided by statutory requirement, Presidential directive, requirement of the Director, Office of Management and Budget, or provision of an interagency committee charter, the establishing governmental authority should determine the support services for the advisory committee or interagency committee's activities which that authority proposes to supply (Circular A–63, part I, section 11a; part II, section 6(d)). Where more than one department or agency establishes a committee or where any committee reports to more than one department or agency, only one department or agency should be responsible for support services at any one time. In order to strengthen interagency committee responsibilities, such a committee should have dual or rotating chairmanships only when the establishing governmental authority determines that such arrangement is required (Circular A–63, part II, section 6(e)). The term "support services" refers to such matters

as "staff, quarters, supplies, and funds (including, where appropriate, funds for publication of reports)." (Circular A–63, part I, section 11a(3).)

5. The provisions of this order shall take effect January 5, 1973.

6. The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER; and shall submit copies thereof to the Director, Office of Management and Budget, Committee Management Secretariat, and to the Department of Justice, Office of Legal Counsel.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73–283 Filed 1–5–73;8:45 am]

[Docket No. E–7798]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Order Accepting for Filing and Suspending Proposed Increase in Rates, Providing for Hearing, Establishing Procedures, and Permitting Interventions

DECEMBER 29, 1972.

On November 1, 1972, Central Vermont Public Service Corp., a public utility subject to the jurisdiction of this Commission, tendered for filing a proposed increase in its wholesale electric rates. The increase totals $278,000 on a 1971 test year basis. Central Vermont has introduced into the proposed new rate, designated R–1, a delivery point charge, and has updated fuel cost adjustment clause factors to a 1971 basis. Central Vermont requests an effective date of January 1, 1973, except for the Vermont Electric Cooperative's Richmond and Williston delivery points. The company proposes that the R–1 rate become effective at these two delivery points upon expiration of the existing contracts on October 28, 1973.

Notice of Central Vermont's rate increase application was issued on November 27, 1972. Said notice provided that any protests or petitions to intervene should be filed on or before December 18, 1972. On December 18, 1972, petitions to intervene in opposition to Central Vermont's proposed rate increase were filed by the Vermon Electric Cooperative, Inc., of Johnson, Vermont, and by the villages of Hyde Park, Johnson, Ludlow, and Lyndonville, Vt.; Allied Power & Light Co.; and Rochester Electric Light & Power Co.

A review of Central Vermont's rate filing and the petitions to intervene indicates that the company's proposed rate increase should be accepted for filing and suspended, that the petitions to intervene should be granted, and that the issues raised by the pleadings should be resolved on the basis of an evidentiary record to be established upon hearing. Accordingly, the company's proposed rate increase will be suspended for a period of 5 months, and when placed into effect after the suspension period it will be subject to refund of all amounts found by the Commission after hearing not to be justified, together with interest on any amount refunded.

The Commission finds:

It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act, that the Commission enter upon a hearing concerning the lawfulness of Central Vermont's proposed rate R–1, and that the proposed rate R–1 be suspended as herein provided.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of Central Vermont's proposed rate R–1, commencing with a prehearing conference to be held on May 22, 1973.

(B) Pending such hearing and decision thereon, Central Vermont's proposed rate R–1 is hereby accepted for filing, suspended, and its use deferred until June 1, 1973.

(C) At the prehearing conference on May 22, 1973, the direct evidence of the company and the staff shall be admitted into the record, and procedures adopted for an orderly and expeditious hearing.

(D) On or before May 15, 1973, the Commission staff shall serve its prepared testimony and exhibits if any. The prepared testimony and exhibits of the intervenors shall be served on or before June 5, 1973. Any rebuttal evidence by Central Vermont shall be served on or before June 26, 1973. Cross examination of the evidence filed shall commence at 10 a.m. on July 10, 1973, in a hearing room of the Federal Power Commission.

(E) Vermont Electric Cooperative, Inc.; the villages of Hyde Park, Johnson, Ludlow, and Lyndonville, Vt.; Allied Power & Light Co.; and Rochester Electric Light & Power Co. are hereby permitted to intervene in this proceeding subject to the Commisison's rules of practice and procedure.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Federal Power Act, the Commission's rules and regulations, and the terms of this order.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73–367 Filed 1–5–73;8:45 am]

[Docket No. RP72–151]

EL PASO NATURAL GAS CO.

Order Accepting and Allowing Restructured Rates To Become Effective Subject to Hearing and Refund.

DECEMBER 29, 1972.

El Paso Natural Gas Co. (El Paso), on November 30, 1972, tendered for filing in Docket No. RP72–151 proposed changes in its FPC gas tariff, First Revised Volume No. 3, for its Northwest Division System,[1] to become effective on January 1, 1973, the date of termination of the suspension of its proposed increased rates in this docket. The proposed changes reflect a restructuring of rates to provide rate levels consistent with the Seaboard cost classification procedure and are to be substituted for the rates originally filed and suspended. Concurrently therewith, El Paso filed a motion to place the proposed changes into effect on January 1, 1973.

In its filing, El Paso refers to the following statement in the Commission's order issued November 7, 1972, in Dockets Nos. RP71–137 and RP72–151, in which the Commission conditionally approved El Paso's stipulation and agreement related to rate design in the former docket:

* * * We recognize that the proposed rates in Docket No. RP72–151 are to become effective on January 1, 1973, subject to refund. To the extent that those rates do not recover fully allocated Seaboard costs, as may be impact of any undercollections under those determined after hearing and decision therein, El Paso may be required to absorb the rates as may have occurred.

El Paso states that inasmuch as the commodity charge under Rate Schedule PL–1 and the level of the interruptible rates under Rate Schedules IOS–1, I–1, and PL–5, as initially proposed in this proceeding, do not comport with the expressions of the Commission in its order of November 7, 1972, El Paso is submitting the restructured rates for protective purposes but without admitting the propriety of the position taken by the Commission respecting rate design in the November 7, 1972, order. El Paso says that the instant filing should not be construed as agreement on its part to such position or as waiver on the part of El Paso of its rights to propose a different rate design in any proceeding. In the event that El Paso's request to substitute the restructured rates for those originally suspended herein is not granted, it tenders an alternative tariff sheet, designated as Tenth Revised Sheet No. 10, containing the increased rates originally proposed in Docket No. RP72–151 and suspended until January 1, 1973.

In view of the fact that El Paso's proposed restructured rates are filed to protect it from being required to absorb

[1] Substitute Tenth Revised Sheet No. 10.

the impact of any undercollections which might result from the originally filed increased rates in Docket No. RP72–151 to the extent that they do not recover fully allocated Seaboard costs, it is reasonable and appropriate to accept the tendered rates, subject to hearing and refund and further orders as may be issued in this proceeding.

The Commission orders:

El Paso's Substitute Tenth Revised Sheet No. 10 of its FPC gas tariff, First Revised Volume No. 3, tendered on November 30, 1972, is accepted for filing and allowed to become effective on January 1, 1973, subject to hearing and refund and to further orders as may be issued in Docket No. RP72–151.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73–361 Filed 1–5–73;8:45 am]

[Dockets Nos. RP72–150, RP72–155.]

EL PASO NATURAL GAS CO.

Order Accepting and Allowing Restructured Rates To Become Effective Subject to Hearing and Refund

DECEMBER 29, 1972.

El Paso Natural Gas Co. (El Paso), on November 30, 1972, tendered for filing in Docket No. RP72–150 proposed changes in its FPC Gas Tariff, Original Volume No. 1, for its Southern Division System,[1] to become effective on January 1, 1973, the date of termination of the suspension of its proposed increased rates in that docket. The proposed changes reflect a restructuring of rates in the company's Rate Schedules G and G–X to provide rate levels consistent with the Seaboard cost classification procedure and are to be substituted for the rates originally filed and suspended under those schedules. Concurrently therewith, El Paso filed a motion to place into effect these proposed changes, together with the other proposed increased rates which are under suspension until January 1, 1973.

In its filing, El Paso refers to the following statement in the Commission's order issued November 7, 1972, in Dockets Nos. RP71–137 and RP72–151, in which the Commission conditionally approved El Paso's Stipulation and Agreement related to rate design in the former docket:

* * * We recognize that the proposed rates in Docket No. RP72–151 are to become effective on January 1, 1973, subject to refund. To the extent that those rates do not recover fully allocated Seaboard costs, as may be determined after hearing and decision therein, El Paso may be required to absorb the impact of any undercollections under those rates as may have occurred.

El Paso states that inasmuch as the commodity charge for Rate Schedule G proposed in Docket No. RP72–150 and the related rate under Rate Schedule G–X are below the unit commodity cost resulting from the Seaboard cost classification, El Paso is submitting the restructured rates for protective purposes but without admitting the propriety of the position taken by the Commission respecting rate design in the above-mentioned order of November 7, 1972. El Paso says that the instant filing should not be construed as agreement on its part to such position or as waiver on the part of El Paso of its rights to propose a different rate design in any proceeding. In the event that El Paso's request to substitute the restructured G and G–X rates for those originally suspended in Docket No. RP72–150 is not granted, it tenders an alternative tariff sheet, designated as First Substitute Eighth Revised Sheet No. 3–B, containing the increased rates originally proposed in Docket No. RP72–150 and suspended until January 1, 1973.

In view of the fact that El Paso's proposed restructured rates are filed to protect it from being required to absorb the impact of any undercollections which might result from the originally filed increased rates in Docket No. RP72–151 to the extent that they do not recover fully allocated Seaboard costs, it is reasonable and appropriate to accept the tendered rates, subject to hearing and refund and further orders as may be issued in this proceeding.

The Commission orders:

El Paso's Substitute Tenth Revised Sheet No. 10 of its FPC Gas Tariff, First Revised Volume No. 3, tendered on November 30, 1972, is accepted for filing and allowed to become effective on January 1, 1973, subject to hearing and refund and to further orders as may be issued in Docket No. RP72–150 et al.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73–365 Filed 1–5–73;8:45 am]

[Docket No. E–6577]

FALCON DAM PROJECT, TEXAS

Order Confirming and Approving Rates and Charges

DECEMBER 29, 1972.

The Secretary of the Interior (Secretary), acting on behalf of the Bureau of Reclamation (Bureau) and pursuant to Public Law 406, 83d Congress, approved June 18, 1954 (68 Stat. 255), as amended, known as the Falcon Dam Act of 1954 (Act), filed with the Federal Power Commission on August 7, 1972, a request in Docket No. E–6577 for confirmation and approval of a proposed rate schedule for wholesale electric service to Central Power and Light Co. (Central), Corpus Christi, Tex., from the U.S. share of electric power and energy generated at the international Falcon Dam Project (Project). The proposed rate schedule is designed to supersede the current rate schedule which was approved for the period ending December 31, 1972, by Commission order issued December 7, 1967, in Docket No. E–6577 (38 FPC 1133). Approval of the proposed rate schedule is requested for the 5-year period beginning January 1, 1973.

The Project is a multipurpose development located on the Rio Grande approximately 130 miles upstream from Brownsville, Tex. In addition to the dam, which crosses the international boundary between the United States and Mexico, the Project includes hydroelectric generating plants situated on the U.S. side and the Mexican side of the Rio Grande. The Project was constructed and is operated by the two nations through the International Boundary and Water Commission, United States and Mexico (IBWC), pursuant to the provisions of certain treaty arrangements. The output of the Project's generating plants is divided equally between the United States and Mexico. The Act provides that the U.S. share of the electric power and energy generated at the Project which is not required in its operation shall be marketed by the Secretary, who has delegated his marketing functions to the Bureau. Accordingly, the United States, acting through the Secretary and the Bureau, by contract dated December 19, 1967, designated as Contract No. 14–06–500–1479 (Contract), agreed to sell and deliver to Central for resale the aforementioned U.S. share of power and energy for a period of 10 years beginning January 1, 1968.[1] Delivery of that power and energy is made at the point in Texas where Central's transmission system interconnects with the bus of the Project's generating plant.

The treaty arrangements referred to above and the Act also made provisions for the construction and operation of the multipurpose Amistad Dam Project by IBWC and for the marketing of the U.S. share of its output of electric power and energy by the Secretary. The Amistad Dam Project is located on the Rio Grande approximately 300 miles upstream from the Falcon Dam Project. Although constructed and operational for certain purposes, including water storage, the Amistad Dam Project has no facilities for the generation of electric energy.

The proposed rate schedule provides for Central to pay the Bureau for wholesale electric service furnished from the Project at 4 mills per kilowatt-hour for energy delivered between the hours of

[1] Ninth Revised Sheet No. 3–B.

[1] The current rate schedule is included in the Contract. Under its provisions as well as those of the Commission's order of December 7, 1967, referred to above, the current rate schedule will not be effective after December 31, 1972. The Contract provides further that for the remaining 5 years of its term, beginning January 1, 1973, Central shall pay the Bureau at rates approved by the Department of the Interior and the Commission. Under these circumstances, the Bureau conducted rate negotiations with Central and obtained its agreement to the rates set forth in the proposed rate schedule, which the Secretary has submitted to the Commission for approval.

8:00 a.m. and 10:00 p.m. (Saturdays and Sundays excepted) and 1.75 mills per kilowatt-hour for energy delivered at any other time. The proposed rate schedule is the same as the current rate schedule except that the provisions limiting revenues to $300,000 for the first 100 million kilowatt-hours of energy delivered during any calendar year and to a 1-mill per kilowatt-hour charge for all energy delivered in excess of 100 million kilowatt-hours per year have been eliminated. Such changes will increase revenues for those years when deliveries to Central exceed 100 million kilowatt-hours.

Central is obligated under the Contract to deliver electric energy to the Bureau for the operation of the Project's facilities whenever energy is not available from the Project's generating plants for that purpose. The energy shall be returned by the Bureau to Central kilowatt-hour for kilowatt-hour at times and rates of delivery to be mutually agreed upon. Furthermore, Central, under the Contract, may demand and receive payment from the Bureau adequate to balance the interchange energy account under any or all of the following conditions: (1) Upon termination of the Contract, (2) by mutual agreement between the Bureau and Central at any time during the term of the Contract, or (3) when the account remains unbalanced for a period of 1 year. Settlement of the account by payment is to be at a net value of 3 mills per kilowatt-hour for all energy which may remain as a credit to Central in the account.

Public bodies and cooperatives must be given preference under the Act with respect to the Bureau's sale of electric power and energy generated at the Project. Generation by the Project's hydroelectric plants is not dependable, however, because of the peculiarities of the flow of the Rio Grande and the necessity to adhere to downstream flow requirements. In some years there have been as many as 60 days when no energy could be generated at the Project for those reasons. Consequently, the Project's dependable capacity is zero. It appears therefore that only an electric utility which has its own generating facilities, or other sources of electric supply sufficient to meet its system requirements when Project energy is unavailable, would seek to purchase the Project output. Public bodies and cooperatives operating in the area of the Project have rejected the Bureau's offers for the sale of Project energy.

The Bureau's rate schedule for the sale of electric power and energy generated at the Project is required by the Act to "be drawn having regard to the recovery * * * of the cost of producing and transmitting * * * electric energy, including the amortization of the capital investment allocated to power * * * over a reasonable period of years." The Bureau's Rate and Repayment Study, dated October 27, 1971, for the Project, a copy of which is on file with the Commission, contains revenue and cost data for the period from fiscal year 1955, when the Project began generation, through fiscal year 1971. The Study shows that during the subject period the total Project revenues were $4,512,950, while the total Project operating, maintenance and marketing expenses, together with the interest charges on the portion of the Project's capital investment allocated to electric facilities, were $5,665,724. Accordingly, at the end of fiscal year 1971, the Project was $1,152,774, in arrears with respect to the payment of such expenses and interest charges, apart from having made no payments toward amortizing the capital power investment in the Project during fiscal years 1955 to 1971, inclusive.

Information on file with the Commission or otherwise available to it for subsequent periods, commencing with fiscal year 1972, indicates that the average annual Project generation to be marketed by the Bureau will be an estimated 87.5 million kilowatt-hours,[1] the sale of which to Central under the proposed rate schedule will produce annual revenues of approximately $252,100 or an average of 2.88 mills per kilowatt-hour. Furthermore, according to the Commission's information, the estimated operating, maintenance and marketing expenses for the Project will aggregate approximately $156,000 annually, while $18,000 appears to be a reasonable estimate of the cost of the major replacements for the Project on an annual basis, making a total estimate of $174,000 for these annual expenditures. Therefore, the estimated annual Project revenues of $252,000 will be sufficient to cover the estimated annual Project expenditures listed above, totalling $174,000, and provide $78,100 annually toward the payment of Project interest charges. It is noted that these calculations afford no encouragement that the Project's financial situation will improve in the foreseeable future to the extent that amortization of its capital power investment, which at the end of fiscal year 1971 amounted to $8,195,466, including unpaid interest charges, may get underway.

The statutory payout requirements, referred to above, must, of course, be considered by the Commission in acting upon the Secretary's request for approval of the proposed rate schedule. Compliance with congressional directives should, however, be determined by practical considerations. It appears unrealistic to view the Bureau as having sufficient bargaining strength to improve the rates and charges it has negotiated with Central. According to Central's Annual Report, FPC Form No. 1, for 1971, Central can generate electric energy in its steam plants for only 2.785 mills per kilowatt-hour, whereas, as pointed out above, Central will be obliged to pay an average charge of 2.88 mills per kilowatt-hour for energy supplied from the Project by the Bureau under the proposed rate schedule. Since Central takes delivery of the energy at the bus of the Project's generating plant, it is not necessary for the Bureau to construct and operate transmission facilities for the purpose of making deliveries to Central. The Bureau has no prospective customer other than Central with its own electric transmission system in the vicinity of the Project. Although designated in the Act as preference customers, public bodies and cooperatives are not interested in purchasing the Project output, as noted above. Notwithstanding the anticipated revenue deficiencies discussed above, we conclude that the proposed rate schedule conforms as nearly to the Act's repayment objectives as can be negotiated in the existing circumstances, and accordingly we will approve it.

[1] This estimate reflects 44.0 million kilowatt-hours of on-peak generation and 43.5 million kilowatt-hours of off-peak generation at the Project.

The Secretary of State, as contemplated by the Act, has concurred in the proposed rate schedule submitted by the Secretary of the Interior for the Commission's approval.

Written notice of the request for confirmation and approval of the Bureau's proposed rate schedule was sent to State officials and other interested persons. Notice of the request was also published in the FEDERAL REGISTER on October 27, 1972 (37 FR 23017), stating that any person desiring to make comments or suggestions for the Commission's consideration with respect to said rate schedule should submit the same in writing on or before November 10, 1972, to the Federal Power Commission, Washington, D.C. 20426. No comments or suggestions were received.

The Commission finds:

It is appropriate for purposes of the Act that the Bureau's proposed rate schedule be confirmed and approved for the period beginning January 1, 1973, and terminating not later than December 31, 1977, as hereinafter provided.

The Commission orders:

The proposed rate schedule of the Bureau of Reclamation for wholesale electric service to Central Power and Light Co. from the United States' share of electric power and energy generated at the international Falcon Dam Project, all as described above, is hereby confirmed and approved for the period beginning January 1, 1973, and terminating not later than December 31, 1977.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.73-363 Filed 1-5-73;8:45 am]

[Docket Nos. RP66-4, etc.]

FLORIDA GAS TRANSMISSION CO.

Order Denying Applications for Reconsideration, Issuing Temporary Certificate of Public Convenience and Necessity, Setting Date for Hearing and Establishing Procedures

DECEMBER 29, 1972.

On November 22, 1972, Plant City Natural Gas Co. (Plant City), Central Florida Gas Corp. (Central Florida), and Miller Gas Co. filed a joint petition for reconsideration of the Commission's order issued November 14, 1972, in

Dockets Nos. RP66–4 and RP68–1, requiring Florida Gas Transmission Co. (Florida Gas) to file, inter alia, volumetric limitations for its firm resale (Rate Schedule G) customers based on its contractual obligations as of September 1, 1972, to be effective November 15, 1972.

On December 4, 1972, Florida Gas filed a motion for reconsideration and request to effectuate proposed service plan, requesting reconsideration of the Commission's aforesaid order requiring it to file proposed volumetric limitations based on its contractual obligations as of September 1, 1972, for its resale and direct customers. Florida Gas requests that the Commission after reconsideration accept with an effective date of January 1, 1973, a companion filing of December 4, 1972,[1] containing revised service volumes of its resale and direct customers, and superseding the service volumes submitted in compliance with the Commission's November 14, 1972, order by Florida Gas in its filing of December 1, 1972.[2]

On December 4, 1972, Florida Gas filed, additionally, a petition to amend its certificate of public convenience and necessity in Docket No. CP68–179, 42 FPC 121, in the event that further authorization is necessary to allow Florida Gas to render service at the volumetric levels set forth in its December 4, 1972 filing.

In their joint petition for reconsideration, Plant City et al. assert, inter alia, that Florida Gas' present contractual obligations are not reflected in the out-of-date service agreements that may be on file with the Commission, and that volumes purchased by Plant City and Central Florida subsequent to November 15, 1972, would be in excess of their contract quantities and subject to penalty charges. Petitioners further assert that Florida Gas should be required to file an appropriate section 7 application in the event that it decides to abandon its current "all requirements" authority and to substitute a contract quantity obligation.

In its motion for reconsideration, Florida Gas alleges that its October 16, 1972, filing which was rejected except as a compliance filing by the Commission represents a fair and equitable allocation of the system's sales capacity, reflecting current load conditions and supply availability, as well as the manner in which its pipeline system should be operated under present conditions. Florida Gas contends inter alia that (1) the only increases in deliveries over the September 1, 1972 levels of service contemplated by the October 16, 1972 tariff filing were for services under Rate Schedule G, for resale by distributing companies to small volume residential and commercial users; (2) the Company's operating practice over the years has been to add increments of capacity for its customers to provide to the extent possible the full requirements of its interruptible customers, together with those of its firm resale customers, in order that as additional firm loads are added under Rate Schedule G contracts and more I-service is approved, curtailments to the direct customers are lengthened until the next increment of capacity is added, and the cycle commences anew;[3] and (3) service of Rate Schedule G customers' load requirements at the levels established by the Commission's November 14, 1972 order will be very difficult, especially during the winter heating season.

An answer to Florida Gas' motion for reconsideration by Florida Public Utilities Co. and protests by Central Florida, Miller Gas Co., and Plant City were filed on December 20, 1972. Protests by City Gas Co. of Florida and West Florida Natural Gas Co. were filed on December 21, 1972. These comments by Florida Gas' customers generally reflect objections to the volumetric limitations in Florida Gas' December 1, 1972, filing and a view that proper volumetric limits should be determined after hearing in Docket No. CP68–179.

In view of the difficulties that Florida Gas' customers apparently will encounter during the 1972–73 heating season because of prior reliance upon volumes delivered by the Company above those set forth in their respective service agreements on file with this Commission,[4] we shall allow the increased contract volumes reflected in Florida Gas' December 4, 1972, submittal to go into effect pursuant to temporary authorization, without prejudice to the volume entitlements determined to be appropriate under permanent authorization.

The increased volume entitlements in the above-mentioned filing should enable Florida Gas' customers to meet essential load requirements, pending a final determination of the proper volumes to be allocated to those customers in Docket No. CP68–179. To avoid undue penalties to certain customers which would occur after the November 15, 1972 effective date for volumetric limitations set by our November 14, 1972 order, we will permit the aforesaid revised volumetric entitlements to be effective as of November 15, 1972. Since the filing of December 4, 1972, containing revised alternate tariff sheets is clearly designed to supplement Florida Gas' application to amend its certificate of public convenience and necessity, we shall accept it for filing as a supplement thereto.

In view of our action above, we shall deny the applications for reconsideration of our November 14, 1972, order in Dockets Nos. RP66–4 and RP68–1, and treat them instead as protests to Florida Gas' compliance filing of December 1, 1972.

Review of Florida Gas' filings herein and the comments thereon indicates that the proposed tariff provisions and amendment of its certificate of public convenience and necessity by Florida Gas raise issues which require development in evidentiary proceedings.

We believe that Florida Gas should be required to submit evidence in support of its tariff provisions pertaining to revised volume entitlements and the proposed amendment of its certificate of public convenience and necessity. We also are of the view that after an opportunity has been given for filing answering evidence, a conference should be held to attempt a settlement of the issues that have been raised herein. If the conference does not produce a settlement, we are directing the Administrative Law Judge to proceed immediately to schedule the distribution of rebuttal evidence and a hearing date for cross-examination.

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 the Commission enter upon a hearing concerning the lawfulness of the proposed changes in Florida Gas' FPC Gas Tariff pertaining to revised volume entitlements to resale and direct customers and the proposed amendment of its certificate of public convenience and necessity in Docket No. CP68–179 and that the issues in this proceeding be scheduled for hearing in accordance with the procedures herein set forth.

(2) The Commission finds that an emergency exists on Florida Gas' system and that a temporary certificate should be issued as hereinafter ordered and conditioned.

(3) Good cause exists to accept the December 4, 1972, filing as a supplement to Florida Gas' petition for an amendment to its certificate in Docket No. CP68–179.

(4) It is appropriate and in the public interest that the petition by Plant City et al., and the motion by Florida Gas for reconsideration of the Commission's order issued November 14, 1972, be treated as protests to Florida Gas' compliance filing of December 1, 1972, and that the applications for reconsideration otherwise be denied.

The Commission orders:

(A) Florida Gas' filing of December 1, 1972, is in compliance with the Commission's order issued November 14, 1972, but is superseded by Florida Gas' subsequent filing of December 4, 1972.

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[1] Comprised of Frist Revised Sheets Nos. 22–F, 22–G, 22–H, 22–I, and 22–J; and a Statement of Volumetric Quantities of Direct Customers Contained in Contracts on File as of Oct. 16, 1972.

[2] Consisting of 12th Revised Sheet No. 4, 10th Revised Sheet No. 8, First Revised Sheets Nos. 5, 6, 9, 10, 13, 23, 24, 25, 28, and 29, and Original Sheets Nos. 9–A, 22–F, 22–G, 22–H, 22–I, 22–J, 22–K, and 22–L; and a Statement of Volumetric Quantities of Direct Customers Contained in Contracts on File as of Sept. 1, 1972.

[3] According to Florida Gas, the order of curtailment priority has provided the mechanism by which system capacity was gradually upgraded toward the firm service category for G customers, which is given top priority.

[4] For example, Florida Gas states, in its Motion, page 14, that 32 out of 55 resale distributing systems served have exceeded their daily contract entitlements and 23 of the group have exceeded their annual contract quantities as measured by service agreements on file with the Commission as of Sept. 1, 1972.

(B) The petition by Plant City et al., and the motion by Florida Gas for reconsideration of the Commission's aforesaid order issued November 14, 1972, shall be treated as protests to Florida Gas' compliance filing therewith of December 1, 1972, and otherwise are denied.

(C) The alternate tariff sheets filed by Florida Gas on December 4, 1972, in Dockets Nos. RP66-4 and RP68-1 are hereby accepted for filing as a supplement to its petition to amend its certificate of public convenience and necessity issued in Docket No. CP68-179, to be effective November 15, 1972.

(D) Section 154 of the Commission's regulations under the Natural Gas Act is hereby waived to permit the filing of Florida Gas' revised tariff provisions on December 4, 1972, to be effective November 15, 1972.

(E) Upon the terms and conditions of this order, a temporary certificate of public convenience and necessity is issued in Docket No. CP68-179 authorizing Florida Gas to deliver the revised volume entitlements to customers as set forth in its December 4, 1972, filing as hereinbefore described and as more fully set out in its petition for amendment of its certificate of public convenience and necessity.

(F) The temporary certificate issued above is conditioned as follows:

(1) Said temporary certificate shall take effect as of November 15, 1972, and remain in effect pending final resolution of the issues raised herein.

(2) The issuance of this temporary certificate and the acceptance of Florida Gas' submittal of December 4, 1972, are without prejudice to such final disposition of Florida Gas' application for an amendment of its certificate as the record may require.

(G) Florida Gas shall distribute on or before January 22, 1973, the evidentiary support for the proposed provisions in its December 4, 1972 filing pertaining to revised volume entitlements for its customers and the proposed amendment of its certificate of public convenience and necessity, all as indicated in the recital above.

(H) On or before February 12, 1973, any parties or the Commission's staff may serve prepared testimony and exhibits concerning the issues raised by the volume entitlements in Florida Gas' filing of December 4, 1972, and Florida Gas' proposed amendment of its certificate of public convenience and necessity.

(I) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held in these proceedings to be presided over by the Presiding Administrative Law Judge which shall be held on February 20, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of incorporating into the record the testimony and exhibits previously distributed. Immediately thereafter the Presiding Administrative Law Judge will convene a conference and in the event that a settlement of the issues does not result from said conference, the Presiding Administrative Law Judge will schedule dates for the distribution of rebuttal evidence, and the date for the commencement of hearings for the purpose of cross-examination and will rule on all data requests and other relevant matters presented at such hearing.

(J) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge [see Delegaton of Authority, 18 CFR, 3.5(d)] shall preside at, and control these proceedings in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73-359 Filed 1-5-73;8:45 am]

[Docket No. E-7805]

GULF STATES UTILITIES CO.

Order Authorizing Issuance of Promissory Notes, Granting Intervention, and Consolidation of Proceedings

DECEMBER 29, 1972.

Gulf States Utilities Co. (Applicant), a corporation organized under the laws of the State of Texas and doing business in the States of Texas and Louisiana, filed an application on November 6, 1972, seeking an order pursuant to section 204 of the Federal Power Act authorizing it to issue promissory notes to commercial banks and commercial dealers in the aggregate principal amount not to exceed $125 million outstanding at any one time. The application requests that all notes be issued on or before December 31, 1973, with final maturity dates of all notes to be not later than December 31, 1974.

The interest rate on all borrowings from commercial banks will be at the prime rate of the lender at the time of each borrowing and may be adjusted periodically. Notes issued in the form of commercial paper to established investment banking firms will be issued on various dates and will have a maximum maturity of 9 months. The interest costs (discount rate) on the commercial paper notes will depend upon the money-market conditions, length of time to maturity, and their acceptance by buyers of commercial paper. This rate is anticipated to be below rates on commercial bank borrowings. Notes issued in the form of commercial paper will be limited to an amount not to exceed 50 percent of the Applicant's most recent 6 months' gross revenues.

The Applicant states that the proceeds from the issuance from the notes will be used to provide interim funds for the Applicant's construction expenditures. The estimated expenditures for the 2-year period 1973 and 1974 will be approximately $305 million.

Written notice of the application has been given to the Louisiana Service Commission, the Texas Railroad Commission, and to the Governor of each of those States. Notice has also been given by publication in the FEDERAL REGISTER on November 30, 1972 (37 FR 25415), stating that any person desiring to be heard or to make any protest with reference to the application, should file petitions or protests on or before December 11, 1972, with the Federal Power Commission, Washington, D.C. 20426. On December 11, 1972, the cities of Lafayette and Plaquemine, La. (Cities) filed a protest and petition to intervene in the proceeding alleging violation of antitrust laws. Cities incorporate by reference the protests and petitions to intervene filed by the Cities previously in Dockets Nos. E-7567, E-7663, E-7696, and E-7682. In addition the Cities incorporate by reference the pleadings in Docket No. E-7676. On December 11, 1972, Dow Chemical Co. (Dow) also filed a protest and petition to intervene alleging in general antitrust violations and more specifically that the construction of a certain transmission line as one step in all alleged conspiracy to suppress competition.

Both petitions to intervene request that the respective parties be permitted to intervene in the proceeding and be treated as a party thereto and that the matter be set for hearing.

On December 18, 1972, Applicant filed an answer to both protests and petitions to intervene. Applicant incorporated by reference its responses to all of the petitions and protests to intervene filed previously in the above-mentioned dockets, and further generally denied petitioners contentions.

This application for authorization of securities filed by Applicant must be considered in the light of other previous proceedings. Applicant has previously filed applications for authorization of various types of security issues in Dockets Nos. E-7567, E-7682, E-7663, and E-7751. Protests and petitions to intervene alleging antitrust violations were filed in every docket except E-7751 by the cities of Lafayette and Plaquemine, La.

Docket No. E-7567 was appealed to the United States Court of Appeal for the District of Columbia. On October 12, 1971, the Court for Appeals issued a decision, City of Lafayette, Louisiana v. SEC, 454 CADC 9421, wherein it remanded to the Commission for further proceedings not inconsistent therewith the order issued by the Commission. On May 30, 1972, the Supreme Court granted a writ of certiorari to Gulf States Utilities to review the Court of Appeals decision.

After decision of the Court of Appeals for the District of Columbia in the City of Lafayette case, but before the Supreme Court granted a writ of certiorari in that case, Gulf States filed two additional applications pursuant to section 204 (Dockets Nos. E-7663 and E-7682). The Commission in following the guidelines of the Court of Appeals decision approved the securities issuance but severed the antitrust allegations into a separate complaint proceeding under section

306 of the Federal Power Act (Docket No. E-7676). Pursuant to the grant of the writ of certiorari the Commission by order issued in Docket No. E-7676 on June 1, 1972, stayed all further proceedings in docket before the Commission until the Supreme Court entered its decision on appeal of the City of Lafayette case.

The Commission in its order issued November 4, 1971, in Docket No. E-7663 stated:

> The Commission in reviewing Cities' contentions as set forth in their petition has done so in the light of its overall responsibilities under the Federal Power Act. The Commission is aware of its responsibilities with regards to interconnection and coordination of the facilities, for purposes of assuring an abundance of supply of electric energy throughout the United States with the greatest possible economy and with regard to proper utilization and conservation of natural resources. Further the Commission is aware of its responsibilities to enhance optimum interconnection and interchange of electric energy as well as other activities in furtherance of electric energy capabilities. All of the Commission's responsibilities being directed toward safeguarding cost, rates and reliability.
>
> At the same time the Commission realizes that security issues to provide funds for utility construction and financing programs must be decided in a time frame much more limited than that contemplated for consideration of the alleged anticompetitive activities.
>
> With an awareness of its responsibilities the Commission, however, is unable to determine the merits of Cities' contention and the Commission's authority to grant relief sought without further proceedings and the benefit of a hearing in which evidence is presented and legal authority is cited to grant the relief sought.

The issues presented by the Cities and Dow in this proceeding involve the same subject matter as those presently being considered in Docket No. E-7676. The Commission therefore feels that it is appropriate to consider the petitions to intervene filed in this docket as complaints under section 306 of the Federal Power Act and to consolidate those complaints with the complaints previously filed in Docket No. E-7676.

The Commission finds:

(1) The Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act subject to the jurisdiction of this Commission as heretofore determined and set forth in the Commission order issued November 27, 1957, in the Matter of Gulf States Utilities Company Docket No. E-6785 (18 FPC 701).

(2) The proposed issuance of promissory notes to commercial banks and commercial paper dealers in the aggregate principal amount of $125 million, all as described above, will constitute an issuance of securities within the purview of section 204 of the Act.

(3) The proposed issuance of promissory notes will be in excess of 5 percent of the par value of the other securities of Applicant, and therefore, will not be exempt by virtue of section 204(e) from the requirements of section 204(a) of the Act.

(4) Applicant is not organized and operating in a State, under the laws of which the issue herein involved is regulated by a State Commission within the meaning of section 204(f) of the Act, and the proposed issuance is, therefore, not exempt by virtue of that section from the requirements of section 204 of the Act.

(5) The proposed issuance of promissory notes will be exempted from the competitive bidding requirements of § 34.1a of the Commission's regulations under the Federal Power Act by reason of paragraph 34.1a(a)(2) thereof.

(6) The proposed issuance of securities as hereinafter authorized, will be for a lawful object within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with proper performance of service by Applicant as a public utility, and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

(7) The period of public notice given in this matter is reasonable.

(8) Intervention by the cities of Lafayette and Plaquemine, La., and Dow Chemical Co. may be in the public interest for purposes of Commission consideration of the petitions.

(9) The matters asserted and activities alleged in the filed Protest and Petitions to Intervene by the Cities of Lafayette and Plaquemine, La., and Dow Chemical Company raise issues which should be heard in a proceeding separate from this docket.

(10) The protest and petitions to intervene filed in this docket by the cities of Lafayette and Plaquemine, La., and Dow Chemical Co. should be considered as a complaint filed under section 306 of the Federal Power Act.

(11) The protest and petitions to intervene filed in this docket by Lafayette and Plaquemine, La., and Dow Chemical Co. raise issues which are identical to those being considered in Docket No. E-7676, a complaint proceeding now before the Commission, and is therefore appropriate that the complaints filed in this docket should be consolidated with Docket No. E-7676 for purposes of hearing and decision.

The Commission orders:

(A) The above-mentioned petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* The admission of the aforementioned petitioners shall not be construed as recognition by the Commission that the petitioners might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The proposed issuance and sale of promissory notes upon the terms and conditions and for the purposes specified in the application as described above, is hereby authorized subject to the provisions of this order.

(C) This authorization is expressly conditioned upon all notes being issued on or before December 31, 1973, and having final maturity dates of not later than December 31, 1974.

(D) This authorization is expressly conditioned upon all promissory notes being issued in the form of commercial paper not exceeding 50 percent of the Applicant's most recent 6 months' revenues from the sale of electricity, gas and steam products.

(E) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determination of cause or any other matter whatsoever now pending or which may come before this Commission.

(F) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

(G) Pursuant to the authority of the Federal Power Act, particularly sections 202, 306, and 307 thereof in the Commission's rules of practice and procedure, an investigation is hereby instituted to determine the justification of the Protest and Petitions to Intervene by the Cities of Lafayette and Plaquemine, Louisiana and Dow Chemical Co. and, if necessary, to prescribe such relief as is appropriate within the boundaries of the Federal Power Act.

(H) All further proceedings in this docket shall be consolidated with the complaint proceeding previously instituted in Docket No. E-7676.

(I) Inasmuch as Louisiana Power & Light Co. and Central Louisiana Electric Co. as well as Gulf States Utilities Co. were named as parties in Docket No. E-7676, with which this proceeding will be consolidated, a copy of the Cities and Dow's complaints shall be served on Louisiana Power & Light Co. and Central Louisiana Electric Co. and their response thereto shall be filed with the Commission by January 15, 1973.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73-364 Filed 1-5-73;8:45 am]

[Docket No. E-7806]

ILLINOIS POWER CO.

Order Accepting Rate Schedules for Filing, Reserving Issue for Hearing and Order To Show Cause

DECEMBER 29, 1972.

On November 6, 1972, Illinois Power Co. (Illinois Power) tendered for filing proposed changes in its rates and charges applicable to nine electric cooperatives to be effective as of January 1, 1973. The tendered contracts are proposed to supersede Illinois Power's FPC Rate Schedule Nos. 36, 37, 38, 39, 40, 41, 42, 43, and 44.[1]

The changes include (1) an increase in the demand charge from $1.32 to $1.40 per Kva. of maximum demand; (2) an increase in the energy charge from 50 to 57 cents per Kwh delivered; (3) a modification in the fuel adjustment provision; and (4) a revision of the low-voltage metering charge. The filing purports to

show that approximately $295,706 additional revenues will result from the increased rates based on unadjusted 1971 calendar year operations.

The fuel clause establishes a new cost of 24 cents per million B.t.u. with the same 11 cents increase or decrease for each upward or downward change of 1 cent or major fraction thereof in the average cost of fuel. That fuel cost is based on the average costs during the 2 calendar months immediately preceding the beginning of the monthly period for which the service is billed. The proposed rate results in an increase in jurisdictional revenues of 7.07 percent which the company indicates results in a realized rate of return of 4.92 percent.

Our review of Illinois Power's cost of service included with its filing indicates that the costs are not excessive. Accordingly, we shall accept the filing without suspension. However, it is our belief that the provision containing the 25-month moratorium on initiating a new rate may not be in the public interest. We shall therefore reserve this matter for hearing pursuant to the procedures prescribed herein.

It appears that the development of the fuel adjustment factor in the rate is such that Illinois Power's own fuel expense variation may be imputed to purchased energy and interchange receipts. This is inconsistent with the Commission's policy and recent opinion with respect to fuel adjustment clauses[2] and Illinois Power should be required to show cause why its fuel adjustment clause should be at variance with that policy.

The filing also contains a provision for an increase or decrease in rate level to coincide with a change in taxes. We shall provide that upon invocation of such change Illinois Power shall submit to the Commission the appropriate data and computations and showing the basis for the calculations change in rate.

Notice of the filing was issued on November 21, 1972. The Cooperatives filed a response in which they request acceptance of the filing and approval of its provisions without hearing. No other comments were filed.

The Commission finds:

It is reasonable and appropriate and in the public interest pursuant to the provisions of the Federal Power Act that Illinois Power's filing tendered on November 6, 1972, be accepted for filing and be permitted to be effective without suspension as hereinafter ordered and conditioned.

The Commission orders:

(A) The proposed rates tendered herein on November 6, 1972, are accepted for filing to be effective as of January 1, 1973, subject to the terms and conditions of this order.

(B) Parties supporting the provision containing a 25-month moratorium on the filing of a new rate by Illinois Power shall serve evidence on January 24, 1973; parties opposing such provisions shall serve evidence on February 7, 1973; supporting parties shall serve rebuttal evidence on February 14, 1973. Hearing and cross-examination on all evidence shall commence on February 21, 1973.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that 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.

(D) Pursuant to sections 205, 206, and 309 of the Federal Power Act, the Commission's Regulations issued thereunder, and the Commission's rules of practice and procedure, Illinois Power on or before January 31, 1973, shall show cause why its Fuel Adjustment Clause should not be made to conform to the principles set forth in the Commission's Opinion No. 633.

(E) Prior to Illinois Power affecting any change in rate pursuant to the tax clause described herein, Illinois Power shall submit appropriate data and computations showing the basis for the change in rate.

(F) This order is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in this or any other proceeding instituted by or against Illinois Power Co. or any other person or party affected by the rates hereby permitted to become effective.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

CERTIFICATION OF PRICE INCREASE, ILLINOIS POWER CO. E-7806

(1) The former price, before the increase granted herein, the new prices as granted, and the percentage increase in price are as follows (based on test year operations, 12 months ended December 31, 1971):

Revenues:

Former price	$4,180,057
New price	$4,475,763
Percent of increase	7.1

(2) The rate increase is expected to provide increased annual revenues of $295,706 from the wholesale customers.

(3) The increase in the Company's profits will be $147,616, or stated in terms of percentage of its total jurisdictional sales, will be 3.26 percent.

(4) The increase in the Company's overall rate of return on capital (rate base) will be from 7.68 percent to 7.71 percent, .03 percentage point or 0.39 percent.

(5) Sufficient evidence was taken during the course of this proceeding to determine whether or not the criteria set forth in paragraphs (d) (1) through (4) of § 300.16 of the Rules and Regulations of the Price Commission have been met.

(6) The rate increase granted in this proceeding meets the criteria set out in paragraphs (d) (1) through (4) of § 300.16 of the Rules and Regulations of the Price Commission.

[FR Doc.73-365 Filed 1-5-73;8:45 am]

[1] Applicable to Clinton County Electric Cooperative, Inc., Rate Schedule No. 36; Corn Belt Electric Cooperative, Inc., Rate Schedule No. 37; Farmers Mutual Electric Co., Rate Schedule No. 38; Illinois Valley Electric Cooperative, Inc., Rate Schedule No. 39; McDonough Power Cooperative, Rate Schedule No. 40; Monroe County Electric Cooperative, Inc., Rate Schedule No. 42; Tri-County Electric Cooperative, Inc., Rate Schedule No. 43; Western Illinois Power Cooperative, Inc., Rate Schedule No. 44.

[2] Opinion No. 633, New England Power Co., Docket No. E-7541, issued Oct. 30, 1972.

[Docket No. CI73-420]

LOUISIANA LAND AND EXPLORATION CO.

Notice of Application; Correction

DECEMBER 27, 1972.

In the notice of application, issued December 20, 1972 and published in the FEDERAL REGISTER December 27, 1972 (37 FR 28554): Paragraph 2, Line 12, Add "subject to upward and downward B.t.u. adjustment," after "Mcf".

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-358 Filed 1-5-73;8:45 am]

[Docket No. CP73-161]

LOWELL GAS CO.

Notice of Petition

DECEMBER 29, 1972.

Take notice that on December 18, 1972, Lowell Gas Co. (Petitioner), 95 East Merrimack Street, Lowell, MA 01853, filed in Docket No. CP73-161 a petition for waiver of jurisdiction over the over-the-road transportation of liquefied natural gas (LNG) by Petitioner or, in the alternative, for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing said transportation, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it transported 218 truckloads of its own LNG during July and August 1972 from Hopkinton and Tewksbury, Mass., to the facilities of Connecticut Natural Gas Corp. at Rocky Hill, Conn., for storage necessitated by Petitioner's inability to store the LNG in its own facilities. Petitioner requests that the Commission waive jurisdiction over this over-the-road transportation, or, in the alternative, issue a certificate of public convenience and necessity therefor. Petitioner alleges that it is an intrastate distributor of natural gas and requests that, if a certificate is issued, that it be limited to the subject transportation and not otherwise alter Petitioner's exempt status under the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said petition for waiver or for a certificate should on or before January 22, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, if a waiver is not granted, a hearing will be held without further notice before the Commission on the request for a certificate if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-357 Filed 1-5-73;8:45 am]

[Docket No. CI73-432]

MARATHON OIL CO.

Notice of Application

JANUARY 2, 1973.

Take notice that on December 14, 1972, Marathon Oil Co. (Applicant), 539 South Main Street, Findlay, OH 45840, filed in Docket No. CI73-432 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America from the Sand Dunes (Atoka) Field, Eddy County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on November 1, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to an average of 2,500 Mcf of gas per day at 35.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward B.t.u. adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-355 Filed 1-5-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 302]

CANADIAN BROADCAST STATIONS

Notification List

DECEMBER 15, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		640 kHz							
CBN	St. John's, Newfoundland, N. 47°30'10", W. 52°48'07" (correction to ground system).	10	ND-187	U	1-B	300	120	984	
		1220 kHz							
(NEW)	Bofsevain Manitoba N. 49°15'26", W. 100°03'24"	10	DA-2	U	II				E.I.O. 12-15-73.
		1230 kHz							
CHFC	Fort Churchill, Manitoba, N. 58°45'48", W. 94°04'42" (correction to antenna system).	0.25	ND-150	U	IV	Inverted L Antenna 200' horizontal, 70' vertical.			
		1340 kHz							
CJAN	Asbestos, Province of Quebec, N. 45°45'06", W. 71°56'26" (assignment of call letters).	1D/0.25N	DA-D	U	IV				
		1400 kHz							
CJNL-1	Princeton, British Columbia, N. 49°26'50", W. 120°30'42" (now in operation).	1D/0.25N	ND-184	U	IV	150	120	282	
		1450 kHz							
CBG	Gander, Newfoundland, N. 48°58'19", W. 54°33'31" *(top loaded to 63')*.	0.25	ND-150	U	IV	*100*			
		1450 kHz							
CKSP	Summerland, British Columbia, N. 49°37'33", W. 119°41'06" (now in operation).	1D/0.25N	ND-187	U	IV	150	120	200-288	

[SEAL]

HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.73-178 Filed 1-5-73;8:45 am]

[Report 629]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JANUARY 2, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

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[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

4611-C2-P-73—Santa Cruz Telephone Answering and Radio Service (KMD683), for additional facilities to operate on 152.12 MHz at Palomar Hotel, 1344 Pacific Avenue, Santa Cruz, CA.

4613-C2-AL-(2)-73—Kalamazoo Telephone Answering Service, consent to assignment of license from Ruth Harper, doing business as Kalamazoo Telephone Answering Service, assignor, to Mobile Radio Telephone and Paging Service, Inc., assignee. Stations: KQK720 and KRM951 (1-way) Kalamazoo, Mich.

4614-C2-AL-73—Big Eddy Telephone Co., consent to assignment of license from Big Eddy Telephone Co., assignor, to Quaker State Telephone Co., assignee station: KGH858 Yallee, Pa.

4630-C2-P-73—Bexar Communications, Inc.—(New), for a new 2-way station to operate on 454.300 MHz at 2.4 miles northeast of Seguin, Tex.

4631-C2-P-73—Massachusetts-Connecticut Mobile Telephone Co. (KCA514), change the antenna system operating on 152.09 MHz at Montevideo Road, Avon, Conn.

4632-C2-P-(2)-73—Mobilfone (KIF649), for additional facilities to operate on 454.025 and 454.350 MHz at 3101 North "R" Street, Pensacola, Fla.

4665-C2-P-(3)-73—Tel-Illinois, Inc. (KSJ627), replace transmitters operating on 152.06, 152.09, and 152.18 MHz at 2424 West Skyline Drive, Champaign, Ill.

POINT-TO-POINT MICROWAVE RADIO SERVICE

4569-C1-P-73—American Telephone & Telegraph Co. (KZA49), 2.75 miles west of Attica, N.Y. C.P. to add 3970H MHz toward Byron, N.Y.

4570-C1-P-73—Same as above (KZA50), 2.1 miles east of Byron, N.Y. C.P. to add 4010H MHz toward Attica and Rochester, N.Y.

4571-C1-P-73—Same (KEG84), 95 North Fitzhugh Street, Rochester, N.Y. C.P. to add 3970H MHz toward Byron, N.Y.

4572-C1-P-73—American Telephone & Telegraph Co. C.P.'s (19) for an additional pair of Type TD-2 telephone channels between Adams, Tex. and Hillsboro, Mo.

4572-C1-P-73—(KKH66), 3.5 miles northeast of Frisco, Adams, Tex. Add 3890H MHz toward Whitewright, Tex.

4573-C1-P-73—(KLS77), 2.6 miles south-southwest of Whitewright, Tex. Add 3930H MHz toward Adams, Tex. and Achille, Okla.

4574-C1-P-73—(KLS78), 2.3 miles south-southeast of Achille, Okla. Add 3890H MHz toward Whitewright, Tex. and Bennington, Okla.

4575-C1-P-73—(KLS79), 7.6 miles north of Bennington, Okla. Add 3930H MHz toward Achille and Kiowa, Okla.

4576-C1-P-73—(KLS80), 6.3 miles south of Kiowa, Okla. Add 3890H MHz toward Bennington and Krebs, Okla.

4577-C1-P-73—(KLS81), 6 miles east-northeast of Krebs, Okla. Add 3930H MHz toward Kiowa and Kinta, Okla.

4578-C1-P-73—(KLS82), 4.8 miles north of Kinta, Okla. Add 3890H MHz toward Krebs and Gans, Okla.

4579-C1-P-73—(KLS83), 1.4 miles north of Gans, Okla. Add 3930H MHz toward Kinta and Natural Dam.

4580-C1-P-73—(KLS84), 6.5 miles north-northwest of Natural Dam, Ark. Add 3890H MHz toward Gans, Okla., and Durham, Ark.

4581-C1-P-73—(KLS85), 3.5 miles south of Durham, Ark. Add 3930H MHz toward Natural Dam and Berryville, Ark.

4582-C1-P-73—(KLS86), 7.3 miles south-southeast of Berryville, Ark. Add 3890H MHz toward Durham, Ark. and 3890V MHz toward Hollister, Mo.

4583-C1-P-73—(KBD32), 5 miles south-southwest of Hollister, Mo. Add 3930V MHz toward Berryville, Ark., and Goodhope, Mo.

4584-C1-P-73—(KBD34), 5.7 miles west-northwest of Goodhope, Mo. Add 3890V MHz toward Hollister and Mansfield, Mo.

4585-C1-P-73—(KBD35), 4 miles east-southeast of Mansfield, Mo. Add 3930V MHz toward Goodhope and Bendavis, Mo.

4586-C1-P-73—(KBD36), 0.7 mile east-southeast of Bendavis, Mo. Add 3890V MHz toward Mansfield and Lenox, Mo.

4587-C1-P-73—(KBD37), 0.7 mile south of Lenox, Mo. Add 3930V MHz toward Bendavis and Cherryville, Mo.

4588-C1-P-73—(KBD38), 7.6 miles southwest of Cherryville, Mo. Add 3890V MHz toward Lenox and 3890H MHz toward Shirley, Mo.

4589-C1-P-73—(KBD39), 5.6 miles north-northwest of Shirley, Mo. Add 3930H MHz toward Cherryville and Hillsboro, Mo.

4590-C1-P-73—(KAQ78), 6.5 miles north-northeast of Hillsboro, Mo. Add 3890H MHz toward Shirley, Mo.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

4591-C1-P-73—The Mountain States Telephone & Telegraph Co. (KLC49), 120 Fourth Street NW., Albuquerque, N. Mex. Add 10,915V and 11,155H MHz toward Albuquerque Junction, N. Mex.

4592-C1-P-73—Same as above (KNZ49), Albuquerque Junction, 10.4 miles west-southwest of Albuquerque, N. Mex. Add 11,365V and 11,605H MHz toward Albuquerque, and 11,245V and 11,485H MHz toward Correo, N. Mex.

4593-C1-P-73—Same (KTF85), 4 miles north of Correo, N. Mex. C.P. add 10,795V and 11,035H MHz toward Albuquerque Junction and 10,835V and 11,075H MHz toward McCartys, N. Mex.

4594-C1-P-73—Same (KTF82), 6 miles west of McCartys, N. Mex. C.P. add 11,285V and 11,525H MHz toward Correo and add 11,325H and 11,565V MHz toward Grants, N. Mex.

4595-C1-P-73—Same (New), 324 North Third, Grants, N. Mex. C.P. for a new station. Frequencies: 10,875H and 11,115V MHz toward McCartys, N. Mex.

4615-C1-P-73—New England Telephone and Telegraph Co. (KCL85), 25 Concord Street, Manchester, N.H. C.P. change frequencies 10,895 and 10,975 MHz to 11,095H and 11,175H MHz toward Dunbarton, N.H., and replace transmitters for same also 10,815V MHz.

4616-C1-P-73—Same as above (KZI59), 1 mile north of Dunbarton, N.H. C.P. to replace transmitters and change frequencies 11,225 and 11,465 MHz to 11,585H and 11,665H MHz and change polarity from H to V on 11,385 MHz toward Manchester, N.H. Change frequencies 11,245 and 11,685 MHz to 11,365H and 11,605V MHz toward Concord, N.H.

4617-C1-P-73—Same (KCK52), 12 South Street, Concord, N.H. C.P. replace transmitters for 10,915H and 11,155V MHz toward Dunbarton, N.H. (Note: this changes frequency 10,715 MHz to 10,915 MHz.)

American Telephone & Telegraph Co.—Modification of C.P.'s (10) to change equipment from Farinon SS4000A to Farinon FM4000KA-01 between Hillsboro, Mo., and Cherry Valley, Ark., and Farinon FM2000KA-01 between Cherry Valley and Forrest City, Ark. The proposed transmitters will be used in a protected configuration as opposed to hot standby protection.

4618-C1-MP-73—(KAQ78), 6.5 miles north-northeast of Hillsboro, Mo. Frequency 4190H MHz toward Lawrenceton, Mo.

4619-C1-MP-73—(KAS37), 2.5 miles south of Lawrenceton, Mo. Frequency 4198H MHz toward Hillsboro and Alliance, Mo.

4620-C1-MP-73—(KAS38), 4.2 miles north-northeast of Alliance, Mo. Frequency 4190H MHz toward Lawrenceton and Cape Girardeau Junction, Mo.

4621-C1-MP-73—(KAL47), 0.5 mile east of Jackson, Mo. Frequency 4198H MHz toward Alliance and Bloomfield, Mo.

4622-C1-MP-73—(KAS40), 3 miles northeast of Bloomfield, Mo. Frequency 4190H MHz toward Cape Girardeau Junction and Campbell, Mo.

4623-C1-MP-73—(KAS39), 3 miles northeast of Campbell, Mo. Frequency 4198H MHz toward Bloomfield, Mo., and Marmaduke, Ark.

4624-C1-MP-73—(KLD98), 4.8 miles north-northwest of Marmaduke, Ark. Frequency 4190H MHz toward Campbell, Mo., and Bay, Ark.

4625-C1-MP-73—(KLD99), 1 mile southeast of Bay, Ark. Frequency 4198H MHz toward Marmaduke and 4198V MHz toward Cherry Valley, Ark.

4626-C1-MP-73—(KLN73), 2.8 miles east of Cherry Valley, Ark. Frequency 4190V MHz toward Bay and frequency 2129H MHz toward Forrest City, Ark.

4627-C1-MP-73—(KLN72), 7 miles northeast of Forrest City, Ark. Frequency 2179H toward Cherry Valley, Ark.

All other particulars same as Files Nos. 7524 through 7533-C1-P-72.

4628-C1-P-73—The Mountain States Telephone & Telegraph Co. (KYJ55), 7.5 miles north of Leadore, Idahoe. C.P. to add 10,755V and 10,995H MHz toward Mill Creek, Idaho, via a passive reflector.

4629-C1-P-73—Same as above (KPH61), 9.5 miles north of Missoula, TV Mountain, Mont. C.P. to add 2170V MHz toward Lolo, Hot Springs, Mont.

4666-C1-P-73—MCI Texas-Pacific, Inc. (New), station location: 1.5 miles south of Burleson, Tex. C.P. for frequency 5945.2H MHz on azimuth 43°42' toward Arlington, Tex. and frequency 5974.8H MHz on azimuth 358°55' toward Fort Worth, Tex. (Informative: The above application was filed by MCI Texas-Pacific, Inc. to maintain on file those facilities deleted from application File No. 6346-C1-P-72.)

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

4674-C1-MP-73—Interdata Communications, Inc. (WIU92), 117 South 17th Street, Philadelphia, Pa. Modification of C.P. to change antenna system, antenna location, frequency, points of communication, power and alarm center location and replace transmitter on frequency 11,265H MHz and 11,665H MHz toward Roxborough, Pa.

4675-C1-P-73—Same as above (New), 8200 Ridge Avenue, Roxborough, Pa. at latitude 40°03'33" N., longitude 75°14'20" W. Frequencies 6197.2H MHz on azimuth 12°03' toward Plumsteadville, Pa. and 10,775H MHz and 11,175H MHz on azimuth 153°42' toward Philadelphia, Pa.

4676-C1-P-73—Same (New), 0.4 mile north-northeast of Plumsteadville, Pa. at latitude 40°23'37" N., longitude 75°08'44" W. C.P. for a new station. Frequencies 5945.2H MHz on azimuth 76°29' toward Neshanic, N.J. and 5974.8H MHz on azimuth 192°06' toward Roxborough, Pa.

4677-C1-P-73—Same (New), 2 miles south-southwest of Neshanic, N.J. at latitude 40°28'10" N., longitude 74°43'43" W. C.P. for a new station. Frequencies 6286.2H MHz on azimuth 87°52' toward South Amboy, N.J. and 6226.9H MHz on azimuth 256°45' toward Plumsteadville, Pa.

4678-C1-MP-73—Same (WIU95), 0.5 mile west of South Amboy, N.J. Modification of C.P. to change antenna system, antenna location, frequency, points of communication, power and alarm center location and replace transmitter on 5974.8H MHz toward New York, N.Y. and frequency 6034.2V MHz toward Neshanic, N.J.

4679-C1-MP-73—Interdata Communications, Inc. (WIU98), 55 Water Street, New York, N.Y. Modification of C.P. to change antenna system, antenna location, frequency, points of communication, power and alarm center location and replace transmitter on frequency 6226.9H MHz toward South Amboy, N.J.

4680-C1-MP-73—Southern Pacific Communications Co. (WOE91), Seventh & Bay Streets, Oakland, Calif. Modification of C.P. to change transmitters and to increase output power to 10 watts on radio path toward San Francisco, Calif.

4681-C1-MP-73—Same as above (WOE92), One Market Street, San Francisco, Calif. Modification of C.P. to change transmitters and to increase output power to 10 watts on radio path toward Oakland, Calif.

4683-C1-MP-73—Western Tele-Communications, Inc. (WOI59), Saddle Peak, 3.5 miles north-northeast of Malibu Beach, Calif. Latitude 34°04'32" N., longitude 118°39'30" W. Modification of C.P. 4269-C1-P-70 to change frequency 3770V to 10,975H toward Los Angeles, Calif. on azimuth 115°19'.

4684-C1-MP-73—Same as above (WOI60), modification of C.P. 4270-C1-P-70 to relocate station to 12636 Beatrice, Los Angeles, CA, latitude 33°58'46" N., longitude 118°24'54" W. Change frequency 3730V to 11385V MHz toward Saddle Peak, Calif., on Azimuth 295°27'.

4685-C1-P-73—Video Microwave, Inc. (New), C.P. for a new station at WTVR-TV studios at Tilden Street and Cutshaw Avenue, Richmond, Va., at latitude 37°34'00" N., longitude 77°28'36" W. Frequency 6286.2H MHz on azimuth 119°08' toward Charles City, Va.

4686-C1-P-73—Same as above (New), C.P. for a new station at Charles City, 2.9 miles south-southwest of Roxbury, Va., at latitude 37°25'33" N., longitude 77°09'39" W. Frequency 6152.8H MHz on azimuth 142°50' toward Runnymede, Va.

4687-C1-P-73—Video Microwave, Inc. (New), C.P. for a new station at Runnymede, 4 miles north of Runnymede, Va., on Route 622, Surry County, Va., at latitude 37°05'31" N., longitude 76°50'43" W. Frequency 6226.9H MHz on azimuth 132°07' toward WYAH tower, Shoulders Hill, Va.

4688-C1-P-73—Same (New), C.P. for a new station at the WYAH tower, 0.4 mile east of Shoulders Hill on Route 337, Nansemond County, Va., at latitude 36°48'47" N., longitude 76°27'45" W. Frequency 10815V MHz on azimuth 73°03' toward WTAR-TV studios in Norfolk, Va. (Informative: Applicant proposes a microwave system for the purpose of providing one-way common carrier network television relaying from Richmond, Va., to Norfolk, Va.

4689-C1-P-73—Video Microwave, Inc. (New), C.P. for a new station at WCAU-TV studios at City Line and Monument Avenue, Philadelphia, Pa., at latitude 40°00'26" N., longitude 75°12'54" W. Frequency 6034.2H MHz on azimuth 323°26' toward Norriton, Pa.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

4690–C1–P–73—Same as above (New), C.P. for a new station at Norriton, Montgomery County, Pa., 0.3 mile north of intersection of Route 422 and Potshop Road on Potshop Road, Norriton, Pa., at latitude 40°09'35" N., longitude 75°21'45" W. Frequency 6404.8V MHz on azimuth 265°19' toward Welsh Mountain, Pa.

4691–C1–P–73—Same as above (New), C.P. for a new station at Welsh Mountain, 2.7 miles north-northeast of Honeybrook, Pa., at latitude 40°07'29" N., longitude 75°53'59" W. Frequency 6093.5V MHz on azimuth 259°56' toward Highmount, Pa.

4692–C1–P–73—Same (New), C.P. for a new station at Highmount, 1.6 miles north-northeast of Hellam, York County, Pa., at latitude 40°01'37" N., longitude 76°36'02" W. Frequency 6404.8V MHz on azimuth 341°37' toward Middletown, Pa., and 6404.8H MHz on azimuth 221°23' toward York, Pa.

4693–C1–P–73—Same (New), C.P. for a new station at Derry, Dauphin County, Pa., 0.5 mile southwest of Waltonville, 3.5 miles northeast of Middletown, Pa., at latitude 40°14'09" N., longitude 76°41'26" W. Frequency 11385V MHz on azimuth 81°16' toward Mount Gretna, Pa., and on azimuth 280°24' toward Harrisburg, Pa., to receiver located at 240 Third Street, Harrisburg at latitude 40°15'43.8" N., longitude 76°53'01" W. to WHP–TV studios located at 216 Locust Street, Harrisburg, Pa. (Informative: Applicant proposes a microwave system for the purpose of providing one-way common carrier network television relaying from Philadelphia, Pa., to Harrisburg, Pa., with an intermediate service drop at Lebanon and York, Pa.)

4710–C1–ML–73—American Telephone & Telegraph Co. (KCA46), Modification of License to change polarity from H to V on frequency 3710 MHz toward Bald Hill, Conn. Station location: John Tom Hill, 7 miles east of Glastonbury, Conn.

4596–C1–MP–73—MCI Michigan, Inc. (WOE46), 2.3 miles west of Chelsea, Mich. Latitude 42°18'35" N., longitude 84°04'54" W. Modification C.P. to add frequencies 10775H and 11175H to Bridgewater, Mich., azimuth 138°58'.

4597–C1–MP–73—Same (WOE49), modification C.P. to relocate station to 2.6 miles southwest of Lennon, Mich. Latitude 42°58'00" N., longitude 83°58'20" W. Change azimuths to Fowlerville and Flint, Mich., to 194°25' and 76°21', respectively.

4598–C1–MP–73—Same (WOE50), One East 1st Street, Flint, Mich. Latitude 43°01'00" N., longitude 83°41'23" W. Modification C.P. to change azimuth to Lennon, Mich., to 256°32'.

4599–C1–MP–73—Same (WOE51), 555 East William Street, Ann Arbor, Mich. Latitude 42°16'39" N., longitude 83°44'34" W. Modification C.P. to change azimuth to Northville, Mich., to 35°31'.

4600–C1–MP–73—Same (WOE52), 2.5 miles northwest of Bridgewater, Mich. Latitude 42°11'07" N., longitude 83°56'10" W. Modification C.P. to add frequencies 11265H and 11665H toward Chelsea, Mich., azimuth 319°03'.

4601–C1–MP–73—Same (WOE55), 28 North Saginaw Street, Pontiac, Mich. Latitude 42°38'14" N., longitude 83°17'30" W. Modification C.P. to change azimuth to Northville, Mich., to 228°48'.

4602–C1–MP–73—Same (WOE56), modification C.P. to relocate station to 1.5 miles east of Dearborn, Mich. Latitude 42°19'10" N., longitude 83°09'06" W. Change azimuths to Northville and Detroit, Mich., to 293°54' and 82°29', respectively.

4603–C1–MP–73—Same (WOE57), 500 Griswood Street, Detroit, Mich. Latitude 42°19'47" N., longitude 83°02'46" W. Modification C.P. to change azimuth to Dearborn, Mich., to 262°34'.

4604–C1–MP–73—Same (WIV82), modification C.P. to relocate station to 4.8 miles westnorthwest of Northville, Mich. Latitude 42°27'22" N., longitude 83°34'14" W. Change azimuths as follows: 215°37' to Ann Arbor, Mich., 48°37' to Pontiac, Mich., and 113°37' to Dearborn, Mich.

4605–C1–MP–73—Same (WIV83), 1.5 miles North of Fowlerville, Mich. Latitude 42°41'04" N., longitude 84°04'14" W. Modification C.P. to change azimuth to Lennon, Mich., to 14°21'.

Major Amendments

7955–C1–P–72—South Central Bell Telephone Co. (New), 605 33d Avenue North, Nashville (Davidson) Tenn., latitude 36°09'16" N., longitude 86°49'27" W. Application amended to relocate station to the above coordinates on frequencies 3710V, 3790V, 3950V, 3870V, 4030V, 4110V, and 3770H MHz toward Pegram, Tenn., on azimuth 255°3'. Also adding frequency of 4170H MHz toward Pegram, Tenn.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

7956–C1–P–72—Same (New), 4 miles northeast of Pegram (Davidson), Tenn., latitude 36°07'11" N., longitude 86°59'02" W. Adding frequency of 4130V MHz toward Nashville, Tenn., and Dickson, Tenn., on azimuth of 74°54' and 266°36' respectively. Also to change polarization of the following frequencies to read 3750V, 3830V, 3910V, 3990V, 4070V, 4150V, and 3730H toward Dickson, Tenn.

7957–C1–P–72—Same (KJG57), approximately 3 miles northwest of Dickson (Dickson), Tenn., latitude 36°05'50" N., longitude 87°25'58" N. (a) Adding frequency of 4170H MHz toward Lobelville, Tenn., and Pegram, Tenn. (b) Change polarization of the following frequency to read 3770H, 3710V, 3790V, 3870V, 3950V, 4030V, and 4110V MHz toward Lobelville, Tenn., and Pegram, Tenn.

7958–C1–P–72—Same (KJG58), approximately 4 miles southwest of Lobelville (Perry), Tenn., latitude 35°37'03" N., longitude 88°48'56" W. (a) Adding frequency of 4130H MHz toward Lexington, Tenn., and Dickson, Tenn. (b) Change polarization of the following frequencies to read 3730H, 3750V, 3830V, 3910V, 3990V, 4070V, and 4150V toward Lexington, Tenn., and Dickson, Tenn.

7959–C1–P–72—Same (KJG55), approximately 7 miles south of Lexington (Henderson), Tenn., latitude 35°33'01" N., longitude 88°23'29" W. (a) Adding frequency of 4170H MHz toward Jackson, Tenn., and Lobelville, Tenn. (b) Change polarization of the following to read 3710V, 3790V, 3870V, 3950V, 4030V, 4110V, and 3770H MHz toward Lobelville, Tenn.

7960–C1–P–72—Same (KJG51), 334 North Cumberland Street, Jackson (Madison), Tenn., latitude 35°37'03" N., longitude 88°48'56" W. (a) Adding frequency of 4130H MHz toward Lexington, Tenn. (b) Add point of communication to Brownsville, Tenn., on frequency 4050H MHz, on azimuth 254°41'.

3400–C1–P–71—GTE Satellite Corp. (New), change geographic coordinates to latitude 28°51'15" N., longitude 82°31'52" W.; change azimuth toward Lecanto, Fla., to 145°26'; change frequency 11,115H MHz toward Lecanto, Fla., to 2167.2H MHz.

3401–C1–P–71—GTE Satellite Corp. (New), change geographic coordinates to latitude 28°45'13" N., longitude 82°27'09" W.; change azimuth toward Homosassa, Fla., to 316°54'; change frequency 11,645H MHz toward Homosassa, Fla., to 2117.2H MHz; add Brooksville, Fla., as a point of communication on frequencies 2126.8H, 5960.0V, 6019.3V, and 6078.6V MHz.

[FR Doc.73–177 Filed 1–5–73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73–2)]

AD HOC PANEL ON ADVANCED REACTOR SPACE POWER TECHNOLOGY

Notice of Meeting

The NASA Research and Technology Advisory Council, Committee on Space Propulsion and Power, Ad Hoc Panel on Advanced Reactor Space Power Technology will meet at 9 a.m., January 9, 1973, in the Cherry L-Emerson building, School of Nuclear Engineering, Georgia Institute of Technology, Atlanta, Ga. The room number will be available from the office of Dr. L. Weaver, Room 201, Cherry L-Emerson building, School of Nuclear Engineering, area code 404—894–3720. Members of the public will be admitted to the meeting on a first-come, first-served basis up to the seating capacity of the room which is about 20 persons. All visitors must report to Dr. Weaver's office, Room 201, Cherry L-Emerson building.

The NASA Research and Technology Advisory Council, Committee on Space Propulsion and Power, Ad Hoc Panel on Advanced Reactor Space Power Technology serves in an advisory capacity only. In this capacity the panel is concerned primarily with thermoelectric, thermionic and gas turbine conversion systems and the associated reactor heat sources. The panel is comprised of seven members and is chaired by Dr. Lynn E. Weaver. For further information please call Mr. William Woodward, area code 202—755–2377 or Mr. David Gabriel, area code 301—973–3927.

Originally formed on January 25, 1972, the panel prepared a draft report on

the NASA–AEC advanced reactor space power technology program and submitted it to the NASA Committee on Space Propulsion and Power for review at its December 13 and 14, 1972, meeting. As a result of the committee's review, there is need to expand and clarify the draft report. The purpose of the January 9, 1973, meeting of the panel is to discuss the committee's recommendations and to begin preparation of the necessary revisions.

AGENDA

January 9, 1973

Time	*Topic*
9 a.m.	Review by the Chairman of the comments made by the Committee on Space Propulsion and Power and suggested procedure and schedule for revising panel draft report.

January 9, 1973

Time	*Topic*
9:30 a.m.–5 p.m.	Panel discussions leading to preparation of revised report.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.73-468 Filed 1-5-73;9:48 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3347]

BIRR, WILSON & CO., INC.

Notice of Filing of Application for Order of Exemption

JANUARY 2, 1973.

Notice is hereby given that Birr, Wilson & Co., Inc., 155 Sansome Street, San Francisco, CA 94104 (Applicant), prospective representative of a group of underwriters of a proposed offering of shares of common stock of AU/AG Corp. (the Fund), a registered closed end, nondiversified investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant and its counderwriters from section 30(f) of the Act to the extent that such section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act) in respect of their transactions incident to the distribution of the Fund's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of the Fund are to be purchased by the underwriters pursuant to an underwriting agreement to be entered into between the Fund and the underwriters represented by the Applicant. The several underwriters will be obligated to make a public offering of all of the shares of common stock of the Fund which such underwriters purchase under the underwriting agreement, at the price therein specified, as soon on or after the effective date of the Fund's Registration Statement on Form S–4 (the Form S–4) as the Applicant deems advisable, and such shares are initially to be offered to the public at the per share public offering price and underwriting commissions to be specified in the underwriting agreement, and the dealer concessions and additional compensation to be specified in the agreement among underwriters, at the time the Form S–4 becomes effective under the Securities Act of 1933.

Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class outstanding securities of the Fund to the same duties and liabilities as those imposed by section 16 of the Exchange Act. It is possible that the Applicant and other members of the underwriting group may individually become obligated to purchase more than 10 percent of the initial amount of common stock of the Fund to be outstanding upon the completion of the initial public offering, thereby becoming "insiders" subject to section 16(b) of the Exchange Act.

Rule 16b–2 under the Exchange Act exempts certain underwriters from the operation of section 16(b) of the Exchange Act. Applicant states that the purpose of the purchase by the Applicant and the other underwriters is for resale in connection with the initial distribution of shares of the Fund. It will thus be a transaction effected in connection with a distribution of a substantial block of securities within the purpose and spirit of the Commission's Rule 16b–2.

The Applicant and their counderwriters, however, may not be exempted from section 16(b) by Rule 16b–2. They may not meet the requirement stated in paragraph (a)(3) of Rule 16b–2 that the aggregate participation of underwriters not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of underwriters receiving the exemption under Rule 16b–2, since it is possible that one or more of the underwriters who take more than 10 percent of the shares may be obligated to purchase more than 50 percent of the shares of the Fund which will be outstanding at the time of the closing.

In addition to purchases from the Fund and sales to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchase to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states that to the best of their knowledge no underwriter has any inside information, that there is no possibility of using inside information and, in fact, that there is no inside information in existence. An employee of Applicant is a director of the Fund, but otherwise no director, officer, or employee of any underwriter is a director, officer, or employee of the Fund.

Applicant represents that the requested exemption from the provision of section 30(f) of the Act is necessary and 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. The Applicant states that the transactions sought to be exempted cannot lend themselves to the practices to which section 16(b) of the Exchange Act was enacted to apply.

Section 6(c) 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 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.

Notice is further given that any interested person may, not later than January 17, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues 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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant 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 upon said application 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.

For the Commission by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-337 Filed 1-5-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 150]

ASSIGNMENT OF HEARINGS

JANUARY 3, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as

presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 136468 Sub 1, Virginia Air Freight Inc., now assigned January 15, 1973, at Roanoke, Va., is postponed to January 29, 1973, at Roanoke, Va., in a hearing room to be later designated.

I&S No. 8808, San, Yuma, Mich. to Cleveland, Ohio, now being assigned hearing February 21, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11436, Milton Transportation, Inc.—Purchase—Milton Trucking, Inc., MC 136343, Milton Transportation, Inc., and MC 134776 Sub 20, Milton Trucking, Inc., now assigned February 5, 1973, at Washington, D.C., postponed to February 13, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-125659 Sub 3, Ace Driveaway System, Inc., now assigned January 17, 1973, will be held at Caravan Motel, 19101 Collins Ave., Miami Beach, Fla.

MC-107107 Sub 414, Alterman Transport Lines, Inc. Extension-New Orleans, La., now assigned January 22, 1973, MC-83539 Sub 327, C&H Transportation Co. Inc. Now assigned January 23, 1973, MC-117943 Sub 1, Joseph M. Booth, DBA J. M. Booth Trucking, now assigned January 24, 1973, will be held in the Florida Public Service Commission, 5720 Southwest 17th Street, Miami, Fla.

MC 118803 Sub 7, Atlantic Truck Lines, Inc., now being assigned hearing February 5, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1515 Sub 154, Greyhound Lines, Inc., Extension Special Operations, MC 3600 Sub 8, Frank Martz Coach Co., Extension Special Operations, MC 74761 Sub 18, Tamiami Trails Tours, Inc., Extension Special Operations, MC 84728 Sub 57, Safeway Trails, Inc., Extension Special Operations, MC 109736 Sub 33, Capitol Bus Co., Extension Special Operations, now being assigned hearing February 6, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 108811 Sub 6, Thomas Motor Tours, Inc., now being assigned hearing February 12, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127487 Sub 8, Holt Motor Express, Inc., now being assigned hearing February 27, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 116544 Sub 133, Wilson Brothers Truck Line, Inc., now being assigned February 1, 1973, (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC-F-11616, Food Transport, Inc.—Purchase (Portion)—Earl Swanson Blanchfield, now being assigned February 5, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115379 Sub 41, John D. Bohr, Inc., now being assigned February 6, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124211 Sub 219, Hilt Truck Line, Inc., now being assigned February 13, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115841 Sub 437, Colonial Refrigerated Transportation, Inc., now being assigned February 14, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 51146 Subs 284, 285, 286 & 287, Schneider Transport, Inc., now being assigned February 27, 1973, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 128273 Sub 130, Midwestern Express, Inc., now being assigned hearing February 7, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124796 Sub 100, Continental Contract Carrier Corp., now being assigned hearing February 14, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134599 Subs 46 and 48, Interstate Contract Carrier Corp., now being assigned hearing February 15, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115841 Sub 438, Colonial Refrigerated Transportation, Inc., now being assigned hearing February 26, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-343 Filed 1-5-73;8:45 am]

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MONDAY, JANUARY 8, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 4

PART II



DEPARTMENT OF AGRICULTURE

Agricultural Research Service

■

NATIONAL POULTRY AND TURKEY IMPROVEMENT PLANS AND AUXILIARY PROVISIONS

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Parts 445, 446, 447]

NATIONAL POULTRY AND TURKEY IMPROVEMENT PLANS AND AUXILIARY PROVISIONS

Notice of Proposed Rule Making

Notice is hereby given, under the administrative procedure provisions of 5 U.S.C. 553, that the Department of Agriculture has under consideration proposed amendments of the National Poultry and Turkey Improvement Plans and Auxiliary Provisions recommended by the 1972 conference of representatives of the State agencies cooperating in the administration of the plans,[1] and that, pursuant to section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429), it is proposed to revise Parts 445, 446, and 447 of Title 9, Chapter IV, Subchapter A, Code of Federal Regulations, to incorporate such recommended amendments and to make incidental changes for clarity and consistency.

Parts 445, 446, and 447 would be amended in the following respects:

PART 445—NATIONAL POULTRY IMPROVEMENT PLAN

1. Section 445.1 would be amended by revising paragraph (d) to read as follows:

§ 445.1 Definitions.

* * * * *

(d) *Service.* The Agricultural Research Service of the Department.

* * * * *

2. Section 445.4 would be amended by revising paragraph (d) to read as follows:

§ 445.4 General provisions for all participants.

* * * * *

(d) Participants may not buy, sell, or receive for any purpose products from nonparticipants, except turkey breeding stock, hatching eggs, and poults produced in a State qualified for phase I or II of the Pullorum-typhoid eradication program of the Animal and Plant Health Inspection Service of the Department: *Provided,* That with the permission of the official State agency and approval of the Service, other products may be bought or received for use in breeding flocks or for experimental purposes.

* * * * *

3. Section 445.5 would be amended by revising paragraph (c) to read as follows:

§ 445.5 Specific provisions for participating flocks.

* * * * *

(c) A flock shall be deemed to be a participating flock at any time only if it has qualified for the U.S. Pullorum-Typhoid Clean classification, as prescribed in Subpart B, C, D, or E of this part.

4. Section 445.10 would be amended to read:

§ 445.10 Terminology and classification; flocks and products.

Participating flocks, and the products produced from them, which have met the respective requirements specified in Subpart B, C, D, or E of this part may be designated by the following terms or illustrative designs:

(a) *U.S. Approved.* (See § 445.23(a), § 445.33(a), and § 445.53(a).)



FIGURE 2

(b) *U.S. Pullorum-Typhoid Clean.* (See § 445.23(b), § 445.33(b), § 445.43(b), and § 445.53(b).)



FIGURE 3

(c) *U.S. M. Gallisepticum Clean.* (See § 445.23(c), § 445.33(c), § 445.43(c), and § 445.53(c).)



FIGURE 4

(d) *U.S. Typhimurium Controlled.* (See § 445.23(d) and § 445.43(d).)



FIGURE 5

5. Section 445.11 would be amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 445.11 Supervision.

(a) The official State agency may designate qualified persons as authorized agents to do the sample collecting and blood testing provided for in §§ 445.5 and 445.14, and the selecting required for the U.S. approved classification provided for in § 445.10(a).

* * * * *

(c) Authorities issued under the provisions of this section shall be subject to cancellation by the official State agency on the grounds of incompetence or failure to comply with the provisions of the plan or regulations of the official State agency. Such actions shall not be taken until a thorough investigation has been made by the official State agency and the authorized person has been given notice of the proposed action and the basis therefor and an opportunity to present his views.

6. Section 445.14 would be amended by revising subparagraph (1) of paragraph (a) and the introductory statement and subdivision (ii) of subparagraph (2) of paragraph (a) to read:

§ 445.14 Blood testing.

(a) *For Salmonella.* (1) The official blood tests for pullorum-typhoid shall be the standard tube agglutination test, the microagglutination test, or the rapid serum test for all classes of poultry or the stained antigen, rapid whole-blood test for all classes of poultry except turkeys. The recommended procedures for conducting such tests are described in §§ 447.1, 447.2, 447.3, and 447.5 of this chapter. Each lot of antigen used for the whole-blood test shall be approved by the Department and shall be of the polyvalent type.

(2) The official blood tests for typhimurium shall be the standard tube agglutination test or the microagglutination test as described in §§ 447.4 and 447.5 of this chapter: *Provided,* That, if the following conditions are fulfilled, the tests for pullorum-typhoid and typhimurium may be combined:

* * * * *

(ii) A single combination antigen composed of equal quantities of pullorum antigen and typhimurium antigen is used at a dilution not exceeding 1:25 as a screening test in accordance with procedures described in § 447.1 or § 447.5 of this chapter.

* * * * *

§ 445.21 [Amended]

7. Section 445.21 would be amended by deleting paragraphs (d) and (e).

8. Section 445.22 would be amended by adding a new paragraph (d) to read:

§ 445.22 Participation.

* * * * *

[1] A copy of the recommended changes as adopted by the 1972 National Plan Conference is filed as part of the original document.

(d) Hatching eggs produced by primary breeding flocks shall be fumigated according to the procedures described in § 447.25(a) of this chapter.

§ 445.23 [Amended]

9. Section 445.23 would be amended by deleting paragraphs (a), (b), and (c) and redesignating paragraphs (d), (e), and (f) as (a), (b), and (c), respectively.

10. Section 445.23 would be further amended by revising the introductory portion of the redesignated paragraph (d) to read:

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph: *Provided*, That a flock qualifying by means of a blood test shall be tested within the past 12 months, except that the retesting of a participating flock which is retained for more than 12 months shall be at the discretion of the Official State Agency with the concurrence of the Service. (See § 445.14 relating to the official blood test where applicable.)

11. Section 445.23 would be further amended by deleting the phrase "within the past 12 months" from subparagraph (1), subdivision (iii) of subparagraph (2), and subparagraph (5) of the redesignated paragraph (b).

12. Section 445.23 would be further amended by revising subdivision (i) and the introductory portion of subdivision (ii) of subparagraph (1) of the redesignated paragraph (c) to read:

(i) It is a flock in which all birds, or a sample of at least 500 birds, in the flock have been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided*, That to retain this classification, all birds or a sample of at least 500 birds shall be tested at intervals of not more than 90 days; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and all birds, or a sample of at least 500 birds, in the flock have been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided*, That to retain this classification, the flock shall be subjected to one of the following procedures:

13. Section 445.23 would be further amended by adding a new paragraph (d) to read:

(d) *U.S. Typhimurium Controlled.* (1) A flock in which freedom from S. typhimurium has been demonstrated under the criteria specified in subdivision (i) or (ii) of this subparagraph.

(i) All birds have been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and no reactors were found on the first test, or

(ii) A sample of at least 500 birds in the flock has been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and environmental samples or cloacal swabs collected by a State inspector or authorized agent as described in § 447.12 of this chapter have been examined for S. typhimurium by an authorized laboratory, and no evidence of the disease was found.

(2) In order to sell hatching eggs or chicks of this classification, all hatching eggs and chicks handled shall meet the requirements for this classification.

14. Section 445.32 would be amended by adding a new paragraph (c) to read:

§ 445.32 Participation.

* * * * *

(c) Hatching eggs produced by primary breeding flocks shall be fumigated according to the procedures described in § 447.25(a) of this chapter.

§ 445.33 [Amended]

15. Section 445.33 would be amended by deleting paragraphs (a) and (b), and redesignating paragraphs (c), (d), and (e) as (a), (b), and (c), respectively.

16. Section 445.33 would be further amended by revising the introductory portion of the redesignated paragraph (b) to read:

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the official State agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph: *Provided*, That a flock qualifying by means of a blood test shall be tested within the past 12 months, except that the retesting of a participating flock which is retained for more than 12 months shall be at the discretion of the official State agency. (See § 445.14 relating to the official blood test where applicable.)

17. Section 445.33 would be further amended by deleting the phrase "within the past 12 months" from subparagraph (1), subdivision (iii) of subparagraph (2), and subparagraph (5) of the redesignated paragraph (b).

18. Section 445.33 would be further amended by revising subdivision (i) and the introductory portion of subdivision (ii) of subparagraph (1) of the redesignated paragraph (c) to read:

(i) All birds have been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided*, That to retain this classification, a random sample of at least 5 percent of the flock shall be tested at intervals of not more than 90 days; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and a sample of at least 5 percent of the birds in the flock has been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided*, That to retain this classification, the flock shall be subjected to one of the following procedures:

§ 445.42 [Amended]

19. Section 445.42 would be amended by deleting paragraph (a) and redesignating the introductory paragraph as paragraph (a).

§ 445.43 [Amended]

20. Section 445.43 would be amended by deleting the present provisions contained in paragraph (a) and marking paragraph (a) as "[Reserved]," and by revising the introductory portion of paragraph (b) to read:

(a) [Reserved]

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the official State agency under the criteria in one of the following subparagraphs (1) through (5) of this paragraph: *Provided*, That a flock qualifying by means of a blood test shall be tested within the past 12 months, except that the retesting of a participating flock which is retained for more than 12 months shall be at the discretion of the official State agency. (See § 445.14 relating to the official blood test where applicable.)

21. Section 445.43 would be further amended by deleting the phrase "within the past 12 months" from subparagraph (1), subdivision (iii) of subparagraph (2), and subparagraph (5) of the redesignated paragraph (b).

22. Section 445.43 would be further amended by revising subdivision (i) of subparagraph (1) of paragraph (d) to read:

(i) (*a*) All birds have been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and no reactors were found on the first test: *Provided*, That the retesting of participating flocks which are moved from one premises to another or kept beyond 12 months after testing shall be at the discretion of the official State agency, or

(*b*) A sample of at least 500 birds in the flock has been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and environmental samples or cloacal swabs collected by a State inspector or authorized agent as described in § 447.12 of this chapter have been examined for S. typhimurium by an authorized laboratory and no evidence of the disease was found: *Provided*, That the retesting of participating flocks which are moved from one premises to another or kept beyond 12 months after testing shall be at the discretion of the official State agency.

23. Section 445.43 would be further amended by revising the second sentence of subdivision (ii) of subparagraph (1) of paragraph (d) to read:

"All eggs used for hatching shall be visibly clean and fumigated as described in § 447.25(a) of this chapter as soon as possible after collection: *Provided*, That alternative sanitizing procedures may be used with the approval of the official State agency in each specific instance and general concurrence by the Service in the policy adopted by the official State agency."

24. Section 445.53 would be amended by revising subparagraphs (1) and (2) of paragraph (c) to read as follows:

§ 455.53 Terminology and classification.

* * * * *

(c) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the

provisions of § 447.26 of this chapter and in which no reactors were found when all birds, or a sample of at least 500 birds, in the flock were tested when more than 4 months of age in accordance with the procedures described in § 445.14(b): *Provided*, That to retain this classification, all birds, or a sample of at least 500 birds, in the flock shall be tested at intervals of not more than 90 days.

(2) A participant handling U.S. M. Gallisepticum Clean products shall keep these products separate from other products in a manner found satisfactory by the official State agency in each specific instance and general concurrence by the Service in the policy adopted by the official State agency.

* * * * *

PART 446—[RESERVED]

25. The title of Part 446 would be amended by changing from "National Turkey Improvement Plan (Turkeys and Certain Other Poultry)" to "Reserved."

PART 447—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

26. Part 447, Subpart A, Table of Contents would be amended by adding a reference to a new § 447.5 to read:

Sec.
447.5 The microagglutination test for pullorum-typhoid and thyphimurium.

27. Part 447, Subpart A would be amended by adding a new § 447.5 to read:

§ 447.5 The microagglutination test for pullorum-typhoid and typhimurium.

(a) The procedure for the collection and delivery of blood samples in the microagglutination test is the same as that described in § 447.1(a).

(b) Stained microagglutination test antigens for pullorum-typhoid, typhimurium, or combined pullorum-typhoid and typhimurium are supplied as concentrated stock suspensions and must be approved by the Department.[1] Directions for diluting will be provided with the antigens. The stock as well as the diluted antigen prepared each day should be kept sealed in the dark at 5° to 10° C. when not in use.

(c) The maximum serum dilution employed for pullorum-typhoid must not exceed 1:50 for chickens, nor 1:25 for turkeys. The maximum serum dilution for typhimurium and the combined test shall not exceed 1:25. In all official reports on the blood test, the serum dilutions shall be indicated.

(d) The recommended procedure for the 1:25 dilution is as follows:

(1) Add 50 microliters (0.05 cc.) of 0.25 percent phenolized saline to each microwell of the microplate.

(2) Using a microdiluter, transfer 10 microliters (0.01 cc.) of the serum sample from the collected specimen to the corresponding well of the microplate. This is accomplished by touching the surface of the serum sample with the microdiluter and then transferring and mixing the serum with the diluent in the microplate well. The microdiluter is removed, blotted, rinsed in saline, and again blotted. Other acceptable methods of serum delivery are described in "Applied Microbiology," volume 21, No. 3, March 1971, pages 394–399.

(3) Dilute the microagglutination test antigen with 0.25 percent phenolized saline and add 200 microliters (0.2 cc.) to each microplate well.

(4) Seal each plate with a plastic sealer or place unsealed in a tight incubation box as described in "Applied Microbiology," volume 23, No. 5, May 1972, pages 931–937. Incubate at 37° C. for 18–24 hours.

(5) Read the test results with the aid of a reading mirror. Results are interpreted as follows:

(i) N, or − (negative) when the microplate well has a large, distinct button of stained cells.

(ii) P, or + (positive) when the microplate well reveals no antigen button.

(iii) S, or ? (suspicious) when the microplate well has a small button. Suspicious reactions may tend to be more positive than negative [±] or vice versa [∓] and can be so noted, if desired.

27. Part 447, Subpart B, table of contents would be amended by adding a reference to a new § 447.12 to read:

447.12 Procedures for collecting environmental samples and cloacal swabs for bacteriological examination.

28. Part 447, Subpart B would be amended by adding a new § 447.12 to read:

§ 447.12 Procedures for collecting environmental samples and cloacal swabs for bacteriological examination.

Information concerning the pen arrangement and number of birds per pen should be obtained from the owner so that the required number of samples per pen and per flock can be determined. A means of identifying each sample by pen of origin should be provided. The vehicle transporting the personnel taking the samples should be left as far as practical from the poultry pens. Sanitary precautions, including personal cleanliness, should be observed during the sampling procedure. The hands should be carefully washed with a sanitizing soap prior to the sampling. Outer clothing, including gloves, should be changed between visits to different premises so that clean clothing is worn upon entering each premises. The used and clean apparel should be kept separate. Boots or footwear should be cleaned and disinfected between visits to different premises. Disposable caps should be provided and discarded after use on each premises. After collection, the samples should be protected from drying, light, and excessive temperatures and delivered to the laboratory within 1 day. If delivery is delayed, samples should be refrigerated.

(a) *Environmental samples.* Fecal material, litter, or dust to be submitted for bacteriological examination should be collected in accordance with the procedures described in paragraph a (1) or (2) of this section:

(1) *Procedure for sampling in broth.* Authorized laboratories will provide capped tubes 1–2 cm. in diameter and 15–20 cm. in length which are two-thirds full of a recently made, refrigerated, sterile enrichment broth (Selenite Brilliant Green Sulfapyridine or Tetrathionate Brilliant Green) for each sample. Sufficient tubes should be taken to the premises to provide at least one tube per pen or one tube per 500 birds, whichever is greater. At least one sterile, cotton-tipped applicator will be needed for each tube. The dry applicator is first placed or drawn through fresh manure (under roost, near water troughs, cecal droppings, or diarrhetic droppings). After this and each subsequent streaking, the cotton-tipped applicator is placed in the tube of broth and swirled to remove the collected material. The applicator is then withdrawn and is used for taking additional specimens by streaking on or through areas where defecation, trampling of feces, or settling of dust are common; i.e., on or near waterers, feeders, nests, or rafters, etc. When the volume of material collected equals approximately 10 percent of the volume of the broth (usually 10–12 streakings), the applicator is placed in the tube and the stick is broken in half. The lower or cotton-tipped half is left in the broth, and the upper half is retained for future disposal. The cap is then replaced on the inoculated tube, and the sampling procedure is continued in other areas of the pen.

(2) *Procedure for sampling in dry containers.* A sample of fecal material, litter, or dust, is placed in a sterile, sealable container. The sample shall consist of several specimens of material taken from a representative location in the pen. At least 10 grams (approximately a heaping tablespoonful) of material shall be collected for each sample. The specimens in each sample shall be collected with a sterile tongue depressor or similar uncontaminated instrument. The samples should vary in type and consistency. Half of the samples should be comprised of material representing defecated matter from a large portion of the flock; i.e., trampled, caked material near waterers and feeders. The minimum number of samples to be taken shall be determined by the following:

Five samples from pens of up to 500 birds;
Ten samples from pens of 500 to 2,500 birds;
Fifteen samples from pens with more than 2,500 birds.

(b) *Cloacal swabs.* Cloacal swabs for bacteriological examination are taken

[1] Information as to criteria and procedures for approval of concentrated stock suspensions of stained microagglutination test antigens may be obtained from the National Poultry Improvement Plan Staff, Building 265, Agricultural Research Center, Beltsville, Md. 20705.

from each bird in the flock or from a minimum of 500 birds in accordance with the procedure described in paragraph (a)(1) of this section.

(1) *Procedure for taking cloacal swabs.* The authorized laboratory will provide sterile capped tubes or other suitable containers and cotton-tipped applicators for use in taking the cloacal swabs. The cotton-tipped applicator is inserted into the cloaca and rectum in such a manner as to insure the collection of fecal material. The swab and adhering fecal material is then placed in the tube and the stick is broken in half, with the upper half retained for future disposal. The cloacal swabs may be combined in the sterile tubes in multiples of five or in combinations specified by the authorized laboratory.

Any person who wishes to submit written data, views, or arguments, concerning the proposed amendments of the National Poultry and Turkey Improvement Plans and Auxiliary Provisions may do so by filing them with the Chairman, Animal Physiology and Genetics Institute, Building 265, Agricultural Research Center, Beltsville, Md. 20705, by February 7, 1973.

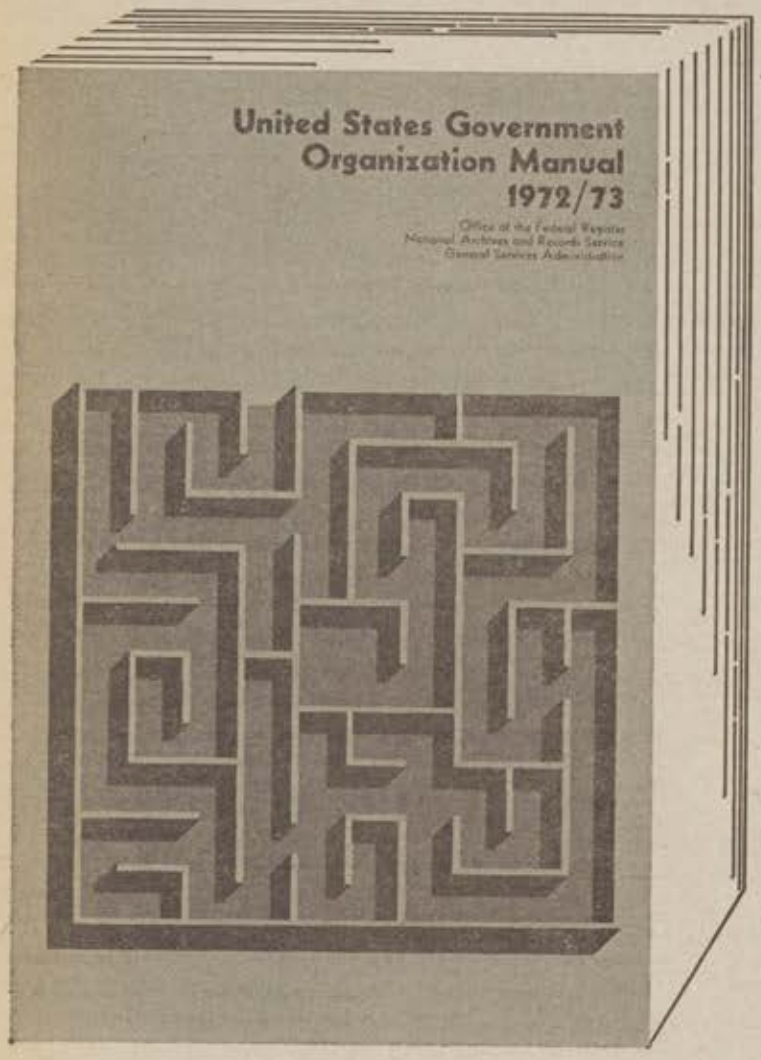
All written submissions made pursuant to this notice will be made available for public inspection at said institute at times and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 2d day of January 1973.

PAUL D. DELAY,
Acting Administrator,
Agricultural Research Service.

[FR Doc.73-312 Filed 1-5-73;8:45 am]

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